Meeting Date: 5/12/2009

ACTION	TYPE OF ITEM
☐ Approved Recommendation	☒ Info/Consent
☐ Ord. No(s). _____	☐ Report
☐ Res. No(s). _____	☐ Public Hearing
☐ Other _____	☐ Other _____

Prepared By: Douglas Spondello, Assistant Planner DS Agenda Item No. I-6

Reviewed By: City Manager MMH City Attorney Fischer SMF Finance JC Other *(Specify)*

DATE: April 23, 2009

TO: City Council

FROM: Susan L. Martin, AICP
Planning Manager

SUBJECT: **Denial of Planning and Zoning Permit No. 08-510-10 (Special Use Permit) requesting to allow the sale of beer and wine for off site consumption at an existing convenience market (Five Star Market), located at 200 South Ventura Road, Suite 250. Filed by Salvador Magallon.**

RECOMMENDATION

That City Council adopt a resolution denying Planning and Zoning Permit No. 08-510-10 consistent with Council's vote at the April 14, 2009 meeting.

DISCUSSION

As directed by the Council at the April 14, 2009 meeting, attached is a resolution denying Planning and Zoning Permit No. 08-510-10, a request to allow the sale of beer and wine for off-site consumption from Five Star Market. This item is continued from the April 21, 2009 Council meeting.

FINANCIAL IMPACT

There is no estimated financial impact to the current FY budget (FY 2008-2009).

(DS)

Attachment #1 - City Council Resolution denying Planning and Zoning Permit No. 08-510-10

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. 08-510-10 (SPECIAL USE PERMIT), REQUESTING TO ALLOW THE SALE OF BEER AND WINE FOR OFF-SITE CONSUMPTION FROM AN EXISTING CONVENIENCE MARKET (FIVE STAR MARKET) LOCATED AT 200 SOUTH VENTURA ROAD, SUITE 250, SUBJECT TO CERTAIN FINDINGS AND CONDITIONS. FILED BY SALVADOR MAGALLON, 200 SOUTH VENTURA ROAD, SUITE 250, OXNARD, CA, 93030.

WHEREAS, Planning Commission Resolution No. 2009-07 approved an application for Special Use Permit No. 08-510-10 filed by Salvador Magallon; 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 April 14, 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 off-site consumption at the property located at 200 South Ventura Road; and

WHEREAS, the proposed location at 200 South Ventura Road is adjacent to a residential neighborhood, and is in close proximity to youth serving institutions such as an adult education center and the Police Activity League facility, as well as the National Guard Armory which serves as a homeless shelter during certain periods of need; and

WHEREAS, residents of the adjacent neighborhood objected to granting the application; and

WHEREAS, section 3(b) of City Council Resolution 11,896 provides that a presumption that a proposed use will not result in an undue concentration of retail alcoholic beverage establishments may be rebutted by a preponderance of the evidence, based on the facts of a particular case; and

WHEREAS, based upon the record in this matter and on the presentations and public testimony received at the public hearing of this matter, the City Council determines that there is sufficient evidence to rebut the presumption of no undue concentration; and

WHEREAS, the record and the testimony at the public hearing in this matter indicate that the proposed use would adversely affect and be materially detrimental to adjacent uses and to the public health, safety and general welfare.

ATTACHMENT 1
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NOW, THEREFORE, based on the record and testimony received in this matter and the facts recited above, the City Council finds as follows:

1. The proposed use is likely to create or significantly aggravate police problems within 1000 feet of the proposed location.

2. There is a preponderance of the evidence that a retail alcohol use at the proposed location will result in an undue concentration of establishments selling alcoholic beverages at retail within 1000 feet of the proposed location.

3. The proposed use would adversely affect and be materially detrimental to adjacent uses, buildings and structures, and to the public health, safety and general welfare.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Oxnard hereby DENIES Planning and Zoning Permit No. 08-510-10.

PASSED AND ADOPTED this 12th day of May 2009, by the following vote:

AYES:

NOES:

ABSENT:

Dr. Thomas E. Holden, Mayor

ATTEST:

Daniel Martinez, City Clerk

APPROVED AS TO FORM:

Alan Holmberg, City Attorney