



Meeting Date: 1/24/12

| 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: Douglas Spondello, Assistant Planner *DS* Agenda Item No. **L-1**

Reviewed By: City Manager *[Signature]* City Attorney *SMF* Finance *[Signature]* Other (Specify) \_\_\_\_\_

**DATE:** January 13, 2012

**TO:** City Council

**FROM:** Susan L. Martin AICP, Planning Manager *SM*  
Development Services Department

**SUBJECT:** Appeal of the Planning Commission's Approval of Special Use Permit No. 11-510-07 to Allow the Sale of Beer and Wine at the 4-Way Meat Market, Located at 508 East Date Street. Filed by Salvador Ayala, 508 East Date Street, Oxnard, CA 93033.

**RECOMMENDATION**

That City Council adopt a resolution denying the appeal and upholding the Planning Commission's approval to allow the sale of beer and wine for off-site consumption at the 4-Way Meat Market, located at 508 East Date Street.

**DISCUSSION**

On December 15, 2011, the Planning Commission voted 4-3 to adopt Resolution No. 2011-44 to approve Special Use Permit No. 11-510-07 and allow the sale of beer and wine for offsite consumption at the 4-Way Meat Market, contrary to staff's recommendation. In their deliberation on the proposal, the Commission expressed that they were impressed with the Applicant's improvements to the market as well as the decline in the crime rate within the area since the denial of the previous application, in 2007. Commissioners also noted the proximity of the project to Elm Street Elementary School and the ardent opposition of the community as issues of concern.

Staff originally recommended that the Planning Commission deny the project, in light of the perception of undue concentration and the area's higher than average crime rate. The Commission addressed these issues in their deliberation, finding that undue concentration concerns were sufficiently rebutted by the applicant's acceptance of the conditions and the benefit to public convenience and necessity provided by the market. The Commission also considered the reduced crime rate to be a positive indicator, and found that the crime rate was not significantly higher than the citywide average.

On December 28, 2011 a Notice Requesting Review of this decision was filed by Councilmember Ramirez for review of the project by City Council, as the project is in an area where the crime rate is

above the citywide average, there is an over-saturation of alcohol outlets, and a proximity to sensitive uses.

On December 29, 2011, an appeal was filed by Jeff Chancer, Superintendent of the Oxnard School District, on behalf of the District. Mr. Chancer's grounds for appeal also note an over-saturation of alcohol outlets, a crime rate above the citywide average in the vicinity of the project location, and the proximity of an elementary school, church, and public park to the proposed use.

Crime Rate: The Police Department prepared a report which analyzes the proposal (Attachment #4) pursuant to City Council Resolution No. 11,896, which adopted standards for determining applications for special use permits to sell alcoholic beverages. The report concludes that the area crime rate is 23% above the citywide average. The current crime rate is down nearly 33% from the 2007 totals, when the site had last applied for a Special Use Permit and was ultimately denied. Though the current rate is on the threshold of what the Police Department considers to be significant, the Department does not regard the area as a policing problem.

Alcohol Outlets in Vicinity: The police report indicates that there is a liquor store (Fiesta Liquor), a restaurant (Fiesta Mexican Grill), and a bar (Snooky's) serving alcohol within 350 feet of the project site. Within 1,000 feet, there is an additional restaurant serving alcohol (Sal's Mexican Inn). City Council Resolution No. 11,896 established that an undue concentration would result by adding an additional use of the same type within 350 feet of an existing use. As Fiesta Liquor is within this distance to the project site, the police report concludes there is a presumption that alcohol sales at the 4-Way Meat Market would result in an undue concentration. However, this presumption was rebutted by the Planning Commission's determination that the Market operates as a grocery store serving the public convenience and necessity, is an inherently different business than Fiesta Liquor, the significant drop in the area crime rate, and the applicant's acceptance of the Special Use Permit conditions of approval.

Proximity to Sensitive Uses: The Market is located approximately 360 feet to the north of Elm Street Elementary School, 900 feet north of Lathrop Park, and 1,100 feet from a church (though this building is currently vacant). While Resolution No. 11,896 does not include these locations as factors to be considered in evaluating alcohol SUP applications, staff recognizes that proximity to these locations are concerns of some members of the community and were the basis for the City Council's previous denial of this request in 2007.

## **FINANCIAL IMPACT**

The sale of beer and wine from the existing market would result in negligible sales tax revenue to the City.

(DS)

Attachment #1- Draft Resolution

#2- Staff Report to Planning Commission

#3 Planning Commission Meeting Minutes (December 15, 2011)

4-Way Meat Market Appeal/PZ No. 11-510-07

January 24, 2012

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#4- Police Report

#5- Resolution No. 2011-44

#6 Notice Requesting Review by Councilmember Ramírez

#7 Appeal by Superintendent Chancer

CITY COUNCIL OF THE CITY OF OXNARD

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OXNARD DENYING THE APPEAL AND UPHOLDING THE PLANNING COMMISSION'S APPROVAL OF PLANNING AND ZONING PERMIT NO. 11-510-07 (SPECIAL USE PERMIT – ALCOHOL), TO ALLOW THE SALE OF BEER AND WINE FOR OFF-SITE CONSUMPTION AT AN EXISTING MARKET (4-WAY MEAT MARKET), LOCATED AT 508 EAST DATE STREET. FILED BY DESIGNATED AGENT SALVADOR AYALA, 508 EAST DATE STREET, OXNARD, CA 93033.

WHEREAS, on December 15, 2011, the Planning Commission adopted Resolution No. 2011-44, approving Planning and Zoning Permit No. 11-510-07 (Special Use Permit - Alcohol), filed by Salvador Ayala; and

WHEREAS, Resolution No. 2011-44 imposes 47 conditions of approval regulating the approved use; and

WHEREAS, City Councilmember Carmen Ramírez filed a Notice Requesting Review by the City Council, and Oxnard School District Superintendent Jeff Chancer appealed the decision of the Planning Commission; and

WHEREAS, City Council has carefully reviewed the decision of the Planning Commission and all documents constituting the Planning Commission's record pertaining to Planning and Zoning Permit No. 11-510-07; and

WHEREAS, on January 24, 2012, the City Council held a public hearing and received and reviewed written and oral comments related to Planning and Zoning Permit No. 11-510-07; 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

NOW, THEREFORE, the City Council of the City of Oxnard does hereby resolve to deny the appeal and uphold the Planning Commission's decision of December 15, 2011 based on the findings and conditions set forth in Planning Commission Resolution No. 2011-44, on file in the Planning Division, and incorporated herein by reference.

PASSED AND ADOPTED this 24th day of January, 2012, by the following vote:

AYES:

NOES:





**Planning Division**

**PLANNING COMMISSION  
STAFF REPORT**

**TO:** Planning Commission

**FROM:** Douglas Spondello, Assistant Planner

**DATE:** December 15, 2011

**SUBJECT:** Planning and Zoning Permit No. 11-510-07 (Special Use Permit - Alcohol),  
Located at 508 East Date Street.

- 1) **Recommendation:** That the Planning Commission deny Planning and Zoning Permit No. 11-510-07, as the proposal to sell alcohol from 4-Way Meat Market:
  - Would result in an overconcentration of alcohol outlets;
  - Is in the vicinity of an elementary school, church, and public park; and
  - Is located in an area with a crime rate that is 23% above the citywide average.
  
- 2) **Project Description and Applicant:** A request to sell beer and wine for off-site consumption at an existing 3,300 square foot market (4-Way Meat Market), located at 508 East Date Street. The market operates between 8:00 a.m. and 9:00 p.m., daily. Filed by Salvador Ayala, 508 East Date Street, Oxnard, CA 93033.
  
- 3) **Existing & Surrounding Land Uses:** The subject property is developed with a neighborhood grocery store with one attached apartment at the rear of the building.

| LOCATION     | ZONING                                  | GENERAL PLAN                   | EXISTING LAND USE                            |
|--------------|---|--------------------------------|--|
| Project Site | General Commercial (C-2)                | Commercial General (CG)        | Market with Attached Apartment               |
| North        | Single-Family Residential (R-1) and C-2 | Residential Low (RL) and CG    | Single-Family Residence and Auto Parts Store |
| South        | Garden Apartment (R-3) and C-2          | Residential Medium (RM) and CG | Garden Apartments and Parking Lot            |
| East         | C-2                                     | CG                             | Motel (Palace Inn)                           |
| West         | R-3 and R-1                             | RL and RM                      | Apartments and Single-Family Residential     |

- 4) Background Information:** On November 15, 1948, the subject commercial building was approved via Building Permit Nos. 1122 and 1456. On August 26, 1955, Building Permit No. 6512 approved the addition of two apartments to the rear of the building.

On May 20, 1999, the Planning Commission approved Special use Permit (SUP) No. 99-500-09, via Resolution No. 99-11 for the demolition of two motels at the rear of the subject property and the construction of a 106-unit apartment complex (Gateway Apartments), in their place. The subject commercial building was retained and the parking lot and access way improvements immediately northeast of the commercial building were installed.

On March 8, 2000, the Development Services Director approved a lot line adjustment resulting in the subject lot's current configuration separating the market property from the apartment complex. A reciprocal parking and access agreement was established between the Gateway Apartments and the subject property granting the market use of 24 parking stalls to the immediate northeast of the building.

On October 18, 2006, the Planning Manager approved a minor modification to SUP No. 99-500-09 granting the expansion of the market into one of the apartment units located at the adjacent market.

On June 18, 2005, the Planning Division received an application by Mr. Salvador Ayala to sell beer and wine for off site consumption. Due to an unfavorable police report at that time, that application was withdrawn prior to a public hearing on the matter.

In 2007, Mr. Ayala again applied for a special use permit to sell beer and wine for off site consumption. The Planning Commission approved SUP No. 07-510-03. However, on November 7, 2007 and with Resolution No. 13,364, the City Council denied the SUP, on an appeal supported by neighborhood concerns. The Council's findings for denial cited the proximity of Elm Street Elementary School, an area crime rate of 56% higher than the citywide average, and an overconcentration of alcohol sales outlets within 350 feet of the project site.

- 5) Environmental Determination:** In accordance with Section 15270(a) of the California Environmental Quality Act (CEQA), projects which are to be denied or rejected are statutorily exempt from the requirement for environmental review.

Should the Planning Commission recommend this request for approval, staff should be directed to re-analyze and modify this environmental determination.

**6) Analysis:**

- a) General Discussion:** The request to sell beer and wine for offsite consumption is equivalent to a State of California Department of Alcoholic Beverage Control (ABC)

License Type-20, which the Applicant would obtain if this special use permit is granted.

- b) **General Plan Consistency:** The City's 2030 General Plan land use designation for the subject site is for Commercial General uses. Commercial General land uses include "retail centers and free-standing commercial uses along arterials, may also include... mixed uses". No development is proposed with this request and the existing market is consistent with this designation.

Within the Public Facilities and Services element of the 2030 General Plan's Goals and Policies, Goal ISC-19.2 identifies the desire to "Continue to require the Police Department to review proposed development projects and provide recommendations that enhance public safety." The Police Department reviewed the proposed use for compliance with its safety and security requirements and provided a report (Attachment C), which is summarized in Section 6(f).

- c) **Conformance with Zoning Development Standards:** The project is located in the General Commercial (C-2) zone district. Markets are a permitted use in this zone and the sale of beer and wine for offsite consumption may be permitted with an approved special use permit.

City Code Section 16-534(B) prohibits submitting an application for a special use permit within 12 months of a denial for the same request, at the same property. As the previous application to sell beer and wine was denied by the City Council in 2007, the subject application conforms to the Code regulations pertaining to permit reapplication.

- d) **Site Design, Circulation, and Parking:** The market is located on a 12,800 square foot parcel and is developed with a parking lot and one residential apartment unit, which is attached to the market. Vehicles access the property via a one-way driveway at East Date Street. Egress back onto Date Street is provided by an alley. Delivery vehicles park on Date Street, adjacent to the market or in the parking lot.

Twelve parking spaces are provided on-site with additional parking available at the adjoining lot to the northeast. The Code requires that the market provide 11 spaces.

- e) **Building Design:** The 3,300 square foot market is accessed through the on-site parking, at the east of the building. The interior features numerous merchandise racks, a produce area, beverage coolers, and a butcher service counter and facilities.
- f) **Police Department Review:** The Oxnard Police Department provided a report (Attachment C) with information required by City Council Resolution No. 11,896 for the sale of alcoholic beverages.

Local Concentration of Alcohol Outlets- The police report indicates that there is a liquor store (Fiesta Liquor/Type-21), a restaurant (Type-41), and a bar (type-42) serving

alcohol within 350 feet of the project site. Within 1,000 feet, there is an additional restaurant (Type-47) selling alcoholic beverages. While there is a presumption of undue concentration proposed by the proximity of the market to Fiesta Liquor, the Police Department notes:

“...the “types of business and the clientele typically served are arguably very different. Fiesta Liquor operates with alcohol sales as the focal point of their business and many residents tend to avoid such environments due to the traditional perception often associated with liquor stores as being an unsafe, uninviting setting that can be a magnet for problems. Customers may feel safer and less intimidated when visiting a legitimate neighborhood store such as the 4-Way Meat Market where residents primarily shop for products other than alcoholic beverages. The Police Department makes this point not to be an advocate for the approval of this permit, rather to recognize that the inherent risks associated with having two off-site alcohol outlets so close together may be outweighed by the benefit and convenience to the inner neighborhood who prefer to avoid settings such as a liquor store”.

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 144 during the same 12-month time period. This is 23% higher than the average crime rate citywide which is on the threshold of what the Police Department considers to be significant. The current crime rate is down nearly 33% from the 2007 totals, when this site last applied for a special use permit to sell alcohol and was denied on appeal.

The numbers and types of police calls for service were spread relatively evenly throughout the neighborhood and were predominately petty and property related crimes. Disturbance calls were highest along South Oxnard Boulevard, both north and south of Date Street. Disturbance calls involving alcohol or drugs and are generally consistent with citywide averages.

Conclusion- The Police Department's experience is that the Type-20 License, when properly regulated through conditions imposed by the Planning Commission, does not normally aggravate police and community issues, as long as the establishment complies with these regulations and operates responsibly. However, there is a presumption of

Should the Planning Commission approve this request, it is suggested that they adopt the conditions recommended by staff (Attachment H).

- 7) **Other Considerations:** The market is located approximately 360 feet to the north of Elm Street Elementary School, 900 feet north of Lathrop Park, and 1,100 feet from a church (though this building is currently vacant). While these are not required by Resolution No. 11,896 for consideration, staff recognizes that these are concerns that formed the basis of the City Council's previous denial of this request in 2007.
- 8) **Community Workshop Meeting and Public Input:** On August 5, 2011, the applicant mailed notices of the Community Workshop meeting to all property owners within the Cal Gisler Neighborhood. A notice of this meeting was posted on the project site with a brief description and contact information. The Community Workshop was conducted on August 15, 2011. Approximately 30 people attended the meeting and 19 people spoke about the subject application. Supporters of the project praised the business as a well-managed, full-service market whose owners show an interest in the community. The applicant provided a petition of support with more than 345 signatures, supposedly by customers and residents living within 300 feet of the market (Attachment E).

The majority of the attendees opposed the use, citing concerns about overconcentration and the proximity to Elm Street Elementary School, Lathrop Park, and a church. The Planning Division received letters in opposition to the project from the Oxnard School District and a local resident (Attachment D). As such, staff recommends denial as the findings which the City Council had made when they previously denied the appeal have not changed.

- 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
- D. Public Correspondence
- E. Petition
- F. Resolution No. 13,364
- G. Resolution of Denial
- H. Draft Conditions (if approved)

|                                |
|--------------------------------|
| Prepared by: <u>DJS</u><br>DJS |
| Approved by: <u>SM</u><br>SM   |

MINUTES

OXNARD PLANNING COMMISSION  
REGULAR MEETING  
December 15, 2011

A. ROLL CALL

At 7:01 p.m., the regular meeting of the Oxnard Planning Commission convened in the Council Chambers. Commissioners Stephen Huber, Patrick Mullin, Anthony Murguia, Gilbert Guevara, Saul Medina, Vincent Stewart, and Steven Nash were present. Chairman Mullin presided and called the meeting to order. Staff members present were: Susan Martin, Planning Manager, Stephen Fischer, Assistant City Attorney; Doug Spondello, Assistant Planner; Cliff Waer, Senior Police Officer; and Lori Maxfield, Recording Secretary.

Pledge of allegiance to the flag of the United States of America led by Commissioner Mullin.

B. PUBLIC COMMENTS

C. READING OF AGENDA

Planning Manager Martin reviewed the agenda including staff's request to continue Item F-1 (PZ 10-510-12) to January 5, 2012.

D. CONSENT AGENDA

1. APPROVAL OF MINUTES – December 1, 2011

MOTION Commissioner Stewart moved and Commissioner Guevara seconded a motion to approve the minutes of December 1, 2011 as presented. The question was called and the motion carried 6-0-0-1, Commissioner Medina abstaining.

E. CONTINUED PUBLIC HEARINGS

1. PLANNING AND ZONING PERMIT NO. 11-510-07 (Special Use Permit - Alcohol), a request for approval of a special use permit to sell beer and wine for off site consumption from an existing convenience market (4-Way Meat Market), located at 508 East Date Street. The market operates between 8:00 a.m. and 9:00 p.m., daily. No changes are proposed to the existing operating hours. The project is exempt from environmental review under Section 15301 of the CEQA Guidelines. Filed by Designated Agent Joshua Kaplan, 11835 West Olympic Boulevard, Ste. 1125 E, Los Angeles, CA 90064.

PROJECT PLANNER: Doug Spondello

Assistant Planner Spondello presented the staff report including surrounding uses; one way drive-way for egress; agreement with adjacent site for parking; project history; close proximity to Elm Street School and Lathrop Park; area crime rate is 23 percent above the citywide average; and over concentration of alcohol outlets. He also displayed the location, aerial, and zoning maps; interior and exterior site photos; and site and floor plans.

Mr. Joshua Kaplan, representing the applicant, gave a presentation of the project including the market was beautifully maintained; impeccable record of serving the community; no legally substantial evidence that if granted, it would have a detrimental effect on the general welfare; Police Department's report was in support with 34 conditions; compared Fiesta Liquor with the applicant's business; courts state that mere proximity would not create an adverse effect, and is not a basis for denial; City has not codified a definition of over-concentration; alcoholic beverage control concluded that the business was under-concentrated; and the proposed resolution was contrary to State law.

Mr. Sal Ayala, applicant, indicated that he'd been in business for 20 years; has roots in the community; has expanded his business; recently purchased the La Gloria Market in downtown; working with Officer Waer, as he doesn't want loitering or drinking outside the market; has worked with the Police Department, the City, and the neighbors to make it a true neighborhood market; plans to open two or three additional markets in the area; welcomed comments on what a neighborhood market should be; want to grow and prosper in business; has less than the 20 percent allowable signage; use a shuttle to accommodate customers; and he is already implementing the proposed conditions at his other stores in the City.

Chairman Mullin opened the public testimony.

Mr. Denis O'Leary and Mr. Jorge Gutierrez, Oxnard School District, spoke in opposition due to the close proximity to Elm Street School.

Mr. Sarkis Abdulhai, Fiesta Liquor owner, and Ms. Nancy Pedersen, Cal Gisler Neighborhood, spoke in opposition to the project.

Mr. Arthur Villa and Ms. Veronica Mendoza spoke in favor of the project.

Chairman Mullin closed the public testimony.

Senior Officer Waer discussed the dramatic improvements made in the area in the past ten years; significant drop in crime; Police Department took a neutral stance as far as the granting of the alcohol license; and conditions could be used as leverage to keep the business in compliance.

Planning Commission discussed influence of alcohol sales on students; recent operation conducted by Ventura Police to see if businesses sold alcohol to minors; school accountability report indicated that Elm Street School had the lowest performance in the district; Walmart was issued an alcohol license in spite of the excessive calls for service; small business should be given an opportunity to survive; impressed with applicant's improvements to the market; approval would reduce car trips;

suggested volunteer alcohol classes by the applicant; community opposed to request; concern with meeting the community's needs; and crime rate still high in the area.

**MOTION** Commissioner Medina moved and Commissioner Stewart seconded a motion to adopt a resolution granting PZ 11-510-07, a Special Use Permit-Alcohol to permit the sale of beer and wine for off-site consumption at an existing market (4-Way Meat Market, located at 508 East Date Street, subject to certain findings and conditions. The question was called and the motion carried 4-3, Commissioners Murguia, Huber, Guevara voting no.

**F. NEW PUBLIC HEARINGS**

1. **PLANNING AND ZONING PERMIT NO. 10-510-12** (Special Use Permit), a request to upgrade ABC License Type 20 (Off-sale Beer and Wine Sales) to ABC License Type 21 (Off-sale General) at an existing 4,460 square foot convenience market (La Colonial Market), located at 520 East Third Street. The existing hours of operation are from 7:00 a.m. to 10:00 p.m. Monday through Sunday. The project is exempt from environmental review pursuant to Section 15301 of the CEQA Guidelines. Filed by Sukhi S. Phaliwal on behalf of 580 Third, LLC, 520 East Third Street Oxnard, CA 93030.

**PROJECT PLANNER:** Juan Martinez

**MOTION** Commissioner Nash moved and Commissioner Medina seconded a motion to continue Item F-1 (PZ 10-510-12) to January 5, 2012, as recommended by staff. The question was called, and the motion carried unanimously.

**G. PLANNING COMMISSION BUSINESS**

1. Discussion on stipends for Planning Commissioners.

Commissioner Guevara asked for the history of stipends for Planning Commissioners; what the stipend should be; and whether the Planning Commission should make a recommendation to the City Council.

Planning Manager Martin explained the amounts of the previous stipends to the Planning Commissioners.

Planning Commission discussed other City's reducing benefits to elected officials; good idea to investigate other City's practices regarding stipends; Planning Commissioners serve as volunteers doing community service; questioned how much it costs to cut a check, and whether it would be worth it.

**MOTION** Commissioner Guevara moved and Commissioner Murguia seconded a motion to further investigate and discuss the subject of stipends for the Planning Commissioners, and decide whether to make a recommendation to City Council. The question was called and the motion carried 4-3, Commissioners Medina, Stewart, and Nash voting no.

2. Commissioner Mullin stated that he would be absent on January 5, 2012.

3. Commissioner Murguia suggested a forecast calendar for the Planning Commission to determine in advance when meetings would be held.

Planning Manager Martin suggested the Planning Commission limit meetings to one per month, or suspend meetings in advance, perhaps sometime in the summer, similar to the City Council.

**MOTION** Commissioner Murguia moved and Commissioner Huber seconded a motion to establish a Planning Commission calendar for the purpose of organizing meeting times. The question was called and the motion carried unanimously.

4. Commissioner Guevara suggested that the Planning Commission look at getting involved with special projects to improve planning in the area.

**MOTION** Commissioner Guevara moved and Commissioner Stewart seconded a motion to discuss Planning Commission interest and involvement in special projects. The question was called and the motion carried 6-1, Commissioner Medina voting no.

4. Commissioner Medina asked what the procedure was to have the pledge of allegiance placed on all future agendas.

Assistant City Attorney Fischer indicated that the Planning Commission by-laws would need to be revised, and staff anticipates agendizing the revisions in the near future.

5. Commissioner Nash questioned why there was grading being done at the Haas property (PZ 11-500-10), when the project hadn't yet been approved.

Planning Manager Martin indicated that staff would follow-up.

#### H. PLANNING MANAGER COMMENTS

Planning Manager Martin previewed the upcoming items tentatively scheduled for the next meeting on January 5, 2012.

#### I. ADJOURNMENT

At 9:02 p.m., the Planning Commission concurred to adjourn.

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Patrick Mullin, Chairman

ATTEST: \_\_\_\_\_  
Susan L. Martin, Secretary



# Police Department

Jeri Williams, Police Chief

Date: October 10, 2011

To: Douglas Spondello, Assistant Planner

From: Cliff Waer, Senior Alcohol Compliance Officer

Subject: 508 E. Date Street (4-Way Meat Market) **Re: PZ 11-510-07**

### Site Information:

The proposed site is an existing, occupied 5500 square foot building doing business as the Four Way Meat Market located at 508 E. Date Street. The site is situated on the northeast corner of the intersection of California Street and Date Street and is currently operating as a convenience store/meat market without the sale of alcohol. The front doors face east toward the parking lot which is separated from the adjacent Palace Inn Motel by a block wall.

The site is generally bordered by Date Street to the north, California Street to the west, The Palace Inn Motel and State Route 1 (Oxnard Blvd.) to the east and residences to the south. Other businesses nearby include the motel which offers primarily extended stay accommodations. The nearest similar alcohol outlet is the Fiesta Liquor store at 1637 S. Oxnard Boulevard which is east of the site next to the motel. The nearest residences are apartment complexes approximately 50 feet south of the site and single-family homes directly across the street to the west. The applicant has requested to obtain an ABC License Type-20 which is an Off-Sale License 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. Fiesta Liquor        | 1637 S. Oxnard Blvd.. | Type 21      | Off-Sale General      | Liquor Store  | Beer, Wine and Spirits |
| 2. Fiesta Mexican Grill | 1635 S. Oxnard Blvd.  | Type-41      | On-Sale Beer and Wine | Restaurant    | Beer and Wine          |

|             |                      |         |                       |                      |               |
|-------------|----------------------|---------|-----------------------|----------------------|---------------|
| 3. Snooky's | 1657 S. Oxnard Blvd. | Type 42 | On-Sale Beer and Wine | Bar (Public Premise) | Beer and Wine |
|-------------|----------------------|---------|-----------------------|----------------------|---------------|

Alcohol outlets located within 1000 feet of the establishment also include:

| BUSINESS NAME        | LOCATION             | LICENSE TYPE | LICENSE TITLE   | LICENSE DESC. | ALCOHOL ALLOWED        |
|----------------------|----------------------|--------------|-----------------|---------------|------------------------|
| 1. Sal's Mexican Inn | 1450 S. Oxnard Blvd. | Type 47      | On-Sale General | Restaurant    | 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 144 during the same 12-month time period. This is 23% higher than the average crime rate citywide which is on the threshold of what the Police Department considers to be significant. This current crime rate is down nearly 33% from the 2007 totals when this site last applied for a Special Use Permit to sell alcohol and was ultimately denied. The area is not generally considered to be a policing problem.

The numbers and types of police calls for service were spread relatively evenly throughout the neighborhood and were predominately petty and property crimes. Disturbance calls were highest along South Oxnard Boulevard, both north and south of date Street. Alcohol was listed as a contributing factor at a rate consistent with citywide averages.

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

**Police Department Input:**

The Beat Coordinator who is responsible for monitoring and managing the day-to-day police activity near the location said that the area immediately surrounding the proposed site is not considered to be a policing problem. While there is some concern about the proximity to the Fiesta Liquor store, the area is generally not considered to have an undue concentration of alcohol outlets as the next closest Off-Sale outlet is nearly one-half mile away along Saviers Road. The Police Department is typically very cautious when there are similar off-site uses within 350 feet of each other and that close proximity is generally not desirable. In this case, the types of businesses and the clientele they typically serve are arguably very different. Fiesta Liquor operates with alcohol sales as the focal point of their business and many residents tend to avoid such environments due to the traditional perception often associated with liquor stores as

being an unsafe, uninviting setting that can be a magnet for problems. Customers may feel safer and less intimidated when visiting a legitimate neighborhood store such as the 4-Way Market where residents primarily shop for products other than alcoholic beverages. The Police Department makes this point not to be an advocate for the approval of this permit, rather to recognize that the inherent risks associated with having two off-site alcohol outlets so close together may be outweighed by the benefit and convenience to the inner neighborhood who prefer to avoid settings such as a liquor store.

An additional concern of the Police Department is the site's close proximity to an elementary school that is approximately 250 to the south (Elm Street School) and a public park that is 800 feet away. Generally, it is not desirable to have alcohol outlets so close to schools due to the potential for youth exposure and access to alcohol. Numerous studies have shown that youth exposure to alcohol significantly impacts underage consumption. Increased access and exposure to alcoholic beverages are directly related to incidences of youth consumption and should be carefully considered when determining appropriate locations for new outlets.<sup>1,2</sup>

That being said, elementary school-aged students are not necessarily the most at-risk category of youth when considering the potential conflict with an alcohol outlet. The ages for typical students at an elementary school range from approximately age five to age eleven. Exposure to alcohol for this age group is of the greatest concern while access is not as critical. This age group is not the most likely to attempt to steal or purchase alcohol and employees can easily recognize that they are significantly underage. However, exposure to alcohol advertisements and "in your face" alcohol marketing practices can be problematic and is not desirable. There are now many preventative conditions that can help to minimize exposure to young people and to also reduce the access to alcohol. Prohibiting alcohol advertisements, limiting the types and sizes of alcoholic beverages and positioning the alcohol displays to be separate from other, non-alcoholic products and placed where they can be easily monitored by employees should minimize the likelihood for conflicts.

There are a few other locations in Oxnard where there are alcohol outlets near schools, including two that are in very close proximity to high schools where the students are at the highest risk of exposure and access to alcohol. One is literally across the street from a high school which posed some very unique challenges when determining the most appropriate and effective operating conditions to minimize the potential for conflicts. Fortunately, the preventative conditions we included with each of these sites appears to have been effective at preventing problems as there have been no alcohol/student related incidents at any one of the four businesses considered to be in close proximity to the high schools.

It is the conclusion of the Police Department that, while cautious and mindful of the potential for conflict with students, that the concerns can be effectively mitigated with the addition of comprehensive operating conditions and close oversight of the activity at the business. The Police Department strongly recommends that each of the preventative conditions listed below be included in the resolution.

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<sup>1</sup> G. Hastings, S. Anderson, E. Cooke, and R. Gordon, "Alcohol advertising and marketing and young people's drinking: a review of the research," *Journal of Public Health Policy* 26 (2005):296-311.

<sup>2</sup> L.B. Snyder, F.F. Milici, M. Slater, H. Sun, and Y. Strizhakova, "Effects of alcohol advertising exposure on drinking among youth," *Archives of Pediatrics and Adolescent Medicine* 160 (2006):18-24.

**Community Input:**

Several residents who live in the Cal-Gisler neighborhood contacted the Police Department with questions and concerns about this proposal. A few were involved the last time this applicant attempted to obtain a permit to sell alcohol in 2007 and, as they were then, were still opposed to the proposal. Specifically, residents seemed most concerned about the proximity to Elm Street School and the lack of necessity for another alcohol outlet in the immediate area. Residents were given information on how they can voice their concerns with the Planning Department and at the Planning Commission hearing.

**Conclusion:**

The statistical analysis shows the area to have a crime rate that is approximately 23% higher than the city-wide average which is of some concern; however, the area is not considered to be a policing problem. The overall crime rate has dropped nearly 33% during the past four years reflecting a decade-long plunge in crime for the area which was once plagued with problems. Drug and alcohol related problems had previously dominated the neighborhood and were heavily concentrated along South Oxnard Boulevard. Currently, disturbance calls and those that involve alcohol or drugs are generally consistent with citywide averages. There is one similar use within 350 feet of the proposed site (Fiesta Liquor) so there is a local presumption of undue concentration.

The primary concerns of both the Police Department and the community are how close the site is to an existing alcohol outlet and a nearby elementary school. Typically, schools are considered a sensitive use and having an alcohol outlet nearby is not desirable. In this case, the school serves students aged 5-11 which are generally not the ages most at risk from exposure and access to alcohol. There are several regulations that can be included with the resolution that can help to minimize the likelihood for conflicts with the students such as restricting advertising, prohibiting single servings, requiring alcohol displays be easily monitored by staff and prohibiting flavored malt beverages or energy drinks with alcohol that are most popular with underage drinkers.

The fact that the outlet is a successful meat market already suggests that the business will not need to rely upon excessive sales of alcohol to remain profitable and they are offering the product as a convenience to their customers. The Police Departments experience is that this type of license (Type 20 – Off-Sale Beer and Wine), when properly regulated through conditions imposed by the Planning Commission, does not normally aggravate police and community issues, as long as the establishment complies with these regulations and operates responsibly. This particular proposal has a few unique concerns which is why the Police Department recommends adoption of all of the standard and special conditions listed in the attached Planning Commission resolution.

## **Police Standard Conditions** **(Off-Sale Alcohol Establishments)**

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- 1) All managers or supervisors who are responsible for the daily coordination, supervision or managing of employees, shall complete an approved course in Responsible Beverage Sales and Service (RBSS) within sixty days of license granting and/or date of employment. Training can be arranged through the Oxnard Police Department. (PL/PD)
- 2) 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)
- 3) 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, after due process that shall include communication with the owner, 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)
- 4) Any signs, advertisements or decorations placed upon the windows shall not exceed 20% of the overall window area. Additionally, there shall be no other obstructions placed near the windows that exceed 20% of the overall viewing area including display racks, stored products, shades or blinds.
- 5) 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 by Oxnard City Code, the Police Department may initiate Planning Commission review of the existing SUP and the Planning Commission may apply or remove conditions as appropriate to mitigate existing or potential problems.
- 6) Any graffiti painted or marked upon the premises or on any adjacent area under the control of the Permittee shall be removed or painted over within twenty-four (24) hours of being applied. (PL/PD)
- 7) Permittee shall be responsible for maintaining free of litter the area adjacent to the premises over which they have control. This includes the rear of the business. (PL/PD)
- 8) 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 or disposal of trash does not constitute a violation. (PD)

- 9) 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)
- 10) The parking lot and adjacent areas of the premises shall be equipped with lighting of sufficient power to illuminate and make easily discernable the appearance and conduct of all persons on or about the area. This includes the rear of the business. (PL/PD)
- 11) There shall be no pay phones installed inside the premises nor shall there be any pay phones installed outside within 100 feet of the premises. (PL/PD)
- 12) Permittee shall regularly police the area under Permittee's reasonable control (including the rear of the business) and shall not permit the loitering of persons about the premises. (PL/PD)
- 13) In the areas surrounding the business the Permittee shall post prominent, permanent signs indicating that loitering, open containers and the consumption of alcoholic beverages is prohibited. This includes the parking lot and other adjacent areas under Permittee's reasonable control. (PD)
- 14) Coolers or displays containing alcoholic beverages shall be separated from other, non-alcoholic products and shall be positioned so as to allow maximum visibility to cashiers, clerks, associates or employees. Unless otherwise approved by the Police Department, alcohol displays shall not be positioned near customer entry/exit doors, nor shall they be in a location that allows for an easy and unobstructed path to any entry or exit. It is recommended that the alcohol displays or coolers be positioned where employees have a clear view from their normal work stations of the activity of persons in the alcohol isle. (PD)
- 15) There shall be no amusement machines or video devices maintained on the premises at any time. (PD)
- 16) Beer, malt beverages and wine coolers, in containers of 40oz in volume or less, cannot be sold by single containers, but must be sold in manufacturer pre-packaged multi-unit quantities.
- 17) No wine shall be sold with an alcoholic content of greater than 15% by volume except for "Dinner Wines" which have been aged two years or more and maintained in corked bottles (Port, Sherry, Saki, Marsala, Madiera, Muscat and Vermouth are permitted). (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". These signs shall, at a minimum, be posted at each point of sale and near any alcohol display or areas. (PD)

- 19) No open floor displays of alcoholic beverages are allowed, including but not limited to "beer mountains" and portable coolers. (PD)
- 20) Alcoholic beverages shall not be sold between the hours from 10:00 PM to 7:00 AM. (PD)
- 21) There shall be no self-service displays of any type of tobacco product including, but not limited to cigarettes, cigars and smokeless tobacco.
- 22) Security cameras shall be installed to monitor the premises and be positioned to monitor at minimum the entry/exit, all points of sale, alcohol coolers and the areas immediately surrounding the exterior of the business. The camera system shall comply with the following minimum standards: (PD)
  - a. The cameras shall be color cameras, made by a reputable manufacturer and maintained to current industry standards. They shall have low light capability and be capable of identifying persons conducting transactions at the stores' registers or entering/exiting the business.
  - b. The system shall utilize a Digital Video Recorder (DVR). The use of videocassette recorders (VHS and other formats) is prohibited. The DVR shall allow recording, live viewing and playback of recorded video for a period of least 30 days. DVR shall perform all recording, viewing (local and remote), playback (local and remote), queries and backup functions simultaneously, with no interruption of any other function.
- 23) Permittee shall establish responsible cash handling procedures to reduce the likelihood of robberies and thefts.
- 24) 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.
- 25) Permittee shall have drop-safes installed or establish other responsible cash handling procedures to allow employees to deposit daily receipts throughout the day as the amounts exceed allowable levels in the register (typically \$50).
- 26) When used, Permittee shall install signage which indicates that employees do not possess keys to safes and that minimal levels of cash are available in register.
- 27) Permittee shall install height gauges at all exit doors.
- 28) Permittee shall install an electronic intrusion detection system (burglary alarm) that detects portal openings, glass break, and interior motion.
- 29) Permittee shall equip each point of sale with a silent robbery alarm that complies with Oxnard City Ordinance No. 2601 or develop and implement critical incident protocols

that provide an efficient method for alerting police and others to a potential threat without unnecessarily putting the employees at risk.

- 30) 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)

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## Police Special Conditions

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1. Coolers or displays containing alcoholic beverages shall be maintained in such a way as to allow for them to be locked or inaccessible during hours of prohibited sale and shall, in fact, be secured during the hours from 9:00 PM to 8:00 AM. (PD)
2. The sale of flavored malt beverages (commonly referred to as alcopops) is prohibited. Such products are generally sweetened, carbonated alcoholic beverages made with malt or spirits-based alcohol. Examples of such products include Smirnoff Ice, Mike's Hard Lemonade, Bacardi Silver and Jack Daniel's Lynchburg Lemonade. (PD)
3. The sale of energy drinks that contain any amount of alcohol is prohibited.
4. The self-checkout of alcoholic beverages is strictly prohibited. All transactions involving alcohol shall be completed by an employee who is responsible to ensure the customer is aged 21 or older and that they are not obviously intoxicated.

RESOLUTION NO. 2011-44

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF OXNARD, APPROVING PLANNING AND ZONING PERMIT NO. PZ 11-510-07 (SPECIAL USE PERMIT - ALCOHOL) TO ALLOW THE SALE OF BEER AND WINE FOR OFF-SITE CONSUMPTION AT AN EXISTING MARKET (4-WAY MEAT MARKET), LOCATED AT 508 EAST DATE STREET, SUBJECT TO CERTAIN FINDINGS AND CONDITIONS. FILED BY DESIGNATED AGENT SALVADOR AYALA, 508 EAST DATE STREET, OXNARD, CA 93033.

WHEREAS, the Planning Commission of the City of Oxnard has considered an application for Planning and Zoning Permit No. 11-510-07, filed by Designated Agent Salvador Ayala, 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 2030 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 presumption of undue concentration has been rebutted by a preponderance of evidence which shows that the establishment is a grocery market where the selling of alcohol serves the public convenience and necessity, and that the crime rate in the immediate vicinity of the subject site has been steadily decreasing since the Police Department implemented a comprehensive and collaborative community strategy to reduce crime problems in the area, including improved operating

regulations and monitoring of activity at alcohol uses in the immediate vicinity. At its current level, the crime rate is not considered to be significantly higher than the average crime rate citywide. Furthermore, the presumption of undue concentration is mitigated by the applicant's acceptance of the conditions in this resolution.

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, Applicant shall correct all violations of the City Code existing on the project property for which the Code Compliance Division has open cases. (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)

**PLANNING DIVISION SPECIAL CONDITION**

13. 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**

14. All managers or supervisors who are responsible for the daily coordination, supervision or managing of employees, shall complete an approved course in Responsible Beverage Sales and Service (RBSS) within sixty days of license granting and/or date of employment. Training can be arranged through the Oxnard Police Department. (PL/PD)
15. 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)
16. 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, after due process that shall include communication with the owner, 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)
17. Any signs, advertisements or decorations placed upon the windows shall not exceed 20% of the overall window area. Additionally, there shall be no other obstructions placed near the windows that exceed 20% of the overall viewing area including display racks, stored products, shades or blinds.
18. 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 by Oxnard City Code, the Police Department may initiate Planning Commission review of the existing SUP and the Planning Commission may apply or remove conditions as appropriate to mitigate existing or potential problems.

19. Any graffiti painted or marked upon the premises or on any adjacent area under the control of the Permittee shall be removed or painted over within twenty-four (24) hours of being applied. (PL/PD)
20. Permittee shall be responsible for maintaining free of litter the area adjacent to the premises over which they have control. This includes the rear of the business. (PL/PD)
21. 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 or disposal of trash does not constitute a violation. (PD)
22. 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)
23. The parking lot and adjacent areas of the premises shall be equipped with lighting of sufficient power to illuminate and make easily discernable the appearance and conduct of all persons on or about the area. This includes the rear of the business. (PL/PD)
24. There shall be no pay phones installed inside the premises nor shall there be any pay phones installed outside within 100 feet of the premises. (PL/PD)
25. Permittee shall regularly police the area under Permittee's reasonable control (including the rear of the business) and shall not permit the loitering of persons about the premises. (PL/PD)
26. In the areas surrounding the business the Permittee shall post prominent, permanent signs indicating that loitering, open containers and the consumption of alcoholic beverages is prohibited. This includes the parking lot and other adjacent areas under Permittee's reasonable control. (PD)
27. Coolers or displays containing alcoholic beverages shall be separated from other, non-alcoholic products and shall be positioned so as to allow maximum visibility to cashiers, clerks, associates or employees. Unless otherwise approved by the Police Department, alcohol displays shall not be positioned near customer entry/exit doors, nor shall they be in a location that allows for an easy and unobstructed path to any entry or exit. It is recommended that the alcohol displays or coolers be positioned where employees have a clear view from their normal work stations of the activity of persons in the alcohol aisle. (PD)
28. There shall be no amusement machines or video devices maintained on the premises at any time. (PD)
29. Beer, malt beverages and wine coolers, in containers of 40oz in volume or less, cannot be sold by single containers, but must be sold in manufacturer pre-packaged multi-unit quantities.

30. No wine shall be sold with an alcoholic content of greater than 15% by volume except for "Dinner Wines" which have been aged two years or more and maintained in corked bottles (Port, Sherry, Saki, Marsala, Madiera, Muscat and Vermouth are permitted). (PD)
31. Prominent signs shall be posted stating, in effect, "No persons under 21 will be served alcoholic beverages" and "Valid ID is required to purchase alcoholic beverages". These signs shall, at a minimum, be posted at each point of sale and near any alcohol display or areas. (PD)
32. No open floor displays of alcoholic beverages are allowed, including but not limited to "beer mountains" and portable coolers. (PD)
33. Alcoholic beverages shall not be sold between the hours from 10:00 PM to 7:00 AM. (PD)
34. There shall be no self-service displays of any type of tobacco product including, but not limited to cigarettes, cigars and smokeless tobacco.
35. Security cameras shall be installed to monitor the premises and be positioned to monitor at minimum the entry/exit, all points of sale, alcohol coolers and the areas immediately surrounding the exterior of the business. The camera system shall comply with the following minimum standards: (PD)
  - a. The cameras shall be color cameras, made by a reputable manufacturer and maintained to current industry standards. They shall have low light capability and be capable of identifying persons conducting transactions at the stores' registers or entering/exiting the business.
  - b. The system shall utilize a Digital Video Recorder (DVR). The use of videocassette recorders (VHS and other formats) is prohibited. The DVR shall allow recording, live viewing and playback of recorded video for a period of least 30 days. DVR shall perform all recording, viewing (local and remote), playback (local and remote), queries and backup functions simultaneously, with no interruption of any other function.
36. Permittee shall establish responsible cash handling procedures to reduce the likelihood of robberies and thefts.
37. 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.
38. Permittee shall have drop-safes installed or establish other responsible cash handling procedures to allow employees to deposit daily receipts throughout the day as the amounts exceed allowable levels in the register (typically \$50).
39. Permittee shall install signage which indicates that employees do not possess keys to safes and that minimal levels of cash are available in register.

40. Permittee shall install height gauges at all exit doors.
41. Permittee shall install an electronic intrusion detection system (burglary alarm) that detects portal openings, glass break, and interior motion.
42. Permittee shall equip each point of sale with a silent robbery alarm that complies with Oxnard City Ordinance No. 2601 or develop and implement critical incident protocols that provide an efficient method for alerting police and others to a potential threat without unnecessarily putting the employees at risk.
43. 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**

44. Coolers or displays containing alcoholic beverages shall be maintained in such a way as to allow for them to be locked or inaccessible during hours of prohibited sale and shall, in fact, be secured during the hours from 9:00 PM to 8:00 AM. (PD)
45. The sale of flavored malt beverages (commonly referred to as alcopops) is prohibited. Such products are generally sweetened, carbonated alcoholic beverages made with malt or spirits-based alcohol. Examples of such products include Smirnoff Ice, Mike's Hard Lemonade, Bacardi Silver and Jack Daniel's Lynchburg Lemonade. (PD)
46. The sale of energy drinks that contain any amount of alcohol is prohibited.
47. The self-checkout of alcoholic beverages is strictly prohibited. All transactions involving alcohol shall be completed by an employee who is responsible to ensure the customer is aged 21 or older and that they are not obviously intoxicated.

PASSED AND ADOPTED by the Planning Commission of the City of Oxnard on this 15th day of December, 2011, by the following vote:

AYES: Commissioners: Medina, Stewart, Nash, and Mullin

NOES: Commissioners: Murguia, Huber, and Guevara

ABSENT:



Patrick Mullin, Chairman

ATTEST:

  
Susan L. Martin, Secretary



CITY OF OXNARD  
CITY CLERK

2011 DEC 28 A 9:46

### NOTICE REQUESTING REVIEW

I, Carmen Ramirez, request that the City Council review the December 15, 2011 decision of the Planning Commission regarding PZ No. 11-510-07 (Special Use Permit-Alcohol), a request to sell beer and wine for off-site consumption at an existing market (4-Way Meat Market), located at 508 East Date Street, on the following grounds:

- ( ) To provide efficient and coordinated review of a multiple permit project.
- (X) For City Council consideration of the above-referenced project, including issues of an elevated crime rate, over-saturation of alcohol outlets, and the proximity to several sensitive uses, including an elementary school.

Ms. Carmen Ramirez

**Oxnard City Councilmember**

cc: City Attorney  
Development Services Director  
Project Planner  
Applicant

ATTACHMENT 6  
PAGE 1 OF 1

**CITY OF OXNARD  
CITY CLERK**

**PLEASE PROVIDE AN ORIGINAL AND 2  
COPIES A \$525 FEE MUST ACCOMPANY  
THIS APPEAL**

**2011 DEC 29 A 9:15**  
TO: Oxnard City Clerk

**NOTICE OF APPEAL  
(from member of the public)**

I, Jeff Chancer, Superintendent of Oxnard School District, am aggrieved or directly affected by  
(name of person filing appeal)

and appeal the December 15, 2011 decision from the Planning Commission regarding Project No.  
(date of PC meeting)

PZ 11-510-07, more particularly described as follows:

Request for approval of a special use permit to sell alcohol for offsite consumption at 4-Way Meat  
Market located at 508 East Date Street, Oxnard CA

The grounds for appeal are:

Proposal to sell alcohol from 4-Way Meat Market:

- Would result in/add to undue concentration of alcohol outlets in the area;
- Is in close proximity to an elementary school, church, a public park;
- Is located in an area with a crime rate that is 23% above the citywide average

I request the following relief:

City Council resolution to grant the appeal of Planning Commission decision and to deny the special  
use permit (PZ 11-510-07) that would permit the sale of beer and wine at 4-Way Meat Market  
located at 508 East Date Street, Oxnard, CA

  
(signature)

Date: December 29, 2011

Oxnard School District Office

1051 S. A Street, Oxnard, CA 93030

(address)

cc: City Attorney  
Project Planner  
Development Services Department  
Applicant

**ATTACHMENT** 7  
**PAGE** 1 **OF** 1