



Meeting Date: 1/13/2009

ACTION	TYPE OF ITEM
<input type="checkbox"/> Approved Recommendation	<input type="checkbox"/> Info/Consent
<input type="checkbox"/> Ord. No(s). _____	<input type="checkbox"/> Report
<input type="checkbox"/> Res. No(s). _____	<input checked="" type="checkbox"/> Public Hearing
<input type="checkbox"/> Other _____	<input type="checkbox"/> Other _____

Prepared By: Justin Beranich, Assistant Planner

Agenda Item No. L-4

Reviewed By: City Manager [Signature]

City Attorney [Signature]

Finance [Signature]

Other (Specify) _____

DATE: December 29, 2008

TO: City Council

FROM: Susan L. Martin, AICP
Planning Manager

[Signature]

SUBJECT: Appeal of Planning and Zoning Permit No. 08-510-09 (Special Use Permit) for the sale of beer and wine for on site consumption at an existing restaurant, located at 128 East Sixth Street. Filed by Juvenal Correa.

RECOMMENDATION

That City Council adopt a resolution denying the appeal and upholding the Planning Commission's approval of Planning and Zoning Permit No. 08-510-09, to permit the sale of beer and wine for on site consumption at 128 East Sixth Street.

DISCUSSION

On December 4, 2008, the Planning Commission voted 4-2 to approve Special Use Permit (SUP) No. 08-510-09 (Resolution No. 2008-79), to allow for the sale of beer and wine for on-site consumption at an existing restaurant known as Sabor located at 128 East Sixth Street. No physical expansion to the existing structures is proposed with this request.

On December 17, 2008, a staff appeal of the Planning Commission's decision was filed with the City Clerk, requesting that the City Council review issues of undue concentration posed by the number of alcohol outlets in proximity to Sabor.

The Oxnard Police Department provided a report with information required by City Council Resolution No. 11,896 for sale of alcoholic beverages (Attachment 1). This report provides information regarding the average number of Part I and Part II crimes, whether there is a presumption of undue concentration of establishments selling alcoholic beverages, and whether approval of the SUP is likely to significantly aggravate policing problems. There are currently three on-sale beer and wine (Type 41) outlets within 350 feet of the project site and consequentially, there is an issue of undue concentration.

The crime rate in the applicant's reporting district is 42% higher than the citywide average. The area along Oxnard Boulevard between Fourth and Seventh Streets has a significant number of disturbance

related calls, but is generally not considered to be a serious policing problem. Although the crime rate is higher than the citywide average, and there are three on-sale beer and wine outlets within 350 feet of the subject parcel, it is the Police Department's experience that there should not be an increase in policing problems, provided that this approval is adequately conditioned and that this outlet is operated responsibly.

ALTERNATIVES

Should the City Council decide to deny the use request, staff recommends that City Council adopt a resolution denying Planning and Zoning Permit No. 08-510-09 subject to certain findings and conditions.

FINANCIAL IMPACT

There is a potential impact on sales tax collections.

(JB)

- Attachment #1 - Police Report
#2 - Planning Commission Staff Report without Attachments
#3 - Planning Commission Resolution No. 2008-79
#4- Letter Requesting Appeal
#5 - City Council Resolution upholding the Planning Commission action
#6 - City Council Resolution granting the applicant's appeal of the Planning Commission's action
#7 - Planning Commission Power Point



Police Department
John Crombach, Police Chief

Date: October 20, 2008
To: Justin Beranich, Assistant Planner
From: Cliff Waer, Senior Alcohol Compliance Officer
Subject: 128 E. Sixth Street (Sabor Restaurant) **PZ 08-510-9**

Site Information:

The proposed site is located in the Central Business District within the Five Points North neighborhood. The building is situated on the southeast corner of Sixth Street at the east alley of Oxnard Boulevard. The front doors face north to Sixth Street and parking is along the street or to the west where there is alley parking. The business is currently being operated as a Mexican food restaurant without the sale of alcohol. The site is generally bordered by residential to the east, Oxnard Boulevard and commercial to the west, Sixth Street to the north, and residences to the south. The nearest residences are approximately 50 feet to the east where there is a small apartment complex. There are three similar uses within 350 feet of the site (none on Sixth Street) and several more within 1000 feet. 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. El Parian	155 E. Seventh	Type 41	On-Sale Beer and Wine	Restaurant	Beer and Wine
2. El Coyote	601 S. Oxnard Blvd	Type 41	On-Sale Beer and Wine	Restaurant	Beer and Wine
3. Mi Hacienda	611 S. Oxnard Blvd	Type 41	On-Sale Beer and Wine	Restaurant	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. Meson Viejo	124 E. Fifth St.	Type 41	On-Sale Beer and Wine	Restaurant	Beer and Wine
2. Nuevo Carmelita	113 E. Fifth St.	Type 40	On-Sale Beer	Bar (minors allowed)	Beer only
3. Texas Place	204 E. Fifth St.	Type 40	On-Sale Beer	Bar (minors allowed)	Beer only
4. Golden Chicken Inn	701 S. Oxnard Blvd.	Type 40	On-Sale Beer	Bar (minors allowed)	Beer only
5. Capriccio's	221 W Fifth	Type 41	On-Sale Beer and Wine	Restaurant	Beer and Wine
6. Cielito Lindo	635 S. Oxnard Blvd.	Type 41	On-Sale Beer and Wine	Restaurant	Beer and Wine
7. Mona Lisa	703 S. Oxnard Blvd.	Type 42	On-Sale Beer and Wine	Bar (no minors)	Beer and Wine
8. Miramar	653 S. Oxnard Blvd.	Type 47	On-Sale General	Restaurant	Beer, Wine and Spirits
9. Casa Escobar	455 S "A" Street	Type 47	On-Sale General	Restaurant	Beer, Wine and Spirits
10. El Tapatio	663 S. Oxnard Blvd.	Type 48	On-Sale General (Public Premise)	Bar (no minors)	Beer, Wine and Spirits
11. La Gloria Market	430 S. Oxnard Blvd.	Type 20	Off-Sale Beer and Wine	Market	Beer and Wine
12. La Mexicana Market	601 S. "A" St.	Type 20	Off-Sale Beer and Wine	Market	Beer and Wine

Crime Statistic Review:

For comparison purposes the Police Department calculates the average number of part I and II crimes that occur per reporting district (grid) during a selected 12-month period. The average city-wide, per grid base number of Part I and II crimes is currently 126.

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 202 during the same 12-month time period. This is 42% higher than the average crime rate citywide. The heaviest concentration of incidents occurred along Oxnard Boulevard between Fourth Street and Seventh Street and many are

disturbance-related. The numbers of disturbance-related incidents that list alcohol as a contributing factor are above the citywide average.

For reference, the category of part I crimes include: murder, rape, robbery, theft, burglary, auto theft, assault, and arson. Part II crimes include: vandalism, weapons possession, sex offenses, drug abuse violations, driving under the influence, liquor laws, drunkenness, and disorderly conduct.

Police Department Input:

The Beat Coordinator for the area was contacted and had some concerns about adding an unregulated alcohol outlet in this particular area. He said that in addition to the higher-than-average number of police calls, the general area is known by officers to be a place where local and out-of-town prostitutes often visit. He said that police efforts to address the vice problems have been somewhat effective and that such activity is now fairly sporadic. He added that the proposed site is in no way associated with or contributes to any of the problem activity in the area.

Another bar that was previously on Sixth Street, (the Capri) that has since closed down, was a magnet for vice activity and posed a very challenging problem for the police. The Capri was a dilapidated bar/nightclub that had no conditions of operation and, consequently, problem activity there was very difficult to effectively address. Thoroughly conditioning the proposed site may help reduce the likelihood that this location would follow in the footsteps of the Capri.

Another concern is the close proximity to residences. There is a small apartment complex literally attached to the east portion of the building and some of the vice issues are related to that building. It is not often to have an alcohol outlet so close to residential uses and similar circumstances in Oxnard have resulted in problems. Perhaps the most frequent problem is related to loud music and persons loitering. To minimize the likelihood for a conflict, the Police Department has included conditions of operation that will restrict the use of amplified music and prohibit dancing or live entertainment.

Community Input:

This proposal was discussed with members of the Responsible Alcohol Policy Action Coalition (RAPAC) who expressed similar concerns to those of the Police Department. Members recalled that when the Capri Bar was open at the corner of Sixth and Meta that it was a magnet for problems. Since it has been closed, the area seems to be slowly improving as residents have taken a greater interest in making positive changes in the neighborhood. RAPAC indicated that a responsible, fresh new business may help to revitalize the street but deferred to the residents as to what is in their best interest. Based upon their knowledge and involvement with the residents' previous concerns regarding the Capri Bar and noise, members suggested that the business not be permitted to have live or amplified music and that dancing be prohibited.

The Police Department is aware that the residents in the area have had multiple meetings to discuss this proposal and many attended the community hearing in October. We have been in touch with neighborhood leaders who have communicated to us some of the concerns of the

residents and which generally reflect the concerns of the Police Department and RAPAC. The residents generally supported the business along with the current owner; however, they were uneasy about what would happen if the current, responsible owner were to sell the business to someone less concerned about the neighborhood. Many recalled how difficult the problems related at the Capri Bar were to solve and did not want to expose the neighborhood to another potential risk. While recognizing that the established restaurant is not necessarily responsible for the existing problems along Sixth Street including drugs, prostitution and loitering, some residents were concerned that the availability of alcohol at the site could possibly contribute to further problems. Many of the proposed conditions of operation that are included below are to directly address and mitigate the concerns of the residents.

Conclusion:

The statistical analysis shows the area to have a crime rate that is 42% higher than the city-wide average and, while not necessarily considered a serious policing problem, is a concern of the Police Department. Vice-related problems are unique to the area and police are effectively working to solve the problems.

There are three similar uses within 350 feet of the site so there is a local issue of undue concentration. There are ten other similar outlets located within 1000 feet of the site with none of them located on E. Sixth Street. According to Department of Alcoholic Beverage Control guidelines, there is no issue of undue concentration on the state level.

The primary issues regarding this proposal are the existing problems in the area, the concentration of outlets downtown, proximity to residences and the poor history of similar uses on the same street. A previous bar located directly across from the apartment complex at Sixth and Meta was a beacon for problems which significantly affected the quality of life for the nearby residents. Police and community members are concerned that the proposed use does not devolve to the level of bars like the Capri and does not contribute to existing problems.

Although there are many issues to be concerned about in this area, the Police Department is not convinced that allowing the sale of alcohol at this location will significantly contribute to or aggravate existing problems. The standard and special conditions recommended below should adequately mitigate the concerns mentioned in this report and will provide the Police Department with multiple enforcement options if problems do arise.

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.



Planning Division

**PLANNING COMMISSION
STAFF REPORT**

TO: Planning Commission

FROM: Justin Beranich, Assistant Planner

DATE: December 4, 2008

SUBJECT: Planning and Zoning Permit No. 08-510-9, (Special Use Permit) Located at 128 East Sixth Street.

- 1) **Recommendation:** That the Planning Commission approve Planning and Zoning Permit No. 08-510-9 for a special use permit, subject to certain findings and conditions.
- 2) **Project Description and Applicant:** A request to permit on-site beer and wine consumption at an existing restaurant known as Sabor, located on East Sixth Street between Oxnard Boulevard and Meta Street. This business is addressed at 128 East Sixth Street, (APN 201-0-272-150). Filed by Juvenal Correa, 1330 Joliet Place, Oxnard, CA 93030.
- 3) **Existing & Surrounding Land Uses:** The restaurant is located within a 1,875 square foot freestanding building. In addition, there are two detached residences located on the rear of the property to the south and east of the subject building.

Project Site	Central Business District	Central Business District	Commercial and residential
North	Central Business District	Central Business District	Commercial
South	Central Business District	Central Business District	Residential
East	Central Business District	Central Business District	Commercial
West	Central Business District	Central Business District	Commercial

- 4) **Background Information:** There are no land use permits issued for this property.

5) Environmental Determination: In accordance with Section 15301 of the California Environmental Quality Act (CEQA) Guidelines, projects involving "permitting, leasing and licensing of existing...structures" may be found to be exempt from the requirements of CEQA. The request is for on-site consumption of beer and wine. There is no new development or expansion of development associated with this request. Therefore, staff has determined that there is no substantial evidence that the project may have a significant effect on the environment and recommends that Planning Commission accept the Notice of Exemption (see Attachment C).

6) Analysis:

a) General Discussion: The proposed hours of operation are Monday through Sunday 10:00 a.m. – 9:00 p.m. The request does not include outdoor dining, entertainment or nightclub activities, and is specific to this building only. A condition of approval is included that allows the Police Department to initiate Planning Commission review of the Special Use Permit (SUP) and apply or remove conditions as appropriate to mitigate existing or potential problems 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 (Condition No. 31). In addition, conditions of approval are included that restrict live music and entertainment (Condition No. 43) and prohibit patron dancing (Condition No. 44).

b) General Plan Consistency:

<i>Safety Policy #35 (page LX-20) states that "The City should require the Police Department to review all proposed development projects for potentially dangerous situations, and implement its recommendations"</i>	The Police Department reviewed the proposed use for compliance with its safety and security requirements. The project is conditioned to include implementation measures that address their concerns.
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c) Conformance with Zoning Development Standards: The proposed use is located in the Central Business District (CBD) zone district. In accordance with the City Code, the proposed use may be allowed with an approved special use permit. The proposed sale of alcohol for on-site consumption is accessory to the primary use of the restaurant, and conforms to the conditionally permitted uses of the CBD zone.

d) Site Design: The building consists of 1,875 square feet of floor area, and the main entry faces Sixth Street. The entry opens into the restaurant, with a small cooking area to the east and the dining area to the west. The cashier counter is located in the middle of a demising wall that separates the small cooking area from the seating area on the east. The main kitchen area is enclosed as a separate room on the east side past the small cooking area and cashier station. The dining area is made up of movable tables and chairs that seat a maximum of 49 people. The restrooms are located at the rear of the restaurant.

The site also contains two existing detached residences located south and east of the subject building. There are a total of eight off-street parking spaces provided on-site for customer use.

- e) **Request for Sale of Alcoholic Beverages for on-site consumption:** A license for Type 41, (On-sale Beer and Wine for Bona-Fide Public Eating Place), is pending with the State Department of Alcoholic Beverage Control (ABC) for the establishment.

The Oxnard Police Department provided a report with information required by City Council Resolution No. 11,896 for sale of alcoholic beverages (Attachment D). This report provides information regarding the number of incidents of police response, whether there is a presumption of undue concentration of establishments selling alcoholic beverages and whether approval of the special use permit is likely to significantly aggravate policing problems. There are three similar uses within 350 feet of the site (none on Sixth Street). According to Department of Alcoholic Beverage Control guidelines, there is no issue of undue concentration on the state level. Although, undue concentration exists at the local level, City Council Resolution No. 11,896 allows undue concentration to be rebutted by the preponderance of the evidence and if the proposed use is not likely to aggravate police problems.

Crime Statistics- 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 126.

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 202 during the same 12-month time period. This is 42% higher than the average crime rate citywide. The heaviest concentration of incidents occurred along Oxnard Boulevard between Fourth Street and Seventh Street and many are disturbance-related. The numbers of disturbance-related incidents that list alcohol as a contributing factor are above the citywide average.

Additional Police Input- The Police Department has some concerns about adding an alcohol outlet in this particular area. In addition to the higher-than-average number of police calls, the general area is known by officers to be a place where local and out-of-town prostitutes often visit. The Police Department recognizes that the proposed use of alcohol sales is not associated with the prostitution activity in the area.

Another concern is the close proximity to residences. It is not typical to have an alcohol outlet so close to residential uses, and similar circumstances in Oxnard have resulted in problems. Perhaps the most frequent problem is related to loud music and persons loitering. To minimize the likelihood for a conflict, Special Condition No. 44 is included that will restrict the use of amplified music and prohibit dancing or live entertainment.

Although there issues of concern in this area, the Police Department is not convinced that allowing the sale of alcohol at this location will significantly contribute to or aggravate existing problems. The conditions of approval should adequately mitigate the Police Department's concerns and include multiple enforcement options if problems do arise.

- f) Police Outreach to the Community:** This proposal was discussed with members of the Responsible Alcohol Policy Action Coalition (RAPAC) who expressed similar concerns to those of the Police Department. RAPAC recalled that when the Capri Bar was open at the corner of Sixth and Meta Streets that it was a magnet for problems. RAPAC indicated that a responsible, fresh new business may help to revitalize the street but deferred to the residents as to what is in their best interest.

The Police Department outreached to neighborhood leaders who echoed the concerns of the Police Department and RAPAC. The residents generally supported the business along with the current owner; however, they were uneasy about what would happen if the current owner were to sell the business to someone less concerned about the neighborhood. Condition No. 31 allows the Police Department to initiate Planning Commission review upon person-to-person transfer of the ABC license. Many of the proposed conditions of approval address the operation and mitigate the concerns of the residents.

- 6) Community Workshop:** On October 10, 2008, the applicant mailed notices of the Community Workshop meeting to all property owners within the Five Points Northeast Neighborhood. The applicant also provided notice on the project site with a brief description of the project and contact information for the Community Workshop, conducted on October 20th. Comments received at the meeting included praise for the Police Departments responsiveness to crime in the area and praise to the business owner for operating responsibly. Also expressed were concerns about adding another alcohol outlet to the area, public drunkenness and the potential of license transfer to another operator.
- 7) Appeal Procedure:** In accordance with Section 16-545 (A) of the City Code, the Planning Commission's decision may be appealed to the City Council within 18 days.

Attachments:

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

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

RESOLUTION 2008 – 79

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF OXNARD APPROVING PLANNING AND ZONING PERMIT NO. 08-510-9 (SPECIAL USE PERMIT), TO ALLOW THE ON-SITE CONSUMPTION OF BEER AND WINE (ABC LICENSE TYPE 41) IN AN EXISTING COMMERCIAL BUILDING LOCATED AT 128 EAST SIXTH STREET, (APN 201-0-272-150), SUBJECT TO CERTAIN FINDINGS AND CONDITIONS. FILED BY JUVENAL CORREA, 1330 JOLIET PLACE, OXNARD, CA 93030.

WHEREAS, the Planning Commission of the City of Oxnard has considered an application for Planning and Zoning Permit No. 08-510-9, a special use permit to allow the on-site consumption of beer and wine in an existing commercial building located at 128 East Sixth Street, filed by Juvenal Correa, in accordance with sections 16-530 through 551 of the Oxnard City Code and City Council Resolution No. 11,896; and

WHEREAS, section 15301 of the California Code of Regulations exempts the project from the requirements for the preparation of documents imposed by the California Environmental Quality Act; and

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

1. That the proposed use is in conformance with the General Plan and other adopted policies of the City of Oxnard.
2. That the proposed use will not adversely affect or be materially detrimental to the adjacent uses, buildings or structures or to the public health, safety or general welfare.
3. That the site for the proposed project is adequate in size and shape to accommodate the setbacks, parking, landscaping, and other City standards except as may be specifically excepted by the special findings and conditions of this resolution.
4. That the site for the proposed use will be served by streets and highways adequate in width and structure to carry the kind and quantity of traffic such use will generate.
5. That the site for the proposed use will be provided with adequate sewerage, water, fire protection and storm drainage facilities.
6. The presumption of undue concentration has been rebutted by a preponderance of the evidence, which shows that the establishment is in a downtown where restaurant establishments selling alcoholic beverages for consumption on the premises are 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 approves this permit subject to the following conditions. The decision of the Planning Commission is final unless appealed in accordance with the provisions of Section 16-530 through 551 of the Oxnard City Code.

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

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

GENERAL PROJECT CONDITIONS

1. This permit is granted for the property described in the application on file with the Planning and Environmental Services Division (“Planning Division”), and may not be transferred from one property to another. (PL, *G-1*).
2. This permit is granted for the plans dated December 4, 2008 (“the plans”) on file with the Planning Division. The project shall conform to the plans, except as otherwise specified in these conditions, or unless a minor modification to the plans is approved by the Planning and Environmental Services Manager (“Planning Manager”) or a major modification to the plans is approved by the Planning Commission. A minor modification may be granted for minimal changes or increases in the extent of use or size of structures or of the design, materials or colors of structures or masonry walls. A major modification shall be required for substantial changes or increases in such items. (PL, *G-2*)
3. By commencing any activity related to the project or using any structure authorized by this permit, Developer accepts all of the conditions and obligations imposed by this permit and waives any challenge to the validity of the conditions and obligations stated therein. (CA, *G-5*)

4. Developer agrees, as a condition of adoption of this resolution, at Developer's own expense, to indemnify, defend and hold harmless the City and its agents, officers and employees from and against any claim, action or proceeding to attack, review, set aside, void or annul the approval of the resolution or any condition attached thereto or any proceedings, acts or determinations taken, done or made prior to the approval of such resolution that were part of the approval process. Developer's commencement of construction or operations pursuant to the resolution shall be deemed to be an acceptance of all conditions thereof. (CA, G-6)
5. Developer shall complete the "Notice of Land Use Restrictions and Conditions" form, using the form provided by the City, for recording with the Ventura County Recorder. Before the City issues building permits, Developer shall submit the original completed, signed and notarized document, together with the required fees to the Planning Manager. (PL, G-8)
6. Developer shall not permit any combustible refuse or other flammable materials to be burned on the project property. (FD, G-12)
7. 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)
8. 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)

PLANNING DIVISION STANDARD CONDITIONS

9. Within 30 days of approval of this permit, Developer shall pay a document imaging fee for the planning files in an amount calculated by planning staff at the time of amended business license review based on fees then in effect. (PL/B, PL-16).

PLANNING DIVISION SPECIAL CONDITIONS

10. 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 STANDARD CONDITIONS

11. 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)
12. 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)

13. Sales of alcoholic beverages shall be incidental to the sale 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. 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. (PD)
14. 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.
15. 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)
16. 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.
17. 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)
18. 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)
19. 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)

20. The premises shall possess the necessary utensils, table service, and the condiment dispensers with which to serve meals to the public.(PL/PD)
21. 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)
22. The sale of alcoholic beverages for consumption off the premises is strictly prohibited. (PD)
23. Sales of alcohol shall not occur between the hours of 10:00 p.m. and 7:00 a.m. (PL/PD)
24. 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)
25. 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. (PD)
26. 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)
27. 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)
28. 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)
29. 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 14, above, shall be adhered to regardless of where customers are seated. (PD)
30. 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.

31. 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 of the existing SUP and apply or remove conditions as appropriate to mitigate existing or potential problems.
32. 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)
33. Permittee shall be responsible for maintaining free of litter the area adjacent to the premises over which Permittee has reasonable control. (PL/PD)
34. 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)
35. No pay phones 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)
36. Permittee shall regularly police the area under Permittee's control in an effort to prevent the loitering of persons about the premises. (PL/PD)
37. 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)
38. Permittee shall establish cash handling procedures to reduce the likelihood of robberies and thefts. (PD)
39. 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)
40. Permittee shall install an electronic intrusion detection system that detects portal openings, glass break, and interior motion. (PD)
41. 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)
42. 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

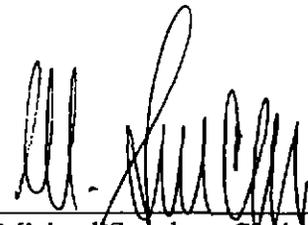
- 43. There shall be no live entertainment or amplified sound permitted on the premises. Recorded music for the purposes of creating ambience that is appropriate for the proposed use is permitted but shall be subdued and at no time be audible outside the premises. (PD)
- 44. Permittee shall prohibit patron dancing on the premises. (PD)

PASSED AND ADOPTED by the Planning Commission of the City of Oxnard on this 4th day of December, 2008, by the following vote:

AYES: Commissioners: Elliott, Frank, Pinkard, Sanchez

NOES: Commissioners: Dean, Medina

ABSENT: Commissioners: Okada



Michael Sanchez, Chairman

ATTEST: 

Susan L. Martin, Secretary



NOTICE REQUESTING REVIEW

I, Matthew Winegar, request that the City Council review the December 4, 2008 decision of the Planning Commission approving Planning and Zoning Permit No. 08-510-09, a Special Use Permit allowing the sale of beer and wine for on-site consumption at an existing restaurant (Sabor Restaurant, located at 128 East Sixth Street), on the following grounds:

- To provide efficient and coordinated review of a multiple permit project.
- For City Council consideration of the above-referenced project, including issues of over-saturation.

 12/17/08
(Signature and Date)

cc: City Attorney
Development Services Director
Project Planner
Applicant

CITY COUNCIL OF THE CITY OF OXNARD

RESOLUTION NO. [PZ 08-510-09]

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OXNARD UPHOLDING THE DECISION OF THE PLANNING COMMISSION AND APPROVING PLANNING AND ZONING PERMIT NO. 08-510-09 (SPECIAL USE PERMIT) TO ALLOW THE SALE OF BEER AND WINE FOR ON-SITE CONSUMPTION (ABC LICENSE TYPE 41) AT AN EXISTING RESTAURANT, LOCATED AT 128 EAST SIXTH STREET, SUBJECT TO CERTAIN FINDINGS AND CONDITIONS. FILED BY JUVENAL CORREA, 1330 JOLIET PLACE, CA 93030.

WHEREAS, Planning Commission Resolution No. 2008-79 approved an application for Special Use Permit No. 08-510-09 filed by Juvenal Correa; and

WHEREAS, the Planning Commission's decision was appealed to the City Council; and

WHEREAS, the City Council has carefully reviewed the Planning Commission decision approving the application, the staff report, and minutes of testimony at the Planning Commission public hearing; and

WHEREAS, on January 13, 2009, the City Council conducted a public hearing and received evidence in favor of and opposed to the application for an SUP to sell beer and wine for on-site consumption at the property located east of the southeast corner of Oxnard Boulevard and Sixth Street;

WHEREAS, Section 15301 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

NOW, THEREFORE, the City Council of the City of Oxnard resolves that the Planning Commission's approval of Special Use Permit No. 08-510-09 is hereby upheld subject to the conditions set forth in Planning Commission Resolution No. 2008-79 on file in the Planning Division of the Development Services Department.

PASSED AND ADOPTED this 13th day of January 2009, by the following vote:

AYES:

NOES:

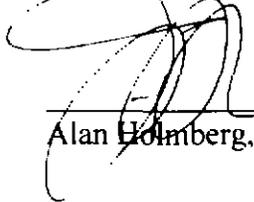
ABSENT:

Dr. Thomas E. Holden, Mayor

ATTEST:

Daniel Martinez, City Clerk

APPROVED AS TO FORM:



for
Alan Holmberg, City Attorney
1.6.09

CITY COUNCIL OF THE CITY OF OXNARD

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OXNARD DENYING PLANNING AND ZONING PERMIT NO. 08-510-09 (SPECIAL USE PERMIT) REQUESTING TO ALLOW THE SALE OF BEER AND WINE FOR ON-SITE CONSUMPTION (ABC LICENSE TYPE 41) AT AN EXISTING RESTAURANT, LOCATED AT 128 EAST SIXTH STREET, SUBJECT TO CERTAIN FINDINGS AND CONDITIONS. FILED BY JUVENAL CORREA, 1330 JOLIET PLACE OXNARD, CA 93030.

WHEREAS, Planning Commission Resolution No. 2008-79 approved an application for Special Use Permit No. 08-510-09 filed by Juvenal Correa; and

WHEREAS, the Planning Commission's decision was appealed to the City Council; and

WHEREAS, the City Council has carefully reviewed the Planning Commission decision approving the application, the staff report, and minutes of testimony at the Planning Commission public hearing; and

WHEREAS, on January 13, 2009, the City Council conducted a public hearing and received evidence in favor of and opposed to the application for an SUP to sell beer and wine for on-site consumption at the property located east of the southeast corner of Oxnard boulevard and Sixth Street;

WHEREAS, Section 15301 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

NOW, THEREFORE, the City Council makes the following findings of fact:

1. There already exists three on-site alcohol outlets within 350 feet of the site.
2. The crime rate in the reporting district for the site is 42% higher than the City wide average.
3. The proposed on-site alcohol outlet would not serve the public's convenience and necessity.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Oxnard hereby DENIES Planning and Zoning Permit No. 08-510-09.

PASSED AND ADOPTED this 13th day of January 2009, by the following vote:

AYES:

NOES:

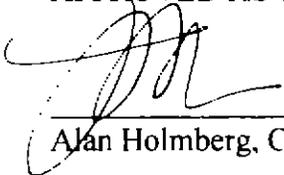
ABSENT:

Dr. Thomas E. Holden, Mayor

ATTEST:

Daniel Martinez, City Clerk

APPROVED AS TO FORM:

 for

Alan Holmberg, City Attorney
1.6.09

Sabor
PZ 08-510-9
128 East Sixth Street

Filed by Juvenal Correa
1330 Joliet Pl.
Oxnard, CA 93030
December 4, 2008

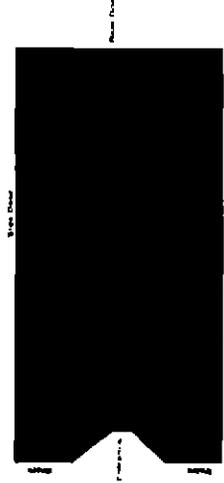
Application Request

To allow on-site
consumption of beer and wine
(ABC license Type 41) within an
existing
1,875 sq/ft restaurant.

Site
Location



Floor Plan



Compliance

- City Code Section 16-136: requires an SUP for restaurants serving alcohol.
- CC Resolution No. 11896, which adopted review standards for establishments selling alcohol.
- Undue concentration exists.
- Establishment not likely to aggravate police problems.
- Project conditions included to mitigate any potential policing problems.

Site Pictures



Staff Recommendation

That the Planning Commission adopt a resolution approving Special Use Permit (PZ 08-510-9) to allow on-site consumption of beer and wine (ABC License Type 41), subject to certain findings and conditions.