



Planning Division

**PLANNING COMMISSION
STAFF REPORT**

TO: Planning Commission
FROM: Douglas J. Spondello, Assistant Planner
DATE: May 19, 2011
SUBJECT: Planning and Zoning Permit No. 11-510-03 (Special Use Permit for Alcohol),
 The Best Breakfast, 5141 Saviers Road.

- 1) **Recommendation:** That the Planning Commission adopt a resolution approving Planning and Zoning Permit No. 11-510-03, subject to certain findings and conditions.
- 2) **Project Description and Applicant:** A request to sell wine and beer at an existing 3,078 square foot restaurant (The Best Breakfast), located at 5141 Saviers Road. The business operates between the hours of 7:00 a.m. and 2:00 p.m., Monday through Wednesday and between the hours of 7:00 a.m. and 8:00 p.m., Thursday through Sunday. Filed by Designated Agent Daniel Cobian, 3023 Kern Street, Oxnard, CA 93033.
- 3) **Existing & Surrounding Land Uses:** The 3,078 square foot restaurant and the associated parking spaces and trash enclosure are situated on a 21,000 square foot parcel.

DIRECTION	ZONING	GENERAL PLAN	EXISTING LAND USE
Project Site	General Commercial Planned Development (C-2-PD)	Commercial General (C-G)	Restaurant in Single Building
North	C-2-PD	C-G	Vacant and Undeveloped
East	C-2-PD	C-G	Saviers Road and Multi-Tenant Commercial
South	C-2-PD	C-G	Multi-Family Apartments
West	C-2-PD	C-G	Vacant and Undeveloped

- 4) **Background Information:** The restaurant was approved by Building Permit No. 1794B in 1967. On April 27, 1965, the City Council rezoned the subject site and adjacent properties from Commercial Planned Development to General Commercial Planned Development. On March 21,

1980, the Planning Director approved a minor modification to Planned Development Permit No. 14 for a 463 square foot addition to Uncle Herb's Restaurant (now The Best Breakfast restaurant). On December 6, 1988 the City Council approved tentative parcel map no. 88-6 and Special Use Permit (SUP) No. 1290 to subdivide four existing parcels into three parcels and permit the construction of a 763 square foot addition to expand the subject restaurant. The construction of this addition was never initiated and this approval has since expired.

On November 16, 2005, the Planning Manager approved Minor Modification (MNMD) No. 05-140-78 to permit outdoor dining and a retractable awning along Saviers Road. Condition of Approval No. 48 of the subject permit request prohibits outdoor seating and dining. If approved, the outdoor dining aspect of MNMD No. 05-140-78 would be disallowed and superseded by this approval. The awning, as approved by MNMD No. 05-140-78 would be permitted to remain.

5) Environmental Determination: This project is among the classes of projects listed in Section 15301 of the California Environmental Quality Act (CEQA) Guidelines, which categorically exempts the permitting and licensing of existing facilities from environmental review where there is negligible or no significant expansion of an existing use. As this is the case with the subject project request to sell beer and wine from an existing restaurant, a Notice of Exemption will be filed (see Attachment "E").

6) Analysis:

a) General Discussion: The building has been a restaurant since it was constructed in 1968. Over the years, the business has operated as Uncle Herb's, Uncle Danmar's, and currently, The Best Breakfast. The restaurant currently employs seven persons. The proposal to sell beer and wine for on-site consumption within a restaurant is equivalent to an Alcoholic Beverage Control (ABC) License Type No. 41 and is being proposed to offer full service to the restaurant's customers.

The existing hours of operation are between 7:00 a.m. and 2:00 p.m., Monday through Sunday for breakfast and lunch. The applicant proposes to extend the hours of operation on Thursday through Sunday to 8:00 p.m. for dinner service.

b) Conformance with General Plan and Zoning Designation Policies: The 2020 General Plan land use designation is Commercial General. The zoning designation on-site is General Commercial Planned Development (C-2-PD). The sale of alcoholic beverages is allowed within the C-2-PD zone, subject to the approval of a special use permit. The proposed use is consistent with both the General Plan and zoning designations for the property.

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). Policy No. 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

Consistent with this, the Police Department has reviewed the proposed use for compliance with its safety and security requirements and has determined that approval of this request would not be in conflict with Policy No. 35 of the 2020 General Plan's Safety Element.

- c) **Site Design:** The building is situated on a half-acre parcel. The site has one-way vehicular ingress from Saviers Road. Egress onto Saviers Road is provided from a secondary one-way exit at the south-side of the building. Twenty-three parking stalls, refuse service, and loading activities are served from this looped circulation system. No modifications to the site or building are being proposed or required with this request.

- 7) **Police Department Review and Recommendation:** The Oxnard Police Department has provided a report with information required by City Council Resolution No. 11,896 for sale of alcoholic beverages (see Attachment "C").

Local Concentration of Alcohol Outlets- The police report provides analysis regarding the presumption of undue concentration of establishments selling alcoholic beverages and reports on the number of police response incidents and whether approval of the special use permit is likely to significantly aggravate policing problems.

According to the police report, there are no establishments of the same type located within 350 feet of the subject location. There is one business of the same type within 1000 feet of the site. In light of these circumstances, the police report notes that there is no presumption of an undue concentration of alcohol outlets proposed by the project.

Crime Statistics- For comparison purposes the Police Department calculated the average number of Part I and II crimes that occur per reporting district (grid), during a selected 12-month period. For reference, Part I crimes include: murder, rape, robbery, theft, burglary, auto theft, assault, and arson. Part II crimes include: vandalism, weapons possession, other sex offenses, drug abuse violations, driving under the influence, liquor laws, drunkenness, and disorderly conduct.

The average citywide, per grid base number of Part I and II crimes, is currently 117. The average number of Part I and II crimes occurring within the applicant's reporting district and all other districts within 1,000 feet of the applicant is 137 during the same 12-month time period. This is 17% higher than the average crime rate citywide and generally not considered to be significant. The Police Report distinguishes between crime within the residential neighborhoods adjacent to the project and commercial developments in the vicinity. The number and severity of the reported incidents tend to be concentrated in the more densely populated apartment complexes nearby while the commercial areas nearest to the site show a crime rate that is approximately 23% below citywide average. The proposed use is not anticipated to aggravate policing problems in the vicinity.

- 8) **Community Workshop and Public Correspondence:** On February 4, 2011, the applicant mailed notices of the Community Workshop meeting to all property owners within the Southwinds Neighborhood. Notice of the meeting was also posted on the project site and

included a brief description of the project and contact information. The Community Workshop was conducted on Monday, February 14, 2011. One member of the public spoke in support of the applicant, the restaurant, and the request to offer alcohol. This individual represented Paragon Communities Inc., developer of "Westwind" (a nearby residential subdivision).

On February 15, 2010, Planning Staff also received a letter in support of the project from the President of Paragon Communities, Inc. (see Attachment "D").

- 9) Appeal Procedure:** In accordance with Section 16-545 of the City Code, the Planning Commission's action may be appealed to the City Council within 18 days after the decision date. Appeal forms may be obtained from the City Clerk and must be submitted with the appropriate fees before the end of the appeal period.

Attachments:

- A. Maps (Vicinity, General Plan, Zoning)
- B. Reduced Project Plans
- C. Police Report (dated March 23, 2011)
- D. Letter of Support (dated February 15, 2011)
- E. Notice of Exemption
- F. Resolution

Prepared by: DS

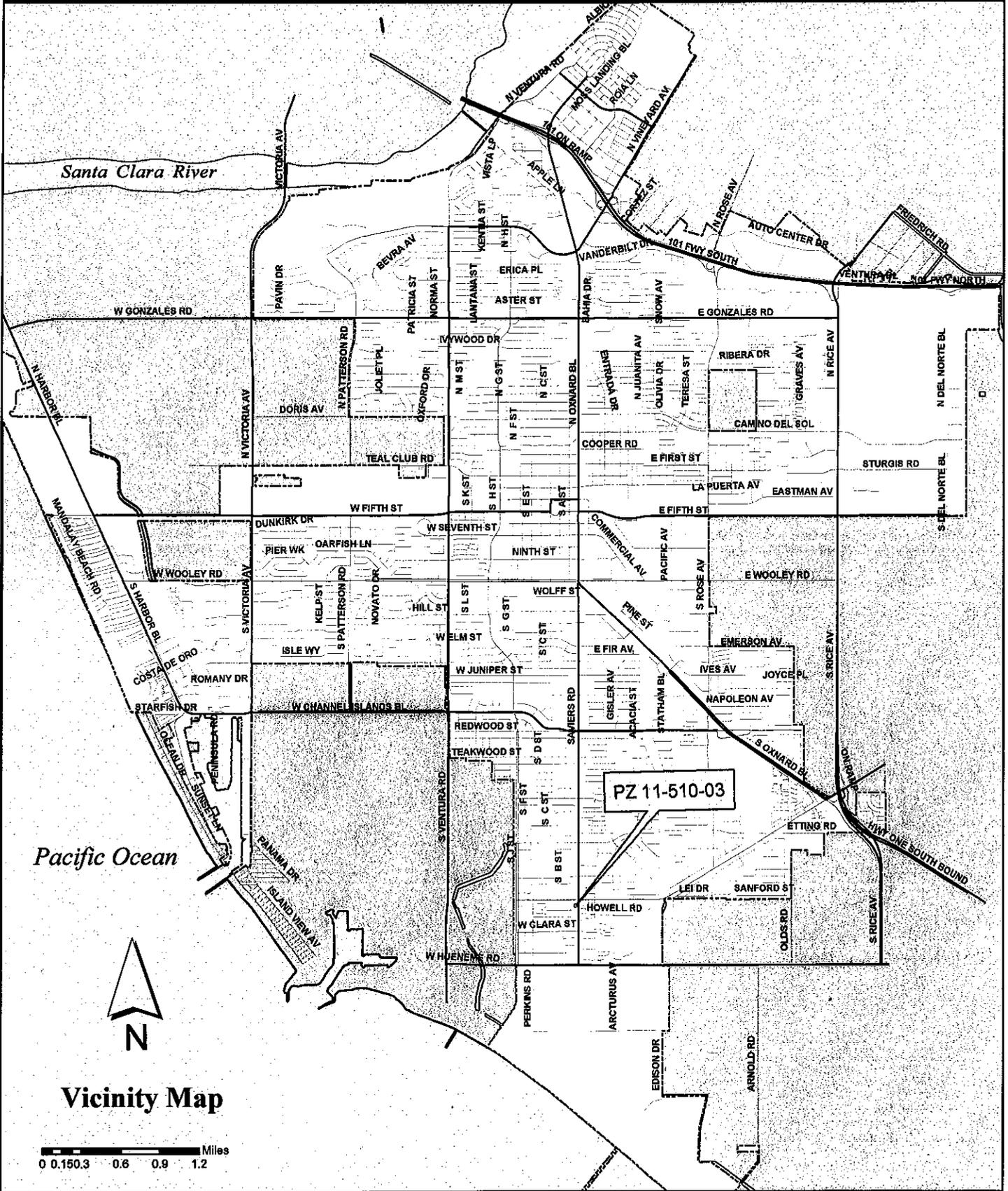
DS

Approved by: SM

SM

Attachment "A": Maps (Vicinity, General Plan, and Zoning

Vicinity Map



Vicinity Map

0 0.150.3 0.6 0.9 1.2 Miles

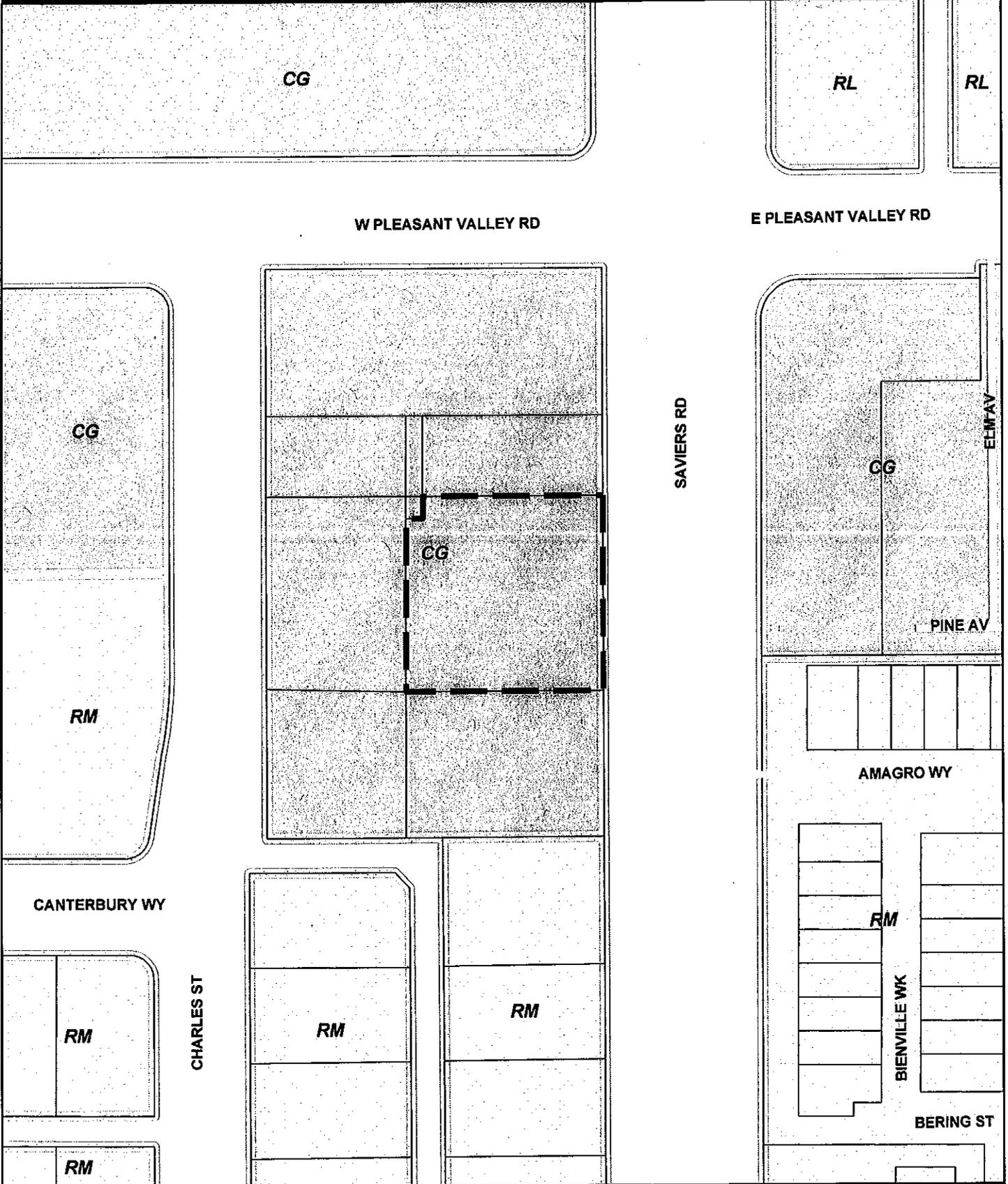


Oxnard Planning
February 1, 2011

PZ 11-510-03
Location: 5141 Saviers Rd
APN: 222010219
Daniel Cobain

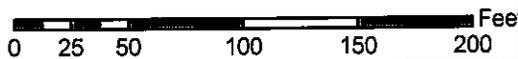
ATTACHMENT A
PAGE 1 OF 3

General Plan Map



Oxnard Planning
February 1, 2011

PZ 11-510-03
Location: 5141 Saviers Rd
APN: 222010219
Daniel Cobain



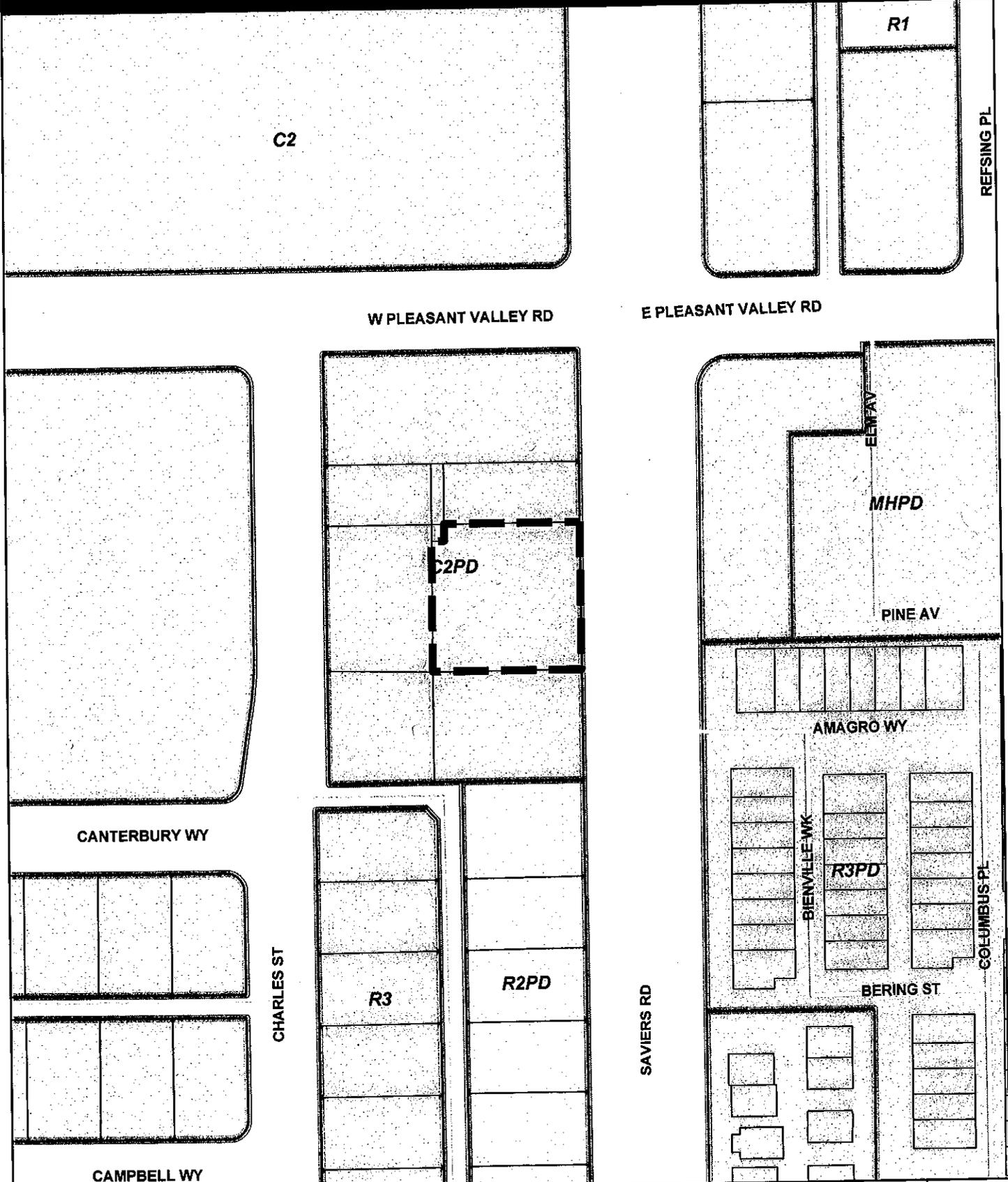
General Plan Map

ATTACHMENT A
PAGE 2 OF 3



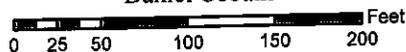
1:997

Zone Map



Oxnard Planning
February 1, 2011

PZ 11-510-03
Location: 5141 Saviers Rd
APN: 222010219
Daniel Cobain



Zone Map

ATTACHMENT A
PAGE 3 OF 3



1:1,319

Attachment "B": Reduced Project Plans

LANDSCAPE ARCHITECTURE: The landscape architect shall be responsible for the design and construction of the landscape architecture. The landscape architect shall be responsible for the design and construction of the landscape architecture. The landscape architect shall be responsible for the design and construction of the landscape architecture.

CONTRACT DOCUMENTS: The contract documents shall include the contract agreement, the specifications, the drawings, and the addenda. The contract documents shall be prepared by the architect and shall be subject to the approval of the owner. The contract documents shall be prepared by the architect and shall be subject to the approval of the owner.

PERMITS: The contractor shall be responsible for obtaining all necessary permits for the construction of the project. The contractor shall be responsible for obtaining all necessary permits for the construction of the project. The contractor shall be responsible for obtaining all necessary permits for the construction of the project.

SCOPE OF THE WORK: The contractor shall be responsible for the construction of the project. The contractor shall be responsible for the construction of the project. The contractor shall be responsible for the construction of the project.

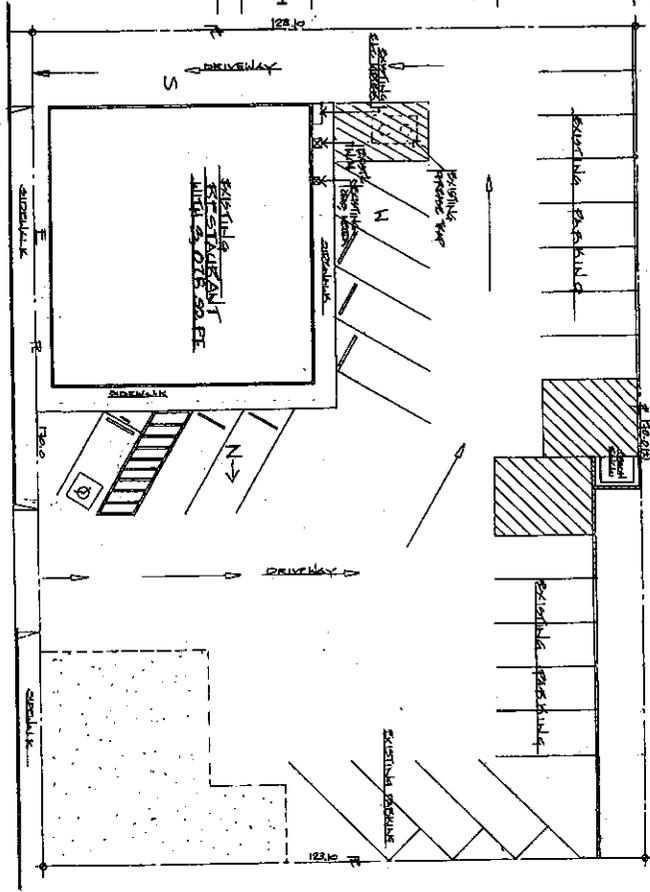
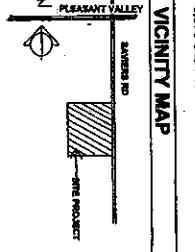
NEIGHBORHOOD OF THE PROJECT: The project is located in the neighborhood of Pleasant Valley. The project is located in the neighborhood of Pleasant Valley. The project is located in the neighborhood of Pleasant Valley.

GENERAL NOTES: The contractor shall be responsible for the construction of the project. The contractor shall be responsible for the construction of the project. The contractor shall be responsible for the construction of the project.

PROJECT DATA
 LEGAL DESCRIPTION: Z22-0-102-195
 TYPE: VI
 ZONE: C
 HEIGHT: 18'-0"
 NO. BUILDING: 1
 ADDRESS: 5141 SAVIERS RD.
 TENANT:
 CONTACT:

DRAWING INDEX
 SHEET DESCRIPTION
 T-1 SITE PLAN
 A-1 FLOOR PLAN
 M-1 HOOD MECHANICAL

SCOPE OF THE WORK
 EXISTING COMMERCIAL RESTAURANT WITH
 3,078 SQ. FT.
VICINITY MAP



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

ATTACHMENT B
 PAGE 1 OF 2

Yiniguez & Associates
 Design Group
 COMMERCIAL & RESIDENTIAL
 622 South 'A' Street
 SUITE 100
 OAKLAND, CA 94608
 PH: 505 / 444-4444
 FAX: 505 / 444-4444
 WWW: WWW.YINIGUEZ.COM
 FREDERICK GARCIA
 889-4279

REVISIONS
 NO. DATE DESCRIPTION OF REVISION
 1 11/11/11 THE EXISTING RESTAURANT IS TO BE RENOVATED TO BECOME A RESTAURANT WITH 3,078 SQ. FT. OF SPACE.

NO.	DATE	DESCRIPTION OF REVISION
1	11/11/11	THE EXISTING RESTAURANT IS TO BE RENOVATED TO BECOME A RESTAURANT WITH 3,078 SQ. FT. OF SPACE.

T1

Attachment "C": Police Report (dated March 23, 2011)



Police Department

Jeri Williams, Police Chief

Date: March 23, 2011
To: Doug Spondello, Assistant Planner
From: Cliff Waer, Senior Alcohol Compliance Officer
Subject: 5141 Saviers Road (Best Breakfast)

PZ-11-510-03

Site Information:

The proposed site is located at 5141 Saviers Road approximately 150 feet south of the intersection of Pleasant Valley Road and Saviers Road. The site is currently being operated as a restaurant (without the sales of alcohol) and was previously the long time home of Uncle Herb's Restaurant. The front doors open east toward Saviers Road and the parking lot encircles the building on the north, west and south.

The site it is generally bordered by residential on the south and west, Saviers Road to the east and Pleasant Valley to the north. There are vacant lots on the north and west side of the site that at one time was intended to be the future site of a residential apartment complex. The nearest existing residences are approximately 25 feet to the south and there is a block wall separating most of the restaurant parking lot from the homes.

There are no similar uses within 350 feet of the site and one within 1000 feet (Paraiso Mexican Grill). The applicant has requested to obtain an ABC License Type-41 which is a restaurant that allows for the sale of beer and wine.

Alcohol outlets located within 350 feet of the establishment include:

BUSINESS NAME	LOCATION	LICENSE TYPE	LICENSE TITLE	LICENSE DESC.	ALCOHOL ALLOWED
1. Sam's Liquor	5120 Saviers Road	Type-21	Off-Sale Beer, Wine and Spirits	Liquor Store	Beer, Wine and Spirits
2. King Village	125 W Pleasant Vly.	Type-21	Off-Sale Beer, Wine and Spirits	Liquor Store	Beer, Wine and Spirits

3. Wooley Market	145 E. Pleasant Valley Rd.	Type-20	Off-Sale Beer and Wine	Market	Beer and Wine
------------------	----------------------------	---------	------------------------	--------	---------------

Alcohol outlets located within 1000 feet of the establishment include:

BUSINESS NAME	LOCATION	LICENSE TYPE	LICENSE TITLE	LICENSE DESC.	ALCOHOL ALLOWED
1. El Paraiso Mexican Grill	5030 S. "C" Street	Type-41	On-Sale Beer and Wine (Eating Place)	Restaurant	Beer and Wine
2. Express Mimi Mart	400 W. Pleasant Valley Rd.	Type-20	Off-Sale Beer and Wine	Market	Beer and Wine
3. Tresierra's Market	133 W. Pleasant Valley Rd.	Type 21	Off-sale General	Grocery/Market	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 137 during the same 12-month time period. This is 17% higher than the average crime rate citywide which is generally not considered to be significant.

The commercial uses in the immediate area surrounding the proposed site are not generally considered to be a policing problem; however, in the residential areas southwest and east of the site there are significant police concerns. A review of police calls for service just in the nearby Southwinds neighborhood (Saviers to Perkins and Pleasant Valley to Hueneme Road) show the Part I and II crime rate to be nearly 135% higher than the citywide average. While much of this neighborhood extends beyond the 1000 feet we generally consider as the most likely areas that will be impacted by the addition of alcohol, the problems are significant enough to be relevant when determining the appropriateness of the proposed use. For many years, the area has been the focus of an intense police and community neighborhood improvement effort and the numbers of problems have been on the decline. Still, the inner neighborhood remains a policing concern and so far, long-term solutions have been elusive.

Calls for service such as assaults, fights and other violent acts as well as those that list alcohol as a contributing factor are slightly above the citywide average. As with the overall reported crimes, the number and severity of the reported incidents tend to be concentrated in the more densely

populated apartment complexes nearby while the commercial areas nearest to the site show a crime rate that is approximately 23% below citywide average.

For reference, the category of Part I crimes include: murder, rape, robbery, theft, burglary, auto theft, assault, and arson. Part II crimes include: vandalism, weapons possession, sex offenses, drug abuse violations, driving under the influence, liquor laws, drunkenness, and disorderly conduct. Any reference above to "police calls for service" may include all types of police responses to the area, not just the Part I and II crimes reported to the federal Uniform Crime Report system (UCR). Such calls may include fights, loud noise, domestics and other disturbances.

Police Department Input:

The Beat Coordinator for the area was contacted and said the area immediately surrounding the site is not generally considered to be a crime problem. She was unaware of any other existing problems that may be exacerbated by the granting of the permit other than to note the ongoing challenges facing the inner Southwinds neighborhood. She supported the inclusion of the standard police conditions to minimize the risk for problems.

The Police Department had some concerns about the potential for conflicts with the residences that are directly alongside the parking lot on the south side. Additionally, there were plans to construct a two-story apartment complex in the empty lots along the western and northern boundaries of the parking lot. If the plans for additional residences are completed, the business would be then surrounded on three sides by residences which can, in some cases, be a sensitive and even undesirable situation. However, the applicant has neither proposed any outdoor seating nor any dancing or entertainment which significantly reduces the risks for conflicts. The availability of alcohol by itself should not significantly alter the daily activity of the business, as long as dancing, entertainment and outdoor seating are restricted. The Police Department is satisfied that any potential problems should be sufficiently mitigated through the addition of standard and special conditions of operation.

Community Input:

The Responsible Alcohol Policy Action Coalition (RAPAC) has discussed this proposal at their monthly meetings and expressed no significant concerns with the proposed use. They commented that, should the applicant choose to host live entertainment or dancing at the site, that there will likely be a conflict with the residents and strongly opposed such a use. They suggested that any outdoor music also be restricted to reduce the likelihood for noise problems.

The Principal and administration for Haycox School (approximately 1200 feet from the proposed site) were notified of this proposal and advised to contact the Planning Department or attend the community hearings if they have any concerns or comments they wish to share.

Conclusion:

The statistical analysis shows the area to have a crime rate that is 17% higher than the citywide average and is generally not considered to be a policing problem. There are no similar uses within 350 feet so there is no presumption of undue concentration. The potential conflicts with

nearby residences can be effectively mitigated by restricting outdoor seating and prohibiting entertainment or dancing.

The Police Departments experience is that the proposed license (Type 41 - 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. Listed below are the Police Department's recommended operating conditions for the Planning Commission Resolution.

Police Standard Operating Conditions

- 1) 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. Applicant can contact the Alcohol Compliance Officer at the Oxnard Police Department to make arrangements (PL/PD)
- 2) 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)
- 3) 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)
- 4) When security personnel are present or required per Oxnard City Code, 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. (PD)
- 5) 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)
- 6) 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. (PD)
- 7) The quarterly gross sales of alcoholic beverages shall not exceed the gross sales of food during the same period. Permittee 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)

- 8) 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)
- 9) 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)
- 10) The premises shall possess the necessary utensils, table service, and the condiment dispensers with which to serve meals to the public.(PL/PD)
- 11) The use of any amplifying system or device shall not be audible outside the premise nor shall it be disruptive to neighboring uses. (PD)
- 12) 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)
- 13) The sale of alcoholic beverages for consumption off the premises is strictly prohibited. (PD)
- 14) Sales of alcohol shall not occur between the hours of 10:00 p.m. and 6:00 a.m. (PL/PD)
- 15) Alcoholic beverages shall not be offered at significantly reduced prices (typically more than 25% reduction) that are meant to encourage greater consumption of alcohol such as during "happy hour" type promotions. Permittee shall not develop 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)
- 16) Alcoholic beverages shall be served in standard sizes that are consistent with the industry and shall not be served by the pitcher, "bucket" or similar high capacity amounts exceeding 36oz total. (PD)
- 17) 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, walkways and other adjacent areas under Permittee's reasonable control. (PD)

- 18) 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". (PD)
- 19) 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)
- 20) Permittee shall not create any bar, lounge or other area in which the exclusive use would be the service of alcoholic beverages. Food shall be made available in all areas where customers are seated. An area designated for customers who are waiting to be seated at a food service table shall not be considered a violation of this condition as long as the area is not used primarily for the service of alcohol. Condition number 3, above, shall be adhered to regardless of where customers are seated. (PD)
- 21) The subject Alcoholic Beverage Control License shall not be exchanged for any other type of Alcoholic Beverage Control License without review and approval by the Police Chief or his designee, Planning Commission or City Council. (PD)
- 22) 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, Police Department may initiate Planning Commission review the existing SUP and apply or remove conditions as appropriate to mitigate existing or potential problems. (PD)
- 23) 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 twenty-four (24) hours of being applied. (PL/PD)
- 24) Permittee shall be responsible for maintaining free of litter the area adjacent to the premises over which Permittee has reasonable control. (PL/PD)
- 25) The area surrounding premises under the reasonable control of 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 in or about the area. (PL/PD)
- 26) No pay phone on the exterior of the premises shall be allowed within 100 feet of the front or rear doors and any pay phones installed inside shall be blocked from incoming calls. (PL/PD)
- 27) Permittee shall regularly police the area under Permittee's control and shall not permit the loitering of persons about the premises. (PL/PD)
- 28) 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 does not constitute a violation. (PD)

- 29) Permittee shall establish safe and responsible cash handling procedures to reduce the likelihood of robberies and thefts. (PD)
- 30) 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)
- 31) Permittee shall install an electronic intrusion detection system that detects portal openings, glass break, and interior motion. (PD)
- 32) 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. (PD)
- 33) 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) Entertainment and/or dancing are prohibited. Recorded music 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.
- 2) Outdoor seating or patio dining is not permitted. If necessary, customers waiting to be seated may queue outdoors as long as their behavior is closely monitored and they do not become disruptive to neighboring uses.

Attachment "D": Letter of Support (dated February 15, 2011)

Paragon Communities, Inc.

February 15, 2011

Matthew Winegar, AICP
Development Services Department
City of Oxnard
214 South C Street
Oxnard, CA 93030

Re: Planning & Zoning Permit No. 11-510-03

Dear Mr. Winegar:

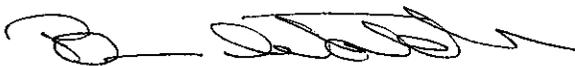
The community of South Oxnard is in need of new businesses to help revitalize the area. The recent opening of "The Best Breakfast" has proven a success, not only for local commerce, but also as a dining option for the 156-family residents located in Paragon's nearby development, "Westwind."

We know that many other patrons of "The Best Breakfast" also come from "Pacific Cove," "Portofino" and the surrounding neighborhood.

Owner/manager Daniel Cobian has a long track record of responsible operation(s) stemming from his years as manager of "Yolanda's" in Camarillo. Of all the stores in that chain, his Camarillo location was the most successful.

Paragon Communities and the development of "Westwind," support Daniel Cobian's request to sell wine and beer at "The Best Breakfast" as we are confident that his plans to offer nighttime dining will be yet another success for the community and the City of Oxnard.

Sincerely,



Brian Catalde, President

BC:rc

203 Richmond Street, El Segundo, California 90245

Telephone: (310) 322-3268 • Facsimile: (310) 322-3269

www.paragoncommunities.com

ATTACHMENT D

PAGE 1 OF 1

Attachment "E": Notice of Exemption



NOTICE OF EXEMPTION

Project Description:

PLANNING & ZONING PERMIT NO. 11-510-03 (Alcohol Special Use Permit) A request to sell wine and beer at an existing 3,078 square foot restaurant (The Best Breakfast), located at 5141 Saviers Road. The business operates between the hours of 7:00 a.m. and 2:00 p.m., Monday through Wednesday and between the hours of 7:00 a.m. and 8:00 p.m., Thursday through Sunday. Filed by Designated Agent Daniel Cobian, 3023 Kern Street, 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 the California Environmental Quality Act Guidelines and Section 15301 of the California Code of Regulations, projects involving the permitting and licensing of existing facilities are exempt from environmental review where there is negligible or no significant expansion of an existing use. 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 "F": Resolution

RESOLUTION NO. 11-510-03

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF OXNARD, APPROVING PLANNING AND ZONING PERMIT NO. PZ 11-510-03 (SPECIAL USE PERMIT FOR ALCOHOL) TO ALLOW THE SALE OF BEER AND WINE FOR ON-SITE CONSUMPTION AT AN EXISTING RESTAURANT (THE BEST BREAKFAST), LOCATED AT 5141 SAVIERS ROAD, SUBJECT TO CERTAIN FINDINGS AND CONDITIONS. FILED BY DESIGNATED AGENT DANIEL COBIAN, 3023 KERN STREET, OXNARD, CA 93033.

WHEREAS, the Planning Commission of the City of Oxnard has considered an application for Planning and Zoning Permit No. 11-510-03, filed by Designated Agent Daniel Cobian, in accordance with Section 16-530 through 16-553 of the Oxnard City Code and City Council Resolution No. 11,896; and

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

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

1. The proposed use is in conformance with the General Plan and other adopted policies of the City of Oxnard.
2. The proposed use will not adversely affect or be materially detrimental to the adjacent uses, buildings or structures or to the public health, safety or general welfare.
3. The site for the proposed use is adequate in size and shape to accommodate the setbacks, parking, landscaping, and other City standards except as may be specifically excepted by the special findings and conditions of this resolution.
4. The site for the proposed use will be served by streets and highways adequate in width and structure to carry the kind and quantity of traffic such use will generate.
5. The site for the proposed use will be provided with adequate sewerage, water, fire protection and storm drainage facilities.
6. The proposed 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 16-545 of the Oxnard City Code.

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

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

GENERAL PROJECT CONDITIONS

1. This permit is granted for the property described in the application on file with the Planning Division, and may not be transferred from one property to another. (PL, *G-1*).
2. This permit is granted for the plans (“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 Manager or a major modification to the plans is approved by the Planning Commission. A minor modification may be granted for minimal changes or increases in the extent of use or size of structures or of the design, materials or colors of structures or masonry walls. A major modification shall be required for substantial changes or increases in such items. (PL, *G-2*)
3. By commencing any activity related to the project or using any structure authorized by this permit, Developer accepts all of the conditions and obligations imposed by this permit and waives any challenge to the validity of the conditions and obligations stated therein. (CA, *G-5*)
4. Developer agrees, as a condition of adoption of this resolution, at Developer’s own expense, to indemnify, defend and hold harmless the City and its agents, officers and

employees from and against any claim, action or proceeding to attack, review, set aside, void or annul the approval of the resolution or any condition attached thereto or any proceedings, acts or determinations taken, done or made prior to the approval of such resolution that were part of the approval process. Developer's commencement of construction or operations pursuant to the resolution shall be deemed to be an acceptance of all conditions thereof. (CA, G-6)

5. Any covenants, conditions, and restrictions (CC&Rs) applicable to the project property shall be consistent with the terms of this permit and the City Code. If there is a conflict between the CC&Rs and the City Code or this permit, the City Code or this permit shall prevail. (CA, G-7)
6. Developer shall complete the "Notice of Land Use Restrictions and Conditions" form, using the form provided by the City, for recording with the Ventura County Recorder. Before the City issues building permits, Developer shall submit the original completed, signed and notarized document, together with the required fees to the Planning Manager. (PL, G-8)
7. Developer shall provide off-street parking for the project, including the number of spaces, stall size, paving, striping, location, and access, as required by the City Code. (PL/B, G-9)
8. Developer shall not permit any combustible refuse or other flammable materials to be burned on the project property. (FD, G-12)
9. 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)
10. 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)
11. Prior to issuance of building permits, Developer shall correct all violations of the City Code existing on the project property. (PL, G-15).

PLANNING DIVISION STANDARD CONDITIONS

12. 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)
13. 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-16).

PLANNING DIVISION SPECIAL CONDITION

14. 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)

POLICE DEPARTMENT STANDARD CONDITIONS

15. 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. Applicant can contact the Alcohol Compliance Officer at the Oxnard Police Department to make arrangements (PL/PD)
16. 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)
17. 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)
18. Permittee shall not create any bar, lounge or other area in which the exclusive use would be the service of alcoholic beverages. Food shall be made available in all areas where customers are seated. An area designated for customers who are waiting to be seated at a food service table shall not be considered a violation of this condition as long as the area is not used primarily for the service of alcohol. Condition number No. 19 above, shall be adhered to regardless of where customers are seated. (PD)
19. When security personnel are present or required per Oxnard City Code, 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. (PD)
20. 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)

21. 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. (PD)
22. The quarterly gross sales of alcoholic beverages shall not exceed the gross sales of food during the same period. Permittee 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)
23. 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)
24. 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)
25. The premises shall possess the necessary utensils, table service, and the condiment dispensers with which to serve meals to the public.(PL/PD)
26. Entertainment and/or dancing are prohibited. Recorded music 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 or audible outside the premise. (PD/PL)
27. 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)
28. The sale of alcoholic beverages for consumption off the premises is strictly prohibited. (PD)
29. Sales of alcohol shall not occur between the hours of 10:00 p.m. and 6:00 a.m. (PL/PD)
30. Alcoholic beverages shall not be offered at significantly reduced prices (typically more than 25% reduction) that are meant to encourage greater consumption of alcohol such as during "happy hour" type promotions. Permittee shall not develop 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 that are consistent with the industry and shall not be served by the pitcher, "bucket" or similar high capacity amounts exceeding 36oz total. (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, walkways 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". (PD)
34. 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)
35. The subject Alcoholic Beverage Control License shall not be exchanged for any other type of Alcoholic Beverage Control License without review and approval by the Police Chief or his designee, Planning Commission or City Council. (PD)
36. 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, Police Department may initiate Planning Commission review the existing SUP and apply or remove conditions as appropriate to mitigate existing or potential problems. (PD)
37. 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 twenty-four (24) hours of being applied. (PL/PD)
38. Permittee shall be responsible for maintaining free of litter the area adjacent to the premises over which Permittee has reasonable control. (PL/PD)
39. The area surrounding premises under the reasonable control of 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 in or about the area. (PL/PD)
40. No pay phone on the exterior of the premises shall be allowed within 100 feet of the front or rear doors and any pay phones installed inside shall be blocked from incoming calls. (PL/PD)
41. Permittee shall regularly police the area under Permittee's control and shall not permit the loitering of persons about the premises. (PL/PD)

42. 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 does not constitute a violation. (PD)
43. Permittee shall establish safe and responsible cash handling procedures to reduce the likelihood of robberies and thefts. (PD)
44. 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)
45. Permittee shall install an electronic intrusion detection system that detects portal openings, glass break, and interior motion. (PD)
46. 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. (PD)
47. A copy of these conditions must be maintained on the premises and made available upon the demand of any peace officer at all times. (PL/PD)

POLICE DEPARTMENT SPECIAL CONDITIONS

48. Outdoor seating or patio dining is not permitted. If necessary, customers waiting to be seated may queue outdoors as long as their behavior is closely monitored and they do not become disruptive to neighboring uses. This condition shall supersede the portions of Minor Modification No. 05-140-78 which permitted outdoor dining along Saviers Road. (PD/PL)

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

AYES:

NOES:

ABSENT:

Patrick Mullin, Chairman

ATTEST: _____
Susan L. Martin, Secretary