



**Planning Division**

**PLANNING COMMISSION  
STAFF REPORT**

**TO:** Planning Commission

**FROM:** Juan Martinez, Associate Planner

**DATE:** January 5, 2012

**SUBJECT:** Planning and Zoning Permit No. 11-510-05 (Special Use Permit), 520 East Third Street. (La Colonial Market)

- 1) **Recommendation:** That the Planning Commission approve Planning and Zoning Permit No. 11-510-05 for a special use permit, subject to certain findings and conditions.
  
- 2) **Project Description and Applicant:** An application request to upgrade ABC License Type 20 (Off-sale Beer and Wine Sales) to ABC License Type 21 (Off-sale General) at an existing 4,260 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. Filed by Sukhi S. Phaliwal on behalf of 580 Third, LLC, 520 East Third Street Oxnard, CA 93030.
  
- 3) **Existing & Surrounding Land Uses:** The site is located at 520 East Third Street, across from La Colonia Neighborhood. The property is developed with seven (7) individual buildings. The subject building fronts Third Street and there is a church across the street which is considered a sensitive receptor. However, the license upgrade with conditions is not expected to interfere with services or church activities. The table following describes the land uses that are adjacent to the subject site.

SURROUNDING LAND USES			
DIRECTION	ZONING	GENERAL PLAN	EXISTING LAND USE
PROJECT SITE	M-1	Light Industrial	Multi-Tenant Commercial Building
North	R-2/R-3	Residential Low/Med	La Colonia Neighborhood/Church
East	M-1	Limited Industrial	Multi-Tenant Commercial Building
South	M-1	Limited Industrial	Multi-Tenant Industrial Buildings
West	M-1	Limited Industrial	Workrite Uniform Company

- 4) Background Information:** In December of 1983, the City Council approved Special Use Permit No. 1039 via Resolution No. 8595 to subdivide the subject property into seven condominium airspace units. La Colonial Market has been operating at this location since June of 1984. In June of 1988, the premise was first granted an alcohol license to sell beer and wine for off-site consumption by California Department of Alcoholic Beverage Control.
- 5) Environmental Determination:** In accordance with Section 15301 of the California Environmental Quality Act (CEQA) Guidelines, projects involving the permitting of existing facilities are exempt from environmental review where there is negligible or no expansion of use. This proposal would conditionally permit upgrading of existing beer and wine sales to general sales to include distilled spirits within an existing market. Therefore, staff has determined that there is no substantial evidence that the project may have a significant effect on the environment and recommends that the Planning Commission accept the Notice of Exemption (see Attachment C).
- 6) Analysis:**
- a) General Discussion:** The site was developed in the early 1980's and La Colonial Market has been operating at this location since June of 1984. The store employs five employees and operates two shifts from 7am to 10pm with five employees per shift. The store occupies two tenant spaces within an existing multi-tenant building. The 4,260 square foot convenience market offers a variety of general convenience goods, meat and dairy products, along with a variety of beer and wines.

Alcohol sales will continue to be incidental to the sale of general convenience goods sold at the market. Alcohol sales are restricted to off-site consumption and alcohol cannot be consumed on the premise.

**b) General Plan and Zoning Consistency:**

The 2020 General Plan land use designation was Industrial Limited, which was consistent with the Light Manufacturing (M1) zoning designation of the subject property. The recently adopted 2030 General Plan re-designated the northerly portion of this property as Commercial General, thereby creating an inconsistency with the zoning and general plan designations. To correct this zoning inconsistency, and other inconsistencies created by the adoption of the 2030 General Plan, the city will initiate a comprehensive zoning consistency update. With this future update, the proposed use will be consistent with the 2030 General Plan and the future General Commercial zone designation.

- c) Site Design:** The 4,260 square foot tenant space is one of the three tenants currently operating within the 11,500 square foot building. The building to the east (508 East Third Street) also provides for commercial uses. The 7.98-acre site is comprised of seven buildings; however only the two buildings fronting on Third Street are used for multi-tenant commercial uses serving the community's commercial needs.

**d) Circulation and Parking:** The project does not propose the addition of new square footage and no changes are proposed to the existing circulation and parking layout design of the site. The seven building condominium development is designed to share 275 parking spaces located throughout the 7.98-acre site. 85 parking stalls surround the two buildings fronting Third Street and accommodate convenience parking for business patrons visiting the commercial businesses at this location. In addition, the site is heavily used by patrons who cross at Garfield Avenue and Third Street. The walkway connection on the northeast corner was enhanced with a “bulb-out” to reduce pedestrian crossing length. The addition of distilled spirits is not anticipated to create parking demand or affect existing pedestrian access to the center.

**7) Police Department Review:** Based on the criteria approved by the City Council in Resolution No. 11,896, the Police Department analyzes the number of establishments selling alcoholic beverages within 1,000 feet of the proposed location. The Police Department provides information regarding the number of incidents to which the police have had to respond (exclusive of traffic stops), whether a presumption of undue concentration exists, and whether approval of the special use permit is likely to significantly aggravate police problems.

Undue Concentration Factor:

There are no similar uses within 350 feet or within 1,000 feet from the proposed site. According to the Police report, the nearest similar outlet is Cooper Liquor which is approximately 1,500 feet away.

Crime Statistics Review:

The Police Department’s report states that the average citywide, per reporting district base number of Part 1 and II crimes is currently 117. When compared, the subject premise is in a reporting district having a base number of 140 during the same 12-month time period. Although, the Police report identifies this to be 19-percent higher than the average city crime rate citywide, the report concludes that the area surrounding the site is not generally considered to be a policing problem. Calls for service within 500 feet tend to be related to property or petty in nature and infrequently list alcohol as a contributing factor.

Police Department Input and Conclusion:

Although the Police Department’s statistical analysis shows that the area has a crime rate higher than the citywide average, the Police Department has determined that the area is generally not considered to be a policing problem. There is no presumption of undue concentration, since there is no similar outlet within 350-feet. The Police Department recognizes that the ”business has been in existence since before the implementation of comprehensive preventive operating conditions and that this permit will allow the site to be brought up to current community standards that will minimize the likelihood that the business will have a negative impact on the community.”

**8) Community Workshop:** On March 3, 2011, the applicant mailed notices of the Community Workshop meeting to all property owners within Five Points Neighborhood and La Colonia 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 Monday, March 21, 2011 and approximately 30 persons attended the meeting which included presentations on six project items. The applicant and representatives from La Colonial Market were present.

**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. Notice of Exemption
- D. Police Report
- E. Resolution

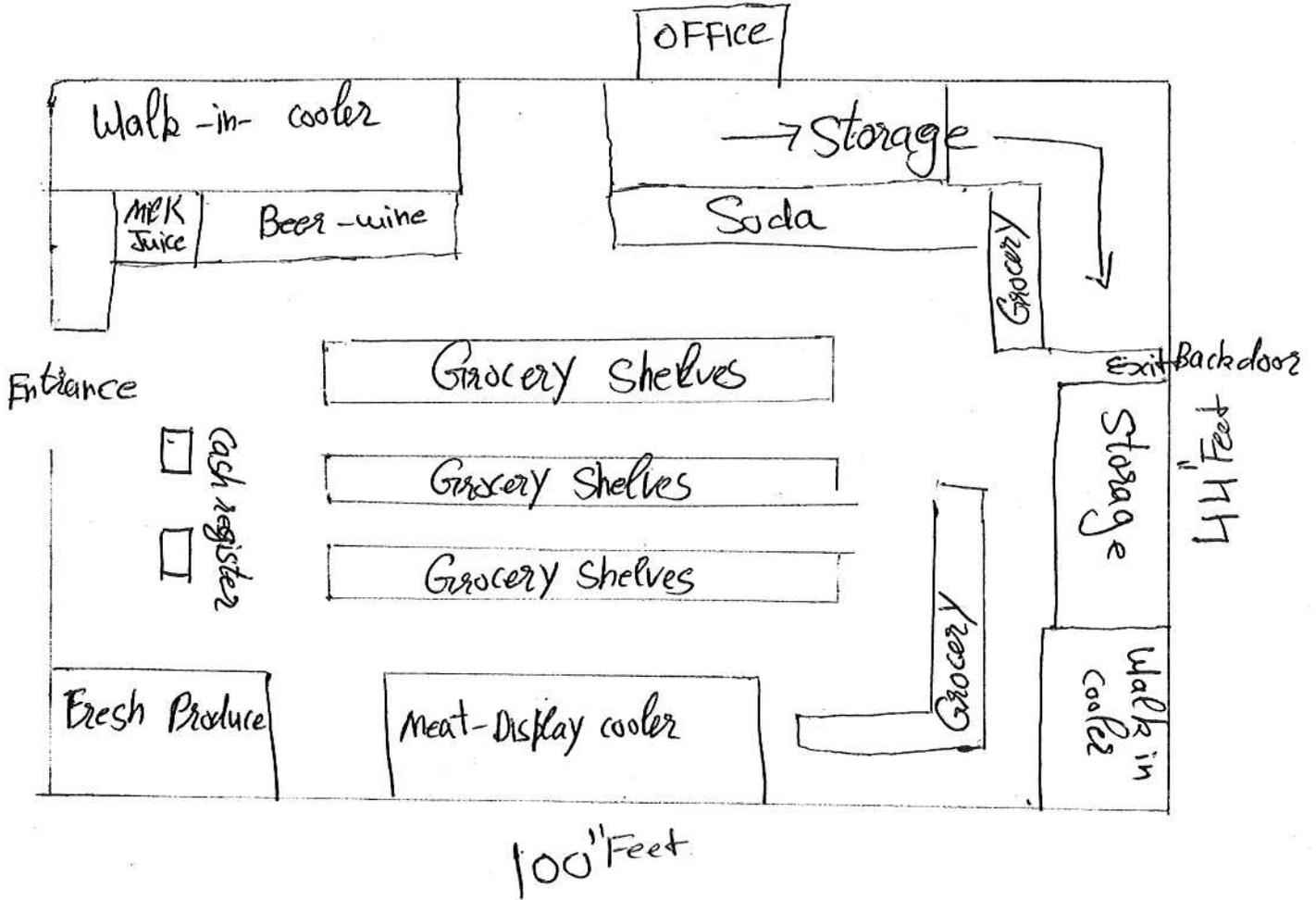
Prepared by: _____ JM
Approved by: _____ SM



# LA - Colonial Market

520 E 3<sup>rd</sup> Street  
Oxnard CA 9303

## Floor - Plan





## NOTICE OF EXEMPTION

### ***Project Description:***

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 4,260 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. Filed by Sukhi S. Phaliwal on behalf of 580 Third, LLC, 520 East Third Street Oxnard, CA 93030.

### ***Finding:***

The Planning Division of the Development Services Department of the City of Oxnard has reviewed the above proposed project and found it to be exempt from the provisions of the California Environmental Quality Act (CEQA).

- Ministerial Project
- Categorical Exemption
- Statutory Exemption
- Emergency Project
- Quick Disapproval [CEQA Guidelines, 14 Cal. Code of Regs. 15270]
- No Possibility of Significant Effect [CEQA Guidelines, 14 Cal. Code of Regs. 15061(b)(3)]

### ***Supporting Reasons:***

In accordance with Section 15301 of the California Environmental Quality Act (CEQA) Guidelines, projects involving “facilities where there is negligible or no expansion of use” may be found to be exempt from the requirements of CEQA. The application proposal is requesting to introduce alcohol sales to an existing use. Based on the above exemption and in accordance with CEQA, the Planning Division Manager has determined that there is no substantial evidence that the proposed project may have a significant effect on the environment and that a notice of exemption may be filed

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
Signature on file with Planning Division

Susan L. Martin, AICP  
Planning Division Manager



## Police Department

Jeri Williams, Police Chief

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Date: October 12, 2011

To: Juan Martinez, Associate Planner

From: Cliff Waer, Senior Alcohol Compliance Officer

Subject: 520 E. Third Street (La Colonial Market)

**Re: PZ 11-510-04**

### **Site Information:**

The proposed site is an existing market doing business as the La Colonial Market at 520 E. Third Street near the corner of Garfield Avenue and Third Street. The business currently holds a Type-20 ABC License which allows for the sale of beer and wine only. The building is situated on the northern end of a large industrial complex where there is a small strip of commercial uses including employment services, a hair salon and a deli/restaurant. The front doors face north toward the main parking lot and Third Street.

The site is generally bordered by Third Street to the north and commercial / industrial to the east, west and south. The nearest residences are approximately 125 feet to the north, directly across Third Street. The intersection of Garfield and Third Street is regulated by a 4-way lighted signal and a marked crosswalk to better accommodate pedestrian traffic to and from the nearby neighborhood.

The applicant has requested to upgrade to a California Alcoholic Beverage Control (ABC) License Type-21 which is an Off-Sale License that allows for the sale of beer, wine and distilled spirits for consumption off the premises. There are no similar Off-Sale alcohol outlets within 350 feet or 1000 feet of the site. The nearest Off-Sale outlet is Cooper Liquor at 406 Cooper Road and is approximately 1,500 feet from the proposed site. There are several other Off-Sale outlets along Cooper Road including Ben's Market and Carmen's Market.

### **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 140 during the same 12-month time period. This

is 19% higher than the average crime rate citywide which is of some concern but is not necessarily considered to be significant.

In the grids closest to the proposed site approximately 500 feet directly to the north, the number of calls average 70% lower than citywide averages. As we calculate the number of calls deeper into the neighborhood and past First Street north of the site, the numbers of calls jump dramatically to nearly double the citywide average. The types of calls closest to the proposed site within 500 feet tend to be more property crimes or petty in nature and infrequently list alcohol as a contributing factor. As the radius is increased to 1000 feet, the types of crimes listed as disturbance related and those that list alcohol as a contributing factor rise above the 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. All references to “police calls for service” may include *any* type of police response to the area in addition to those classified as Part I or II.

#### **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 the density of alcohol outlets along Cooper Road and Colonia Avenue have presented some policing challenges including loitering, drinking and other disturbances, the areas along the outskirts of the neighborhood where the proposed site is located have not been problematic.

The primary concern of the Police Department is the site’s relatively close proximity to a challenged part of the La Colonia neighborhood. The area has seen dramatic, positive changes during the past decade and the frequency and severity of police incidents has been greatly reduced. The community was at the forefront of helping the Police Department change the environment to be one that is much safer and no longer dominated by a gangs, drugs and alcohol. Still, these problems exist, albeit to a much lesser extent, and alcohol related issues are one of the persistent challenges the area faces. Numerous studies have repeatedly shown that higher alcohol outlet density contributes to increased crime and violence in the surrounding community and also leads to other alcohol-related community problems.<sup>1-2-3</sup> Another study published in 2004 concluded: “The findings show a clear association between alcohol outlet density and violence, and suggest that the issues of alcohol availability and access are fundamental to the prevention of alcohol-related problems within communities.”<sup>4</sup>

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<sup>1</sup> Scribner RA; Cohen DA; Fisher W. Evidence of a Structural Effect for Alcohol Outlet Density: A Multilevel Analysis. *Alcoholism: Clinical & Experimental Research*. 24(2): 188-195, February 2000.

<sup>2</sup> LaBouvie E; Ontkush M. Violent crime and alcohol availability: relationships in an urban community. *Journal of Public Health Policy* 19(3): 303-318. 1998.

<sup>3</sup> Scribner RA; Mackinnon D; Dwyer, J. The risk of assaultive violence and alcohol availability in Los Angeles County. *American Journal of Public Health* (85) 3: 335-340. 1995.

<sup>4</sup> Zhu L, Gorman, D, Horel, S (2004) “Alcohol Outlet Density and Violence: A Geospatial Analysis” , *Alcohol and Alcoholism* 39 (4), pp 369-375.

In this case, the density issues occur well out of the 1000 foot radius typically considered to be the area of influence for alcohol establishments and are approximately 1500-2000 feet away. The Police Department only presents this information to better understand some of the nearby challenges and not as an indication we are opposed to the upgrade request. In fact, there may be some benefit to allowing the upgrade.

The existing business has been in business for many years and operates with none of the many preventative conditions of operation we now apply to alcohol outlets. They already sell beer and wine and to deny the request for an upgrade will allow them to continue to sell beer and wine with little or no regulations. Should the permit be granted, it would allow us to bring the location up to current community standards that should help to reduce the likelihood for future problems and give us many more enforcement tools should the site ever become a nuisance. There are many concerns the Police Department has with the business as it currently operates that could be improved by adding the new standard conditions. Regulating single servings, fortified wine products and where alcohol can be displayed are some of the improvements that will help create a safer environment at the store. The store currently displays fortified wine products that are favorites with problem drinkers immediately alongside children's items such as Spongebob blankets and other toys. The new regulations would require alcohol be displayed in areas separate from other items which helps to reduce youth exposure to alcohol.

While the Police Department is somewhat concerned about the problems in the nearby inner-neighborhood, our conclusion is that our concerns can be effectively mitigated with the addition of thorough operating conditions and by closely monitoring activity at the site.

**Community Input:**

Members of the Responsible Alcohol Policy Action Coalition (RAPAC) will be informed of the details of this proposal in order to discuss it at their monthly meetings. Any concerns can be expressed at the hearing. Surrounding neighborhood councils are advised of the proposal via the neighborhood packet and no comments were received by the Police Department. The Police Department also met with the La Colonia Neighborhood Council Chairperson and advised him of the details of this proposal.

**Conclusion:**

The statistical analysis shows the area to have a crime rate that is above the citywide average but the area is not generally considered to be a policing problem. There is no presumption of undue concentration as there is no similar outlet within 350 feet of the site but there is a significant density problem further into the La Colonia neighborhood within approximately 1500 feet. The site's close proximity to a challenged part of the neighborhood is of some concern but can be effectively mitigated by including preventative operating conditions with the resolution. Because this business has been in existence since before the implementation of comprehensive preventative operating conditions, this new permit will allow the site to be brought up to current community standards that will minimize the likelihood that the business will have a negative impact on the community.

The Police Department's experience is that the proposed license (Type 21 – Market with liquor), 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 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 aisle. (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 10:00 PM to 7:00 AM. (PD)
2. Any display of distilled spirits shall be maintained in locked cabinets at all times or under the direct control of employees. No distilled spirits shall be accessible to customers at any time without assistance from an employee. (PD)

RESOLUTION NO. 2010 – [PZ 11-510-05]

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF OXNARD APPROVING PLANNING AND ZONING PERMIT NO. 11-510-05 (SPECIAL USE PERMIT), TO ALLOW UPGRADE OF AN EXISTING 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 (201-0-170-345), SUBJECT TO CERTAIN FINDINGS AND CONDITIONS. FILED BY SUKHI S. PHALIWAL ON BEHALF OF 580 THIRD, LLC, 520 EAST THIRD STREET OXNARD, CA 93030.

WHEREAS, the Planning Commission of the City of Oxnard has considered an application for Planning and Zoning Permit No. 11-510-05, filed by Sukhi S. Phaliwal in accordance with Section 16-530 through 16-553 of the Oxnard City Code; 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 State California Environmental Quality Act; and

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

1. The proposed use is in conformance with the General Plan and other adopted policies of the City of Oxnard.
2. The proposed use will not adversely affect or be materially detrimental to the adjacent uses, buildings or structures or to the public health, safety or general welfare.
3. The site for the proposed use is adequate in size and shape to accommodate the setbacks, parking, landscaping, and other City standards except as may be specifically excepted by the special findings and conditions of this resolution.
4. The site for the proposed use will be served by streets and highways adequate in width and structure to carry the kind and quantity of traffic such use will generate.
5. The site for the proposed use will be provided with adequate sewerage, water, fire protection and storm drainage facilities.
6. The proposed use will not result in or add to an undue concentration of off-site consumption establishments selling alcoholic beverages within 1000 feet of the subject location.
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 approved 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	Devt Service/Eng Devt/Inspectors	TR	Traffic Division
PD	Police Department	B	Building Plan Checker
SC	Source Control	FD	Fire Prevention Bureau/Dept
PK	Parks Division	CE	Code Enforcement
BL	Business Licensing		

**STANDARD 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 dated January 5, 2011, (“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, Permittee 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. Permittee agrees, as a condition of adoption of this resolution, at Permittee'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. Permittee'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&R's) 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&R's and the City Code or this permit, the City Code or this permit shall prevail. (CA, G-7)
6. Permittee shall record with the Ventura County Recorder a "Notice of Land Use Restrictions and Conditions" in a form acceptable to the City Attorney. Before the City issues building permits or allows Permittee to occupy the project, Permittee shall submit a copy of the recorded document to the Planning and Environmental Services Manager. (PL, G-8)
7. Before placing or constructing any signs on the project property, Permittee shall obtain a sign permit from the City. Except as provided in the sign permit, Permittee may not change any signs on the project property. (PL/B, G-10)
8. Permittee shall obtain a building permit for any new construction or modifications to structures, including interior modifications, authorized by this permit. (B, G-11)
9. Permittee shall not permit any combustible refuse or other flammable materials to be burned on the project property. (FD, G-12)
10. Permittee 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)
11. If Permittee, owner or tenant fails to comply with any of the conditions of this permit, the Permittee, owner or tenant shall be subject to a civil fine pursuant to the City Code. (CA, G-14)
12. Prior to issuance of building permits, Developer 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 SPECIAL CONDITION**

13. This permit shall automatically be null and void 12 months from the date of issuance, unless Permittee has received from the State Department of Alcoholic Beverage Control a Type 21 license to sell alcoholic beverages on the project property. (PL)

## **POLICE DEPARTMENT 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. 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.

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 10:00 PM to 7:00 AM. (PD)
45. Any display of distilled spirits shall be maintained in locked cabinets at all times or under the direct control of employees. No distilled spirits shall be accessible to customers at any time without assistance from an employee. (PD)

PASSED AND ADOPTED by the Planning Commission of the City of Oxnard on this 5<sup>TH</sup> day of January, 2012, by the following vote:

AYES: Commissioners

NOES: Commissioners

ABSENT: Commissioners

Patrick Mullin, Chairman

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