Meeting Date 10/27/09

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

Prepared By: Juan Martinez, Associate Planner JM Agenda Item No. L-1

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

DATE: September 24, 2009

TO: City Council

FROM: Susan L. Martin, AICP
Planning Division

SUBJECT: Planning and Zoning Permit No. 08-510-12 (Special Use Permit), Saviers Market, 3280 Saviers Road. Filed by Zaher Hawara, 3280 Saviers Road Oxnard, CA 93033

RECOMMENDATION

That City Council adopt a resolution upholding the Planning Commission's decision to deny Planning and Zoning Permit No. 08-510-12 (Special Use Permit), subject to the findings set forth in Planning Commission Resolution No. 2009-33

DISCUSSION

On September 3, 2009, the Planning Commission adopted a resolution denying a special use permit to allow an existing non-conforming market (Saviers Market) to upgrade from off-site beer and wine (ABC Type 20) to off-site sale of beer, wine, and distilled spirits (ABC Type 21).

City Staff and the Police Department were unable to recommend approval of this application due to issues of undue concentration and the area's high crime rate. The Police Department reported that granting the establishment a permit to upgrade sales to distilled spirits would likely aggravate policing problems for this area. Further, the Police Department reported conditions that might be imposed on a permit would likely be ineffective in mitigating the risks to the community due to the undue concentration of similar alcohol outlets in the area.

At the Planning Commission hearing, several members from the community expressed their concerns, indicating that the existing establishment is already problematic in that persons are known to purchase alcohol from Saviers Market and consume it in the adjacent laundromat facility. It was also described that teenagers were known to intimidate Savier's Market patrons to purchase alcoholic beverages. The community representative who spoke also expressed that there were already too many establishments and that the addition of liquor may reduce the availability of other sale items of convenience.

The Planning Commission denied the project in a five to one vote, with one the Planning Commission absent. On Thursday, September 10, 2009, the representative of Saviers Market filed an appeal on the basis that the market had not received a fair hearing.

Should the City Council overturn the Planning Commission's decision and decide to grant approval of this permit, Staff would request that the project be referred back to Staff, so that standard and special project conditions could be applied.

The Planning Commission staff report (Attachment 2) provides the project details and information regarding the site and development improvements proposed.

FINANCIAL IMPACT

None.

Attachment 1 - Resolution Upholding Denial of Special Use Permit
2 - Planning Commission Staff Report Dated September 3, 2009 w/out Attachments
3 - Planning Commission Resolution No. 2009-33 (Special Use Permit)
4 - Vicinity Map

Note: Attachment No. 2 has been provided to the City Council under separate cover. Copies for review are available at the Help Desk in the Library after 6:00 p.m. on the Thursday prior to the Council meeting and at the City Clerk's Office after 8:00 a.m. on Monday, October 26, 2009.

CITY COUNCIL OF THE CITY OF OXNARD

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OXNARD UPHOLDING THE PLANNING COMMISSION'S DECISION AND DENY PLANNING AND ZONING PERMIT NO. 08-510-12 (SPECIAL USE PERMIT), A REQUEST TO ALLOW AN EXISTING NON-CONFORMING MARKET (SAVIERS MARKET) TO UPGRADE FROM OFF-SITE BEER AND WINE (ABC TYPE 20) TO OFF-SITE SALE OF BEER, WINE, AND DISTILLED SPIRITS (ABC TYPE 21). THE SUBJECT MARKET IS LOCATED AT 3280 SAVIERS ROAD, WITHIN THE BLACKSTOCK NORTH NEIGHBORHOOD. FILED BY ZAHER HAWARA, SAVIERS MARKET, 3280 SAVIERS ROAD, OXNARD, CA 93033.

WHEREAS, on September 3, 2009, the Planning Commission voted adopted Resolution No. 2009-33, denying Planning and Zoning Permit No. 08-510-12 (Special Use Permit), filed by Zaher Hawara, Saviers Market ; and

WHEREAS, City Council has carefully reviewed the decision of the Planning Commission; and

WHEREAS, the City Council has held a public hearing and received and reviewed written and oral comments related to Special Use Permit No. 08-510-12; and

WHEREAS, in accordance with Section No. 15270(a) of the California Environmental Quality Act, projects, which an agency rejects or disapproves do not require environmental review.

NOW, THEREFORE, the City Council of the City of Oxnard does hereby resolve to uphold the Planning Commission's decision of September 3, 2009 and deny Planning & Zoning Permit No. 08-510-12 (SUP) subject to the findings set forth in Planning Commission Resolution No. 2009-33, on file in the Planning Division, and incorporated herein by reference.

PASSED AND ADOPTED this 27th day of October 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

RESOLUTION NO. 2009 - 33

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF OXNARD DENYING PLANNING AND ZONING PERMIT NO. 08-510-12 (SPECIAL USE PERMIT), TO ALLOW AN EXISTING NON-CONFORMING MARKET (SAVIERS MARKET) TO UPGRADE FROM OFF-SITE BEER AND WINE (ABC TYPE 20) TO OFF-SITE SALE OF BEER, WINE, AND DISTILLED SPIRITS (ABC TYPE 21). THE SUBJECT MARKET IS LOCATED AT 3280 SAVIERS ROAD, WITHIN THE BLACKSTOCK NORTH NEIGHBORHOOD. FILED BY ZAHER HAWARA, 3280 SAVIERS ROAD, OXNARD, CA 93033.

WHEREAS, the Planning Commission of the City of Oxnard has considered an application for Planning and Zoning Permit No. 08-510-12, filed by Zaher Hawara in accordance with Section 16-530 through 16-553 of the Oxnard City Code and City Council Resolution No. 11,896; and

WHEREAS, the Planning Commission finds, after due study, deliberation, public hearing, and consideration of the Police Department's report and all other relevant evidence in the record before the Planning Commission, that the following circumstances exist:

1. The denial of this special use permit will not affect the preservation and enjoyment of substantial property rights of the applicant.

2. The granting of this special use permit would, under the circumstances of this particular case, adversely affect or be materially detrimental to adjacent uses, buildings or structures, to the health or safety of persons residing in or working in the neighborhood, or to the general welfare in that it may exacerbate an already elevated crime rate in the area and the non-conforming existing conditions of the site may not be suited to the proposed use.

3. As indicated in the Police Department's report regarding the subject application, the upgrade to distilled spirits would significantly aggravate police problems within 1000 feet of the location for which the special use permit is applied.

4. There is a presumption of undue concentration pursuant to Section 3(b) of City Council Resolution No. 11,896 in that another establishment of the same type is located within 350 feet of the subject location, which presumption has not been rebutted by a preponderance of the evidence in the record before the Planning Commission. There are five off-sale outlets within 1000 feet of the subject location, three of which sell distilled spirits. As such, approval of this special use permit would result in or add to an undue concentration of alcoholic beverage retail establishments within 1000 feet of the subject location.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Oxnard hereby denies this permit. The decision of the Planning Commission is final unless appealed in accordance with the provisions of Section 16-545 of the Oxnard City Code.

PASSED AND ADOPTED by the Planning Commission of the City of Oxnard on this 3rd day of September 2009, by the following vote:

AYES: Commissioners: Medina, Mullin, Dean, Okada, Elliott

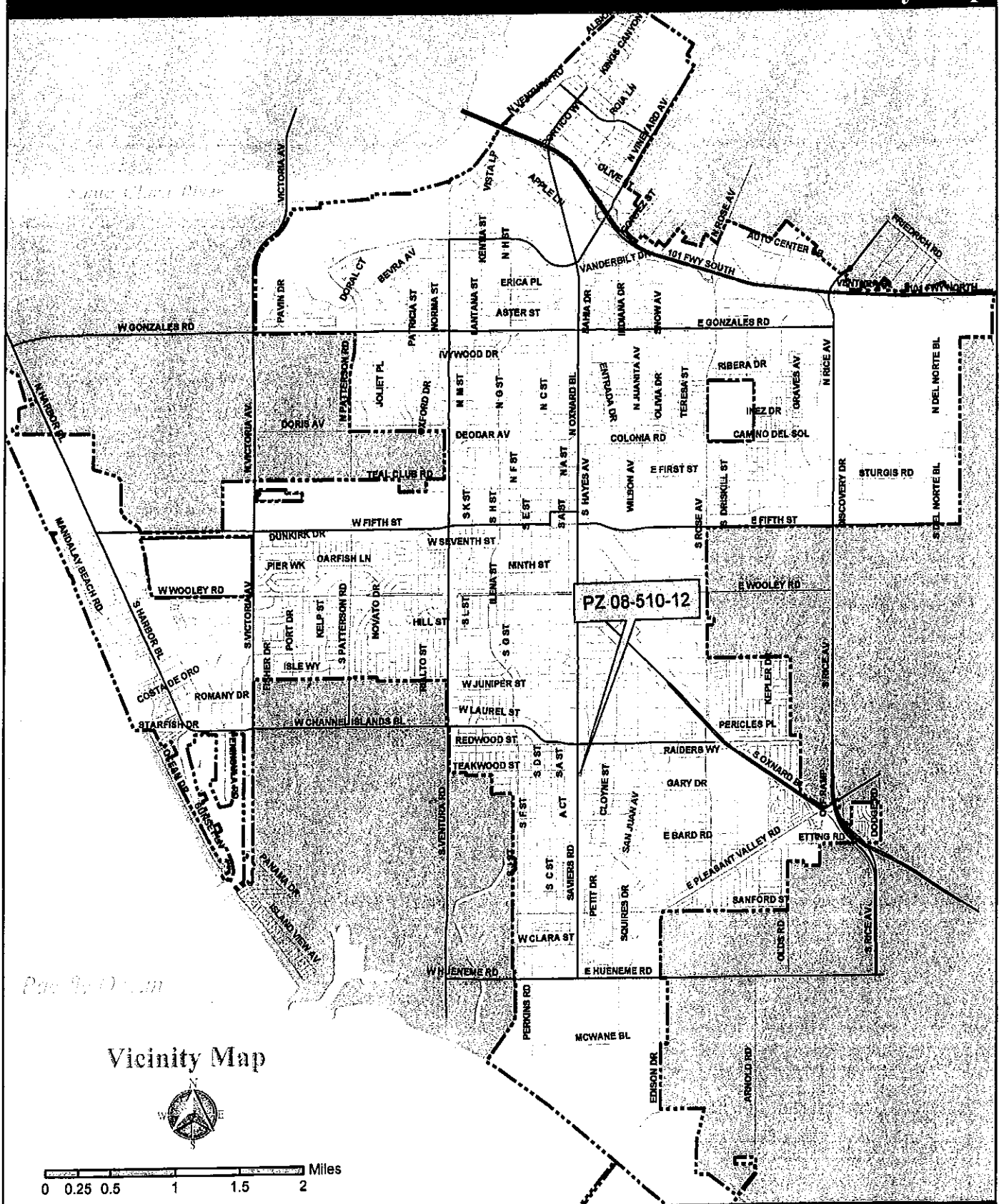
NOES: Commissioners: Sanchez

ABSENT: Commissioners: Frank

Randall Elliott, Chair

ATTEST:
Susan L. Martin, Secretary

Vicinity Map



Oxnard Planning
December 23, 2008

PZ 08-510-12
Location: 3280 Saviers Rd
APN: 219003106
Saviers Market

ATTACHMENT 4
PAGE 1 OF 1

MINUTES

OXNARD PLANNING COMMISSION
REGULAR MEETING
September 3, 2009

A. ROLL CALL

At 7:04 p.m., the regular meeting of the Oxnard Planning Commission convened in the Council Chambers. Commissioners Patrick Mullin, Dale Dean, Sonny Okada, Saul Medina, Mike Sanchez, Vice-Chair Randy Elliott were present. Chair Deirdre Frank was absent. Vice-Chair Elliott presided and called the meeting to order. Staff members present were: Susan Martin, Planning Manager; Stephen Fischer, Assistant City Attorney; Juan Martinez, Associate Planner and Maria Santana, Recording Secretary.

B. PUBLIC COMMENTS

C. READING OF AGENDA

The Planning Manager reviewed the agenda.

D. CONSENT AGENDA

1. APPROVAL OF MINUTES – August 20, 2009

MOTION Commissioner Dean moved and Commissioner Sanchez seconded a motion to approve the minutes of August 20, 2009 as presented. The question was called and the motion carried 5-0-1-1, Chair Frank absent and Commissioner Mullin abstaining.

E. CONTINUED PUBLIC HEARINGS

F. NEW PUBLIC HEARINGS

1. PLANNING AND ZONING PERMIT NO. 08-510-12 (Special Use Permit), a request to upgrade an existing beer and wine permit to include general alcohol sales for off-site consumption within an existing 2,400 square foot market (Saviers Market) located at 3280 Saviers Road. The proposed project is exempt from environmental review under Section 15301 of the CEQA Guidelines for Existing Facilities. Filed by Zaher Hawara, 3280 Saviers Road, Oxnard, CA 93033.
PROJECT PLANNER: JUAN MARTINEZ

Juan Martinez, Associate Planner made a project presentation describing the application's request, including Police reporting information regarding issues of undue concentration and the current high crime rate in the area. Staff recommending that the Planning Commission adopt a resolution approving PZ No. 08-510-12 (SUP), denying the applicant's request.

Vice-Chair Elliott opened the public testimony.

Mr. Zaher Hawara gave a brief history about his business and indicating that his objective was to have a clean operation, help neighbors and try and stay in business by up-grading his liquor license from Type 20 to Type 21. Mr. Hawara stated that he is in the process of upgrading his food selection, and has had no complaints from the neighbors. Safety of his employees and of the neighbors is first priority, has worked closely with police and has encouraged to contact police if there are any problems.

Commissioner Mullin asked Mr. Hawara, to provide a percentage of how much of the gross sales would be from alcohol sales and if he was planning to expand food selection.

Mr. Zaher Hawara addresses that future plans are to have full service market, increase customer convenience and hopes that they can make food and alcohol purchases in one stop.

Commissioners Okada asked how many other establishments on the same side of the street were selling alcohol, and Planner Martinez indicated that there was one liquor store and several restaurant establishments.

Commissioner Medina asked if facility accepts EBT (Electronic Benefit Transfer-Federal Food Stamp Distribution Program) and WIC (Women, Infant, and Children-Special Supplemental Nutrition Program) programs and Mr. Hawara indicated that they are in the final stages of obtaining operating license for these two programs. Commissioners Medina indicated that these two programs would boost business for the Saviers Market, and also mentioned that the store needs to be well balanced with produce and should consider before the alcohol license.

Commissioner Mullin asked if the ABC license had been approved and was informed that the only hold was the City's approval.

Ms. Nancy Ron spoke to oppose the market's request to upgrade the liquor license. The neighborhood has had problems with adults buying liquor for under age teens, history of on-going complaints and police calls, customers of the laundromat buying liquor and then going back to the Laundromat. Saviers Road is over saturated with business that sell liquor and market should concentrate on having better selection of groceries instead of alcohol.

Ms. Linda Kapman owner of the Liquor Cellar is opposed of another market obtaining a liquor license; neighbors and City Council are opposed of having more business selling on and off sale alcohol; area is over saturated with business selling alcohol already.

Ms. Pat Brown feels that alcohol permit should be denied, history of adults buying liquor for teens, no need for up grading liquor license at present time, since they already sell beer and wine. Customers that use the Laundromat are women and children and customers tend to buy alcohol and drink inside the facility which is dangerous. Time is not right to up grade.

Ms. Shirley Godwin opposing to the market obtaining the liquor license, Saviers Road is over saturated with business that sell alcohol as well as indoor consumption. Recently the market was cited recently by Code Compliance for weed abatement and property is in need of aesthetic to the outside of the building. Ms. Godwin stated that she would like to see a clean business that provides good service to City residents.

Vice-Chair Elliott closed the public testimony.

MOTION Commissioner Medina moved and Commissioner Mullin seconded a motion to approve PZ 08-510-12 (Special Use Permit) denying the applicant's request to upgrade from beer and wine to general alcohol sales for off-site consumption for property located at 3280 Saviers Road. The question was called and the motion carried 5-1-1, and Chair Frank absent.

G. PLANNING COMMISSION BUSINESS

H. PLANNING MANAGER COMMENTS

I. ADJOURNMENT

At 7:50 p.m., the Planning Commission concurred to adjourn.

Randy Elliott, Vice-Chair

ATTEST: _____
Sue Martin, Secretary