



Meeting Date: 07/27/2010

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 J. Spondello, Assistant Planner DS Agenda Item No. L-1

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

DATE: July 16, 2010

TO: City Council

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

SUBJECT: Appeal of a request to permit the sale of beer, wine, and distilled spirits for off-site consumption at an existing Walmart Supercenter Store, located at 2001 North Rose Avenue. Filed by Lisa Kolieb, on behalf of Walmart.

RECOMMENDATION

That City Council adopt a resolution denying the appeal and upholding the Planning Commission's denial of Planning and Zoning Permit No. 10-510-03.

DISCUSSION

On July 1, 2010, the Planning Commission considered and denied Special Use Permit (SUP) No. 10-510-03, a request to allow the sale of beer, wine, and distilled spirits for off-site consumption at the existing Walmart Supercenter, located within the "Shopping at the Rose" Shopping Center. This denial was based on the finding that an overconcentration of alcohol outlets exists in the project vicinity and that the proposed use would intensify existing police problems at the subject business and surrounding area.

On July 10, the City Clerk received an appeal of the Planning Commission's decision to deny Walmart's request to sell alcoholic beverages as part of their grocery services.

The Oxnard Police Department provided a report with information required by City Council Resolution No. 11,896 for sale of alcoholic beverages. This report provides information regarding the number of incidents of police response, whether there is a presumption of undue concentration of establishments selling alcoholic beverages (defined as more than one outlet of the same type within 350 feet), and whether approval of the special use permit is likely to significantly aggravate policing problems. The analysis and report was prepared consistent with these standards.

Overconcentration of Alcohol Outlets- According to the police report, two establishments of the same type are located within 350 feet of the subject location. Furthermore, there are seven off-sale outlets

within 1000 feet of the project location, four of which sell distilled spirits. In light of these facts, the police report notes an existing undue concentration in the area which exceeds local standards. The report finds that approval of this special use permit would further intensify this undue concentration.

It should be noted that at the time of the City's previous approval (in 1992) allowing off-sale alcohol sales at Walmart, there was no issue of undue concentration. Build-out of adjacent retail centers, including Shopping at the Rose II and Rose Ranch, has resulted in the current elevated number of alcohol outlets within 1,000 feet of the project site. The 1992 approval expired, as the alcohol use did not commence at the site within the required time period following project approval.

The police report also notes that, based on the experience of the Police Department and research into the subject, there is a documented and direct correlation between the number of alcohol outlets within a given community and the rate of DUI and alcohol related crime. In the opinion of the Police Department, no number of preventative conditions can serve to mitigate the risks to the community posed by approval of the project request.

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, 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.

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 215 during the same 12-month time period. This is 83% higher than the average crime rate citywide. Incidents at St. John's Hospital were not included in this figure, as they were not considered relevant to the proposal. The heaviest concentration of incidents occurred within the Shopping at the Rose center, at Walmart. A total of 369 Part I and II crimes were reported within 1,000 feet of the project site; this number is 195% above the citywide average. Walmart accounts for approximately 65% of all crimes reported in the shopping center, with high numbers of theft and disturbance related incidents.

In addition to the elevated level of crime in the area, the police report also notes that Walmart has the highest number of calls for police service in the city. In light of significant policing issues at the business and in the vicinity, the report concludes that approval of the project would result in an increased number of policing problems.

(DS)

- Attachment #1 - City Council Resolution Upholding Planning Commission Denial
- #2 - Planning Commission Resolution No. 2010-13
- #3 - Planning Commission Staff Report without Attachments (Dated July 1, 2010)
- #4 - Police Report (Dated May 26, 2010)
- #5 - Draft Planning Commission Minutes
- #6 - Notice of Appeal Filed by Lisa Kolieb

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 DENIAL OF PLANNING AND ZONING PERMIT NO. 10-510-03 (SPECIAL USE PERMIT FOR ALCOHOL), A REQUEST TO PERMIT THE SALE OF BEER, WINE, AND DISTILLED SPIRITS FOR OFF-SITE CONSUMPTION AT AN EXSTING WALMART SUPERCENTER STORE, LOCATED AT 2001 NORTH ROSE AVENUE. FILED BY DESIGNATED AGENT LISA KOLIEB, 11355 WEST OLYMPIC BOULEVARD, LOS ANGELES, CA 90064.

WHEREAS, Planning Commission Resolution No. 2010-13 denied an application for Special Use Permit No. 10-510-03, filed by Lisa Kolieb; and

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

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

WHEREAS, on July 27, 2010, the City Council conducted a public hearing and received evidence in favor of and opposed to the application for an SUP to sell beer, wine, and distilled spirits for off-site consumption at the property located at 2001 North Rose Avenue; and

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

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

1. There already exist two off-site alcohol outlets within 350 feet of the site and approval of the project would intensify an existing undue concentration of alcohol outlets.
2. The crime rate in the reporting district for the site is 83% higher than the Citywide average.
3. The crime rate within 1,000 feet of the project site is 195% higher than the Citywide average.
4. The proposed off-site alcohol outlet would not serve the public's convenience or necessity.

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

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

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Oxnard hereby denies the appeal and upholds the Planning Commission's DENIAL of Planning and Zoning Permit No. 10-510-03, based on the findings set forth herein and in Planning Commission Resolution No. 2010-13, on file with the Planning Division and incorporated herein by reference.

PASSED AND ADOPTED this 27th day of June 2010, by the following vote:

AYES:

NOES:

ABSENT:

Dr. Thomas E. Holden, Mayor

ATTEST:

Daniel Martinez, City Clerk

APPROVED AS TO FORM:



Alan Holmberg, City Attorney

ATTACHMENT

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RESOLUTION NO. 2010-13

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF OXNARD DENYING PLANNING AND ZONING PERMIT NO. 10-510-03 (SPECIAL USE PERMIT FOR ALCOHOL), A REQUEST TO PERMIT THE SALE OF BEER, WINE, AND DISTILLED SPIRITS FOR OFF-SITE CONSUMPTION AT AN EXISTING WALMART SUPERCENTER STORE, LOCATED AT 2001 NORTH ROSE AVENUE. FILED BY DESIGNATED AGENT LISA KOLIEB, 11355 WEST OLYMPIC BOULEVARD, LOS ANGELES, CA 90064

WHEREAS, the Planning Commission of the City of Oxnard has considered an application for Planning and Zoning Permit No. 10-510-03, filed by Designated Agent Lisa Kolieb in accordance with Section 16-530 through 16-553 of the Oxnard City Code and City Council Resolution No. 11,896; and

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

1. The denial of this special use permit will not affect the preservation and enjoyment of substantial property rights of the applicant.
2. The granting of this special use permit would, under the circumstances of this particular case, adversely affect or be materially detrimental to adjacent uses, buildings or structures, to the health or safety of persons residing in or working in the neighborhood, and to the general welfare in that it may exacerbate an already elevated crime rate in the area.
3. As indicated in the Police Department's report regarding the subject application, the average crime rate within the reporting district in which the subject property is located is 83% higher than citywide average and considered to be significant. Furthermore, the number of crimes reported within 1,000 feet of the project site is 195% above the citywide average. The sale of alcohol would further aggravate and intensify police problems at the subject property and within 1,000 feet of the location for which the special use permit is applied
4. There is a presumption of undue concentration pursuant to Section 3(b) of City Council Resolution No. 11,896 in that two establishments of the same type are located within 350 feet of the subject location. Furthermore, this presumption has not been rebutted by a preponderance of the evidence in the record before the Planning Commission. There are seven off-sale outlets within 1,000 feet of the subject location, four of which sell distilled spirits. As such, approval of this special use permit would add to an undue concentration of alcoholic beverage retail establishments within 1,000 feet of the subject location.

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

PASSED AND ADOPTED by the Planning Commission of the City of Oxnard on this 1st day of July 2010, by the following vote:

AYES: Commissioners: Medina, Sanchez, Okada, and Frank

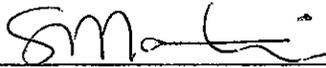
NOES: Commissioners: Mullin and Dean

ABSENT: Commissioner: Elliott



Dale Dean, Chair

ATTEST:



Susan L. Martin, Secretary



Planning Division

**PLANNING COMMISSION
STAFF REPORT**

TO: Planning Commission

FROM: Douglas Spondello, Assistant Planner

DATE: July 1, 2010

SUBJECT: Planning and Zoning Permit No. 10-510-03 (Special Use Permit for Alcohol), Walmart, 2001 North Rose Avenue.

- 1) **Recommendation:** That the Planning Commission adopt a resolution denying Planning and Zoning Permit No. 10-510-03, subject to certain findings.
- 2) **Project Description and Applicant:** A request to permit the sale of beer, wine, and distilled spirits for off-site consumption at an existing Walmart Supercenter Store, located at 2001 North Rose Avenue. Filed by Designated Agent Lisa Kolieb, 11355 West Olympic Boulevard, Los Angeles, CA 90064.
- 3) **Existing & Surrounding Land Uses:** The 176,709 square foot Walmart Supercenter is located within a multi-tenant regional shopping center (Shopping at the Rose), at the northwest corner of Rose Avenue and Gonzales Road. The following table describes the land uses immediately adjacent to the site:

DIRECTION	ZONING	GENERAL PLAN	EXISTING LAND USE
Project Site	Business Research Park (BRP)	Commercial Specialized RS (CS-RS)	Shopping at the Rose Regional Shopping Center
North	BRP	CS-RS	Shopping at the Rose and 101 Freeway
East	BRP	BRP	Rose Crossing Shopping Center
South	General Commercial Planned Development (C-2-PD)	Commercial General	Rose Ranch Shopping Center
West	Single-Family Residential (R-1)	Residential Low	Single-Family Residential

- 4) **Background Information:** The City Council approved Special Use Permit (SUP) No. 1489, Tract No. 4827, and certified Final EIR 90-5 for Shopping at the Rose in 1992. Since this time, several administrative minor modifications for various alterations and additions to the subject building have been approved.
- 5) **Environmental Determination:** Section 15270(a) of the California Environmental Quality Act (CEQA) finds that projects which are to be denied or rejected are statutorily exempt from the requirement for environmental review.

6) **Analysis:**

a) **General Discussion:** Walmart has been operating at the subject property since the building was constructed in 1993. The market employs approximately 500 persons and is open seven days a week, between the hours of 6:00 AM and 11:00 PM. The proposal to sell beer, wine, and distilled spirits is equivalent to an Alcoholic Beverage Control (ABC) License Type No. 21.

b) **Conformance with General Plan and Zoning Designation Policies:** The 2020 General Plan land use designation is Commercial Specialized RS. The zoning designation on-site is for Business Research Park (BRP). The sale of alcoholic beverages is allowed within the BRP zone, subject to the approval of a special use permit.

The Safety Element of the 2020 General Plan lists policies consistent with the City's goal of the "Maintenance and enhancement of a safe community" (IX-16). Of these policies, number 35 states: "The City should require the Police Department to review all proposed development projects for potentially dangerous situations, and implement its recommendations" (IX-20). Consistent with this, the Police Department has reviewed the proposed use for compliance to its safety and security requirements and has determined that approval of this request would be in conflict with Policy 35 of the 2020 General Plan's Safety Element and City Council Resolution 11,896, which adopted standards for determining applications for special use permits to sell alcoholic beverages.

c) **Site Design:** The Walmart building is situated on a 14-acre parcel, within the Shopping at the Rose center. The site is accessed from driveways on Rose Avenue and Gonzales Road. Alcohol is proposed to be sold from 60 lineal feet of existing merchandise area within the store, located at the rear of the grocery section. This display area is comprised of a 32 foot long beer cooler (currently displaying juices) and 28 feet of gondola shelving. Neither are proposed to be locked or secured. No modifications to the exterior building or site are proposed with this request.

- 7) **Police Department Review and Recommendation:** The Oxnard Police Department has provided a report with information required by City Council Resolution No. 11,896 for sale of alcoholic beverages (Attachment "C").

Overconcentration of Alcohol Outlets- The police report provides analysis regarding the presumption of undue concentration of establishments selling alcoholic beverages and reports on the number of police response incidents and whether approval of the special use permit is likely to significantly aggravate policing problems.

According to the police report, two establishments of the same type are located within 350 feet of the subject location. Furthermore, there are seven off-sale outlets within 1,000 feet of the project location, four of which sell distilled spirits. In light of these facts, the police report notes an existing undue concentration in the area which exceeds both state and local standards. The report finds that approval of this special use permit would intensify this undue concentration.

The report also notes that, based on the experience of the Police Department and research into the subject, there is a documented and direct correlation between the number of alcohol outlets within a given community and the rate of DUI and alcohol related crime. In the opinion of the Police Department, no number of preventative conditions can serve to mitigate the risks to the community posed by approval of the project request.

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, 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.

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 215 during the same 12-month time period. This is 83% higher than the average crime rate citywide. Incidents at St. John's Hospital were not included in this figure, as they were not considered relevant to the proposal. The heaviest concentration of incidents occurred within the Shopping at the Rose center, at Walmart. Within 1,000 feet of the project site, a total of 369 Part I and II crimes were reported; this number is 195% above the citywide average. Walmart accounts for approximately 65% of all crimes reported in the shopping center, with high numbers of theft and disturbance related incidents.

The police report also notes that Walmart has the highest number of calls for police service in the city. In light of the significant policing issues at the business and immediate vicinity, the police report concludes that approval of the project would result in an increased number of policing problems.

- 8) Community Workshop:** On April 2, 2010, the applicant mailed notices of the Community Workshop meeting to all property owners within the Rio Lindo Neighborhood. Notice of the meeting was also posted on the project site and included a brief description of the project and contact information. The Community Workshop was conducted on Monday, April 19, 2010. The

one member of the public in attendance at that meeting spoke in opposition to this project, claiming that there were already too many licensed premises in the area and that the use would likely result in an increase to policing problems at the center.

9) Issues for Planning Commission Consideration: Planning Staff and the Police Department recommend denial of this application due to the existing concentration of alcohol outlets and the notably high crime rate at the subject property and vicinity. The police report indicates that outlets that sell distilled spirits are generally considered to have a greater likelihood of policing problems than outlets that only sell beer and wine. It is the expressed opinion of the Police Department that conditions imposed on this project could not mitigate potential risks to the community and that the granting of this permit would unduly intensify existing policing problems.

If it is the intention of the Planning Commission to approve this request, City Council Resolution No. 11,896 requires that the presumption of undue concentration be rebutted by a preponderance of the evidence, based on the facts of this particular case. Furthermore, in order for the applicant to receive a license from the Alcoholic Beverage Control Department, the California Business and Professions Code requires the local governing body to determine that this application serves public convenience or necessity in cases where there is an undue concentration as defined by State statute.

In the event that the Planning Commission should decide to grant approval of this permit, the project should be referred back to Staff, so that this project can be reconsidered with standard and special project conditions.

10) 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 (Dated May 26, 2010)
- D. Resolution

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



Police Department
John Crombach, Police Chief

Date: May 26, 2010
To: Doug Spondello, Project Planner
From: Cliff Waer, Senior Alcohol Compliance Officer
Subject: 2001 N. Rose Ave. (Wal-Mart)

Re: PZ 10-510-03

Site Information:

The proposed site is an existing Wal-Mart supercenter located at 2001 N. Rose Avenue in the "Shopping at the Rose" retail center. The business is on the southernmost end of the complex near Gonzales Road and has two front entrances facing east to a large parking lot that is shared with several nearby businesses. The bustling center is host to more than 30 businesses including a Von's grocery store, Sam's Club warehouse store, sporting goods, clothing stores and several restaurants.

The site is generally bordered by commercial uses to the north, Residential to the west, Gonzales Road to the south and Rose Avenue to the east. The nearest residences are approximately 100 feet to the east and are separated from the rear of the shopping center by a block wall.

The applicant has requested to obtain 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 two similar Off-Sale alcohol outlets within 350 feet of the site and five more within a 1000 foot radius.

Alcohol outlets located within 350 feet of the proposed site include:

BUSINESS NAME	LOCATION	LICENSE TYPE	LICENSE TITLE	BUSINESS TYPE	ALCOHOL ALLOWED
1. Vons Grocery	2101 N. Rose	Type 21	Off-Sale General	Grocery	Beer, Wine and Spirits
2. Rose Shell	1901 N. Rose	Type 20	Off-Sale Beer and Wine	Market	Beer and Wine

3. Oh Sushi	2121 N. Rose #400	Type 41	On-Sale Beer and Wine	Restaurant	Beer and Wine
4. Rubio's Grill	2121 N. Rose #440	Type 41	On-Sale Beer and Wine	Restaurant	Beer and Wine

Alcohol outlets located within 1000 feet of the proposed site include:

BUSINESS NAME	LOCATION	LICENSE TYPE	LICENSE TITLE	BUSINESS TYPE	ALCOHOL ALLOWED
1. Sam's Club	2401 N. Rose	Type 21	Off-Sale General	Package Store	Beer, Wine and Spirits
2. Mobil Mart	2200 N. Rose	Type 20	Off-Sale Beer and Wine	Market	Beer and Wine
3. Rose Chevron	1900 N. Rose	Type 20	Off-Sale Beer and Wine	Market	Beer and Wine
4. Fresh & Easy (under construction)	Gonzales at Rose	Type 21	Off-Sale General	Market	Beer, Wine and Spirits
5. Walgreens (under construction)	Gonzales at Rose	Type 21	Off-Sale General	Market	Beer, Wine and Spirits
6. TGI Fridays	2181 N. Rose	Type 48	On Sale General	Restaurant	Beer, Wine and Spirits
7. Chili's	2221 N. Rose	Type 48	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 215 during the same 12-month time period. This is 83% higher than the average crime rate citywide which is considered to be significant. This calculation does not include calls at St. John's Hospital which is within the 1000 foot radius but not considered relevant to this proposal.

The heaviest concentration of incidents occurred at the shopping center itself, primarily Wal-Mart, where there was a total of 369 Part I and II crimes reported. If we calculate this number for solely the shopping center and eliminate other reported crimes within 1000 feet, the total would be 195% above the citywide average. Wal-Mart accounted for approximately 65% of all the Part I and II crimes reported in that shopping center.

Police *calls for service* to the entire Shopping at the Rose center during the last year totaled 857 (not including the businesses east of Rose near Best Buy which are also part of the Rose project). Calls for service at Wal-Mart accounted half of all the calls to the shopping center. A review of citywide police calls for service showed that Wal-Mart had the highest number of police calls than did any other single business in the City of Oxnard by a margin of more than double that of the next closest location. For a further examination of police calls for service at Wal-Mart and how they compare to similar businesses in the City of Oxnard, please refer to the table below.

Business Name	Total Calls for Service	Theft Related	Disturbance Related
Wal-Mart	429	133	140
Target	110	40	16
Vons (Rose Center)	78	18	24
Costco	61	19	16
Sam's Club	57	2	16

The Police Department also compared total police calls for service at other large retail centers in the City of Oxnard. The results show the Shopping at the Rose center to have the highest number of calls than did any other similar shopping center. Thefts and disturbance related calls were also the highest in the City (businesses east of Rose near Best Buy were not included in this comparison). Refer to the table below for details.

Commercial Center Name	Total Calls for Service	Theft Related	Disturbance Related
Shopping at the Rose (west)	857	234	281
Centerpoint Mall	790	190	126
Fremont Center	652	54	213
Esplanade	461	103	110
The Palms	342	26	69

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 for the area was contacted and said the surrounding area is generally not considered to be a serious crime problem. However, police response to the shopping center is significant and can, at times, be problematic. While the problems are not always associated with Wal-Mart, the site does require the Police Department to allocate a sizeable amount of resources to manage the high number of calls. On average, we respond to the center more than twice daily and directly to Wal-Mart more than once a day.

Police records indicate we responded to 133 incidences of shoplifting at Wal-Mart in the last 12 months. This amounts to the highest number of reported thefts in the City at any one location. Adding the sales of alcohol at a location that already has an existing theft problem will surely aggravate the issue. As an example, the Police Department recently worked with a local grocery store to combat a chronic theft problem. The business had recorded losses of nearly \$200,000 in only a six month period with the vast majority of those thefts being of alcohol. We have yet to fully resolve the issue but it is a good indicator that alcohol is a high risk item that is frequently the target of thieves. Perhaps even more relevant is the fact that a nearby store a short walk away in The Rose center once experienced a similar, substantial theft of alcohol problem and ultimately had to secure their distilled spirits in locked cabinets to help reduce their losses. Wal-Mart already boasts an aggressive loss prevention program with full time security to monitor customers. The company takes the safety of its customers and the protection of their property very seriously and the Police Department is convinced the store makes a genuine and admirable effort to minimize problems. That being said, the number of thefts is significant and no realistic amount of increased security is likely to prevent a considerable rise in the number of thefts if alcohol is made available at the site.

In addition to the compelling crime data listed above and in the previous section, of equal or even more concern is the number of alcohol outlets that can be found in close proximity to this site. There are a total of seven Off-Sale alcohol outlets within 1000 feet of the proposed site and four more On-Sale businesses. 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.¹⁻²⁻³ 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."⁴

Some studies have also shown that increased availability of alcohol contributes to higher rates of driving under the influence while, conversely, reducing the availability of alcohol can result in fewer number of alcohol related crashes. A study published by the National Institution on Alcohol Abuse and Alcoholism (NIAAA) found that communities that employ strategies which include reducing alcohol availability showed a reduction in alcohol related crashes by as much as 22%. In other words, the easier and more convenient it is to purchase alcohol, the more likely it is that a community will see a higher rate of DUI and other alcohol related problems. It is widely known that Oxnard has the dubious honor of having the highest rate of alcohol related injury crashes than does any other city in the State of California. It seems only prudent and reasonable that we should be very cautious about where and how many alcohol outlets are permitted. It would be a logical supposition that Wal-Mart, due to its high volume of customers and traditionally low prices, would be among the top sellers of alcohol in the City should the Special

¹ 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.

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

³ 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.

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

Use Permit be granted. While some would argue that the sale of alcohol is a “zero sum game” and that adding alcohol to a particular site does not increase the amount of alcohol purchased in a community, it only relocates the customer somewhere else; research repeatedly suggests that, as alcohol becomes more convenient, people will purchase alcohol in higher quantities than if it were sparsely available. Basically, customers purchasing alcohol at Wal-Mart will not necessarily be simply displaced from other nearby outlets. While some persons may be relocating away from a competitor, many will be new, compulsive buyers who may not have considered purchasing alcohol unless convenient (or cost effective) to do so.

The City of Oxnard as well as many other communities and even the State of California sets standards and restrictions on the number of alcohol outlets that should be allowed in a concentrated area. The state uses census tracts to determine appropriate numbers of outlets that should be permitted (per capita formula); while Oxnard considers an area to have an undue concentration if there are similar outlets within 350 feet of the proposed site. This proposal exceeds both state and local standards.

These density guidelines were not created in a vacuum; rather, it is a sensible recognition that communities are exposed to unnecessary risks when alcohol outlet density becomes too concentrated. The degree to which the outlets may negatively impact the neighborhood often depends upon the level of policy regulation applied by the local government through the application of preventative conditions of operation. That being said, it may be that under certain circumstances, no number of preventative conditions can mitigate the risks to the community. That, in fact, is the determination of the Police Department in this case as we are opposed to the granting of the Permit due to the undue concentration of similar outlets and the likelihood that it would aggravate existing policing problems.

Community Input:

The Police Department notified surrounding neighborhood leaders to make sure they were aware of the proposal and had the opportunity to discuss the item at community meetings or voice their opinions at the Planning Commission hearing. We did not ask for or obtain any consensus form the neighborhoods either for or against the proposal.

Members of the Responsible Alcohol Policy Action Coalition (RAPAC) were notified of the proposal and had significant concerns about the volume of alcohol that will likely flow from the site and how that may negatively impact the community. Some members said they were current customers of Wal-Mart and were worried that adding alcohol may contribute to more disruptive behavior and an overall shift in the safe, welcoming atmosphere of the existing store.

Conclusion:

The statistical analysis shows the area to have a crime rate that is significantly higher than the citywide average (between 83% and 195% higher) and that the store has the highest number of thefts and overall police calls for service than does any other business in the City. The alcohol outlet density exceeds City of Oxnard standards as well as those guidelines set forth by the California Department of Alcoholic Beverage Control (ABC). In fact, in the two areas most directly relevant to determining the likelihood that the granting of the permit will likely aggravate

existing problems or negatively impact the surrounding area (crime rate and density); this site far exceeds acceptable limits.

The theft problem is perhaps the easier of the two issues to try to mitigate but even that may take somewhat draconian measures to truly reduce the risk of an increase in thefts. The more complicated and less tangible issue is that of outlet density and the availability of potentially voluminous amounts of alcohol into the community. Numerous studies repeatedly link alcohol availability to community problems including DUI and violence. To approve the permit would be to determine this increased risk is an acceptable consequence which is something the Police Department, in the interest of public safety, can not conclude.

While we have enjoyed very good relations with Wal-Mart and genuinely consider the store to be a good community partner, we conclude that adding the availability of alcohol at this site is likely to aggravate policing problems and significantly alter the existing environment by presenting an unnecessary risk to the surrounding area. Additionally, the neighborhood has many options in close proximity to purchase alcoholic beverages and the addition of another outlet in a saturated area is of no convenience or necessity to residents. For these reasons, the Police Department is opposed to the granting of the Permit.

MINUTES

OXNARD PLANNING COMMISSION
REGULAR MEETING
JULY 1, 2010

A. ROLL CALL

At 7:06 p.m., the regular meeting of the Oxnard Planning Commission convened in the Council Chambers. Commissioners Sonny Okada, Patrick Mullin, Deirdre Frank, Michael Sanchez, Dale Dean, and Saul Medina were present. Vice-Chairman Dean presided and called the meeting to order. Staff members present were: Susan Martin, Planning Manager, Paul Wendt, Senior Civil Engineer; Jason Samonte, Traffic Engineer; Stephen Fischer, Assistant City Attorney; Mike More, Financial Services Manager; Juan Martinez, Associate Planner; Doug Spondello, Assistant Planner, and Lori Maxfield, Recording Secretary.

B. PUBLIC COMMENTS

Mr. Bert Perello commended the Planning Commission for their service; indicated that there was no mention in the paper, at a neighborhood council meeting, or on the website of the \$10,000 reward that the City posted for the woman killed a year ago; if the numbers of the Santa Clara River Study do not include the Newhall Ranch development, how would it effect the levee situation; questioned why bidding companies were handpicked, rather than publicly noticed on a bid for a trade services agreement; and requested that the Planning Commission ask the Police Department to give a verbal report on Item F-1 (PZ 10-510-03).

C. READING OF AGENDA

Planning Manager Martin reviewed the agenda including staff's request to continue Item E-1 (PZ 10-520-01) off calendar.

MOTION Commissioner Sanchez moved and Commissioner Okada seconded a motion to continue Item E-1 (PZ 10-520-01) off calendar, as recommended by staff. The question was called and the motion carried 6-0-1, Commissioner Elliott absent.

Chairman Dean reordered the agenda to move Item F-2 (PZ 09-500-03 & PZ 09-590-02) to the first new public hearing.

D. CONSENT AGENDA

1. APPROVAL OF MINUTES – May 20, 2010
2. Review of proposed Capital Improvement Program Projects for Fiscal Year 2010-11, for conformity with the City's 2020 General Plan. Filed by the City of Oxnard, 300 West Third Street, Oxnard, CA 93030. PROJECT PLANNER: Michael More
3. PLANNING AND ZONING PERMIT NO. 10-500-02 (Modification to Use Permit No. 671), a request to eliminate Condition No. 17 of Planning Commission Resolution No. 5394, which requires the recordation of a parking covenant for a lot addressed at 316 South D Street to provide off-street parking for uses

located at 321 South C Street. Release of this covenant would allow the owner to sell the properties separately for possible future development. As allowed by the City Code (Section 16-152[G]), the applicant proposes to meet the parking requirements by using on-street and/or public parking facilities. No development is proposed as part of this request. The proposed project is exempt from environmental review under Section 15061(b)(3) of the CEQA Guidelines. Filed by Mr. Doug Kubiske, 750 South B Street, Oxnard, CA 93030.

PROJECT PLANNER: Sue Martin

Chair Dean opened the public testimony.

Mr. Ernest Stein, representing the Lemonwood Neighborhood Council, spoke on Item D-2 indicating recent improvements, and thanked the mayor and staff for their support in attending the park dedication.

Chair Dean closed the public testimony.

MOTION Commissioner Frank moved and Commissioner Sanchez seconded a motion to approve the minutes of May 20, 2010 as presented. The question was called and the motion carried 5-0-1-1, Commissioner Medina abstaining, and Commissioner Elliott absent.

MOTION Commissioner Frank moved and Commissioner Sanchez seconded a motion that the proposed FY 2010-11 Capital Improvements Projects and Programs were in conformance with the adopted 2020 General Plan; and a motion to adopt a resolution granting PZ 10-500-02, Major Modification to Special Use Permit 671 to remove Condition No. 17 from Planning Commission Resolution No. 5394, which requires a recorded parking covenant for a lot at 316 South D Street, subject to certain findings and conditions. The question was called and the motion carried 6-0-1, Commissioner Elliott absent.

E. CONTINUED PUBLIC HEARINGS

1. **PLANNING AND ZONING PERMIT NO. 10-520-01 (Minor Special Use Permit)** a request to permit the operation of a church (Life of Victory Worship Center), within an existing 3,500 square foot industrial suite. The project is located at 2041 Cabot Place, Unit B and includes a request for administrative relief to provide shared on-site parking. The proposed project is exempt from environmental review under Section 15301 of the CEQA Guidelines. Filed by Designated Agent Elizabeth Callahan, 400 Esplanade Drive, Suite 301, Oxnard, CA 93036.
PROJECT PLANNER: Doug Spondello

ITEM E-1 (PZ 10-520-01) CONTINUED ABOVE.

F. NEW PUBLIC HEARINGS

1. **PLANNING AND ZONING PERMIT NO. 09-500-03 (Special Use Permit) and 09-590-02 (Zone Variance)** a request to improve an irregular shaped site for development and construction of a 20 stall parking lot addition to an existing food catering commissary (American Food Company). The undeveloped 15,992 square foot site is comprised of two lots that are zoned M-2 (Heavy Manufacturing), located at 931 Richmond Avenue. This project is exempt from environmental review under section 15332 of the California Environmental Quality Act. Filed Jeff Zook with Coastal Architects, 505 South A Street, Oxnard, CA 93030.
PROJECT PLANNER: Juan Martinez

Commissioner Sanchez declared a conflict of interest on Item F-2, and left the dais.

Associate Planner Martinez presented the staff report including proposed improvements; surrounding uses; current uses; ongoing nuisance conditions; Lots 3, 4, 5 to be merged; Lots 1, 2 would have a access parking agreement with the other lots; and discussed changes to conditions. He also displayed site photos; landscape improvements and traffic flow; and site improvements.

Chair Dean opened the public testimony. No comments were received, and the public testimony was closed.

MOTION Commissioner Frank moved and Commissioner Mullin seconded a motion to adopt a resolution granting PZ 09-500-03, a Special Use Permit to improve an irregular shaped site; and adopt a resolution granting PZ 09-590-02, a Zone Variance to provide relief and allow deviation from required parking design standards to construct a 20 stall parking lot addition to an existing food catering commissary (American Food Company), located at 911-931 Richmond Avenue, subject to certain findings and conditions. The question was called and the motion carried 5-0-1-1, Commissioner Sanchez abstaining, Commissioner Elliott absent.

2. **PLANNING AND ZONING PERMIT NO. 10-510-03 (Special Use Permit for Alcohol)**, a request to allow the sale of alcohol for off-site consumption from an existing 177,000 square foot building, located at 2001 North Rose Avenue and operated by Walmart. The project is exempt from environmental review under Section 15270 (a) of the CEQA Guidelines. Filed by Designated Agent Lisa Kolieb, Manatt, Phelps, and Phillips LLP, 11355 West Olympic Boulevard, Los Angeles, CA 90064.
PROJECT PLANNER: Doug Spondello

Assistant Planner Spondello presented the staff report including surrounding uses; Police report indicating current policing problems and undue concentration. He also displayed zoning map; site photo; floor plan; and interior site photo.

Senior Officer Waer discussed the Police report including Part I and II crimes; sale of alcohol would likely aggravate the problem; explained how the distances from the businesses were measured; indicated the statistics were taken from the last 12 months; and stated that there had been 429 calls for service during the reporting period.

Chair Dean opened the public testimony.

Ms. Lisa Kolieb, attorney representing Walmart, discussed the proposed request including that alcohol sales were incidental to the store; no external modifications were involved; added convenience for customers; Rio Neighborhood had no objections; security measures including undercover security in the store, security cameras included in recent expansion, well lit parking lot, and associate training done every year; cash registers confirm ages with cameras above cashiers; would generate revenue for the City; Alcohol Beverage Control stated that was no overconcentration; crime statistics were misleading, as the large volume of customers would account for a higher call rate; alcohol sales were approved as part of the original application, if done with one year; and they would work with the Police Department on conditions to keep crime down.

Mr. Francisco Medina, store manager, discussed the changes to the store with the recent expansion including better customer navigation; cleaner store; wider aisles; and 24 hour security in the parking lot with cart pushers equipped with "walkie-talkies".

Mr. Harold Ceja, Colonia Neighborhood Chairman, and Ms. Pat Brown spoke in opposition due to the Police report and the potential for additional crime.

Chair Dean closed the public testimony.

Planning Commission commended the applicant on their number of employees, as well as their ongoing training practices; and expressed concern with the Police report; undue concentration; applicant not having statistics on Police calls; potential for theft of alcohol; and impact on the neighborhood.

MOTION Commissioner Medina moved and Commissioner Sanchez seconded a motion to adopt a resolution denying PZ 10-510-03, a Special Use Permit to allow the sale of beer, wine, and distilled spirits for off-site consumption at an existing Walmart Supercenter store, located at 2001 North Rose Avenue. The question was called and the motion carried 4-2-1, Commissioners Dean and Mullin voting no, Commissioner Elliott absent.

G. PLANNING COMMISSION BUSINESS

Commissioner Medina commended the City for the handout on the consumer confidence report on water; and expressed concern regarding recent horizontal drilling in relation to water quality.

Commissioner Sanchez stated that he was resigning as a Planning Commissioner due to medical reasons. He thanked the City Council for allowing him to serve; Planning Commissioners for allowing him to participate in deliberations; and staff for all their assistance.

Planning Commission commended and thanked Commissioner Sanchez for his service on the Planning Commission.

H. PLANNING MANAGER COMMENTS

Planning Manager Martin stated that the meeting of July 15, 2010 would be cancelled, and the next meeting would be on August 5, 2010.

I. ADJOURNMENT

At 8:48 p.m., the Planning Commission concurred to adjourn.

Dale Dean, Chairman

ATTEST: _____
Susan L. Martin, Secretary

CITY OF OXNARD
CITY CLERK

10 JUL -2 AM 11:40

**PLEASE PROVIDE AN ORIGINAL AND 2 COPIES
A \$500 FEE MUST ACCOMPANY THIS APPEAL**

TO: Oxnard City Clerk

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

I, Lisa Koliebo, am aggrieved or directly affected by
(name of person filing appeal)

and appeal the July 1, 2010 decision from the Planning Commission regarding Project No.
(date of PC meeting)

10-510-03, more particularly described as follows:

Special Use Permit for Alcohol for off-site consumption
at existing walmart store located at 2001 N. Rose Avenue.
The grounds for appeal are:

See attached

I request the following relief:

Pursuant to section 16-545 of the Oxnard Municipal
code, I hereby appeal the decision of the Planning Commission
to the City Council and request that the City Council
approve special Use Permit 10-510-03 (Project No).

Lisa Koliebo Date: 7/2/10
(signature) Lisa Koliebo

Manatt, Phelps & Phillips
11355 W. Olympic Blvd.
(address) Los Angeles, CA 90064

cc: City Attorney
Project Planner
Development Services Department
Applicant

direct 310 312 4297
310 914 5807
email lkoliebo@manatt.com

**APPEAL TO OXNARD CITY COUNCIL
REQUEST AND JUSTIFICATION FOR SPECIAL USE PERMIT FOR SALE OF
ALCOHOLIC BEVERAGES AT EXISTING WAL-MART STORE
PROJECT No. 10-510-03**

REQUEST:

Walmart is requesting a Special Use Permit ("SUP") to sell alcoholic beverages for off-site consumption at its existing store located at 2001 N. Rose Avenue.¹ Walmart's request was heard by the Planning Commission on Thursday, July 1, 2010 and, despite community support and customer demand, did not receive a majority vote by the Planning Commission. Therefore, Walmart hereby appeals the decision of the Planning Commission and requests that the City Council approve the SUP allowing Walmart to sell alcoholic beverages for off-site consumption at its existing store.

The Planning Commission voted against approval of the SUP, relying on misleading and incomplete statistics for "calls for service" provided in the Police Department's report, dismissing without discussion data the Applicant provided and failing to provide the Applicant with reasonable or sufficient opportunity to explain or rebut the misinformation. As discussed in more detail below, the misinformation included inappropriate comparisons of Walmart to retailers with much smaller volumes of customers and sales. The Police Department report also failed to acknowledge that most of the calls attributed to Walmart are made by the Walmart loss prevention department after suspects are apprehended by Walmart security for shoplifting and other disturbance-related crimes. In addition, the report failed to identify the range of calls that might be categorized as "disturbance" calls, which often includes such things as loitering, noise or other merely suspicious behavior.

**WALMART IS REQUESTING A SPECIAL USE PERMIT TO ALLOW THE SALE OF
ALCOHOLIC BEVERAGES TO COMPLEMENT ITS GROCERY LINE AND TO ALLOW THE
STORE TO BE THE ONE-STOP SHOP THAT ITS CUSTOMERS EXPECT IT TO BE.**

Walmart is seeking to sell alcoholic beverages at its existing store to complement its full line of groceries and to allow it to be the one-stop shop that its customers expect it to be. In selling alcoholic beverages, Walmart will allow its customers can pick up wine for dinner or a family celebration, buy beer for a BBQ or to watch a sporting event with friends, and buy those alcoholic beverages along with all the other retail goods on their shopping lists. It is not going to be a liquor store. It is not going to be a bar. The store contains a full grocery store and the sale of alcoholic beverages is consistent with typical grocery sales. This application is just to allow Walmart to sell alcoholic beverages that will be incidental to its other existing retail items and to allow Walmart to be the one-stop

¹ Please note that the City approved off-sale alcoholic beverage sales at the Walmart store in Special Use Permit No. 1489, which was approved in 1992; however, that permission expired 12 months after the issuance of Special Use Permit No. 1489 because Walmart did not apply for a license from the Department of Alcoholic Beverage Control at that time.

**APPEAL TO OXNARD CITY COUNCIL
REQUEST AND JUSTIFICATION FOR SPECIAL USE PERMIT FOR SALE OF
ALCOHOLIC BEVERAGES AT EXISTING WAL-MART STORE
PROJECT No. 10-510-03**

shop that its customers expect it to be. No external modifications to the building are necessary as the alcoholic beverages will be located in the store's grocery section.

JUSTIFICATION:

PLEASE SEE WALMART'S INITIAL APPLICATION TO THE CITY IN CONNECTION WITH THIS APPLICATION (ATTACHED HERETO AS EXHIBIT A) FOR A DETAILED PROJECT DESCRIPTION AS WELL AS THE REQUIRED FINDINGS FOR THE PROJECT.

CRIME STATISTICS ARE MISLEADING.

The Police Department's report states that the crime in Walmart's reporting district is 83% higher than the average crime rate citywide and that the Walmart store has the highest number of reported thefts in any location in the City. However, that statistic does not account for the daily volume of shoppers that Walmart and the Shopping at the Rose center have. The fact that a store with such a high customer volume (approximately 10,000 shoppers a day or more than 3.5 million shoppers a year) would have a high call for service rate would be expected. However, the Police Department's report fails to consider the ratio of calls to customer volume. The Police Department only receives 1-2 calls for service per day to the Walmart and Walmart has approximately 10,000 shoppers per day; similarly, the Police Department received only a total of 429 calls for service in a year where Walmart had approximately 3.5 million shoppers. Accordingly, Walmart's calls for service cannot be directly compared to calls for service for other retailers, such as Target, Vons, Costco or Sam's Club, as none of them have anywhere near the same customer volume as Walmart.

The fact that the Police Department is getting a high volume of calls from Walmart demonstrates that Walmart's security team is doing its job and actually apprehending shoplifters or other criminals and calling the police department, rather than dealing with the situations on their own in order to keep a low call rate. Theft losses continue to decrease year after year at the store which proves that Walmart's asset protection program is working as a deterrent to ongoing crime. Shoplifters are getting the message that Walmart is not a place where they will be successful at stealing. We expect the crime rate to continue to go down and asset protection and on-site security will be increased once the alcohol is added.

In addition, considering the number of customers that shop at the store, its loss rate is astoundingly low due to a great loss prevention program. In fact, last year, the store,

Wal-Mart Stores Inc.
Special Use Permit Request
July 2, 2010

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**APPEAL TO OXNARD CITY COUNCIL
REQUEST AND JUSTIFICATION FOR SPECIAL USE PERMIT FOR SALE OF
ALCOHOLIC BEVERAGES AT EXISTING WAL-MART STORE
PROJECT No. 10-510-03**

had 95 million dollars in sales for the year and only lost 72 thousand dollars in merchandise due to theft, where the average for a store that size is approximately 800 thousand dollars. Other retail stores expect a certain amount of loss and crime and attribute it to the cost of doing business. Walmart doesn't – it does better than other stores.

Finally, as stated in the police department's report, the Beat Coordinator for the area said the surrounding area is generally not considered to be a serious crime problem area. Accordingly, we believe that the addition of alcoholic beverages to the Walmart store will not increase alcohol related crime in the area – Walmart is a responsible vendor of alcohol with strict policies related to the sale of alcoholic beverages. We believe that Walmart will serve as an example to its neighbors of how to sell alcohol responsibly so that alcohol related crime in the area is ultimately reduced.

WILL NOT RESULT IN A TECHNICAL OVER-CONCENTRATION OF LICENSES IN THE CENSUS TRACT.

Although in their reports, the Planning Division and Police Department report the number of all alcohol outlets located within 350 and 1000 feet of the site based upon City requirements for SUP applications, the Department of Alcoholic Beverage Control determines "over-concentration" based on census tracts, and in the census tract where the Walmart store is located, there are only 3 active off-sale licenses, whereas 6 are permitted. Accordingly, there would not be a technical "over-concentration" of licenses in the census tract according to the Department of Alcoholic Beverage Control. It should also be noted that two of the proposed alcohol licenses (Fresh & Easy and Walgreens) are currently under construction and do not have licenses yet.

ALLOWING WALMART TO SELL ALCOHOLIC BEVERAGES AT ITS EXISTING STORE WILL BE BENEFICIAL TO OXNARD, TO ITS RESIDENTS AND TO ITS BUSINESSES.

(1) Walmart's Customers Want it to be a Truly One-Stop Shop. The store's customers are mostly families who would benefit from the convenience of being able to pick up alcoholic beverages at the same time as they are shopping for other grocery and retail goods at Walmart's low prices. It will increase efficiency for shoppers and save them the time, money and gas that would otherwise be required by having to go to a separate store to purchase alcoholic beverages. This is something Walmart's customers have been asking for. In fact, the Rio Lindo Neighborhood Council fully supports Walmart's application.

**APPEAL TO OXNARD CITY COUNCIL
REQUEST AND JUSTIFICATION FOR SPECIAL USE PERMIT FOR SALE OF
ALCOHOLIC BEVERAGES AT EXISTING WAL-MART STORE
PROJECT No. 10-510-03**

(2) Will Give Shoppers a Safe Place to Shop as Keeping its Customers Safe is a Walmart Priority. Walmart provides security both in the store and in the parking lot to keep its shoppers safe. In the store, Walmart employs undercover security guards (loss prevention associates) to monitor the store and watch for shoplifters. The store also utilizes security cameras positioned at strategic locations throughout the store to monitor activity within the store. These security cameras are so high quality that they can pick up the words on the page that someone is reading out of a book or magazine in any location in the store. Walmart parking lot's lighting was recently upgraded and is very well lit and the continual presence of employees returning carts to the cart corrals discourages loitering. Employees working in the parking lot are instructed to call Walmart Loss Prevention if they observe loitering or other unusual behavior in the parking lot. Each of these security features helps to create a safe environment for its customers. When compared to other grocery stores in the City, customers frequently comment on how bright, open and safe the store feels.

(3) Will Bring Oxnard a Responsible Vendor of Alcohol. Walmart's policies regarding alcohol sales are not an unknown. They are firmly established and taken very seriously. Walmart's policies prohibiting underage sales and sales to intoxicated persons are reinforced with technology, training, monitoring and discipline. Walmart trains all associates to sell alcohol responsibly and in compliance with California law using a computer-based learning program. Techniques in Alcohol Management (known as "TAM") is required training for all managers and associates and focuses on recognizing and preventing any sales of alcohol that may be detrimental to the public welfare (such as the sale to minors and intoxicated persons). All employees must score 100 percent on the program and are retrained in TAM on a yearly basis. The California Coordinated Council of Beverage Service (the group authorized by the ABC to certify training programs for the sale of alcohol) has certified TAM for use by Walmart.

In addition, Walmart's cash registers employ state of the art technology designed to help cashiers confirm a customer's age as part of every alcohol sales transaction. All cashiers are graduates of Walmart's alcohol sales training program. Walmart advises cashiers that there is a security camera positioned above every cash register that records every sales transaction. The cameras allow Walmart Management to confirm whether cashiers follow Walmart's mandatory policies regarding the responsible sale of alcohol (such as inputting the required driver's license information when prompted to do so by the cash register). If the cashier overrides the cash register prompts, their actions are recorded by the cameras which can be used as evidence to terminate the cashier. When Walmart hires a cashier, they are advised that Walmart's corporate policy requires that any cashier who sells to a minor will be terminated.

**APPEAL TO OXNARD CITY COUNCIL
REQUEST AND JUSTIFICATION FOR SPECIAL USE PERMIT FOR SALE OF
ALCOHOLIC BEVERAGES AT EXISTING WAL-MART STORE
PROJECT No. 10-510-03**

Further, a distinction can be drawn between large stores like Walmart and liquor stores. While liquor stores generally serve a customer primarily purchasing alcohol, Walmart does not cater to a single purchase patron. The purchase of alcoholic beverages would be incidental to the purchase of other products, particularly given that Walmart is focused on an entire family shopping for numerous types of foods. Additionally, given that Walmart is a worldwide corporation, it is more sophisticated than a liquor store in training its employees in responsible alcohol sales, loss prevention, safety and security.

(4) Will Increase City of Oxnard's Sales Tax Revenues. The addition of alcoholic beverages will increase sales revenues at the store and therefore sale tax revenues paid to the City of Oxnard. Permitting alcoholic beverage sales at the Walmart is an easy and responsible way for the City to increase its sales tax revenues.

For the reasons discussed above, Walmart respectfully requests that the Oxnard City Council approve Special Use Permit No. 10-510-03 to allow Wal-Mart to sell alcoholic beverages for off-site consumption at its existing store. Walmart's record of safety, security, and responsible alcohol sales combined with reasonable prices and a convenient, *one-stop shopping* experience will enhance the surrounding area and provide an enormous public convenience to the residents and businesses in Oxnard. We hope that you agree and will vote to approve Walmart's request for a Special Use Permit. Thank you very much for your consideration.

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Wal-Mart Stores Inc.
Special Use Permit Request
July 2, 2010

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**APPEAL TO OXNARD CITY COUNCIL
REQUEST AND JUSTIFICATION FOR SPECIAL USE PERMIT FOR SALE OF
ALCOHOLIC BEVERAGES AT EXISTING WAL-MART STORE
PROJECT No. 10-510-03**

**EXHIBIT A
ORIGINAL APPLICATION**

Wal-Mart Stores Inc.
Special Use Permit Request
July 2, 2010

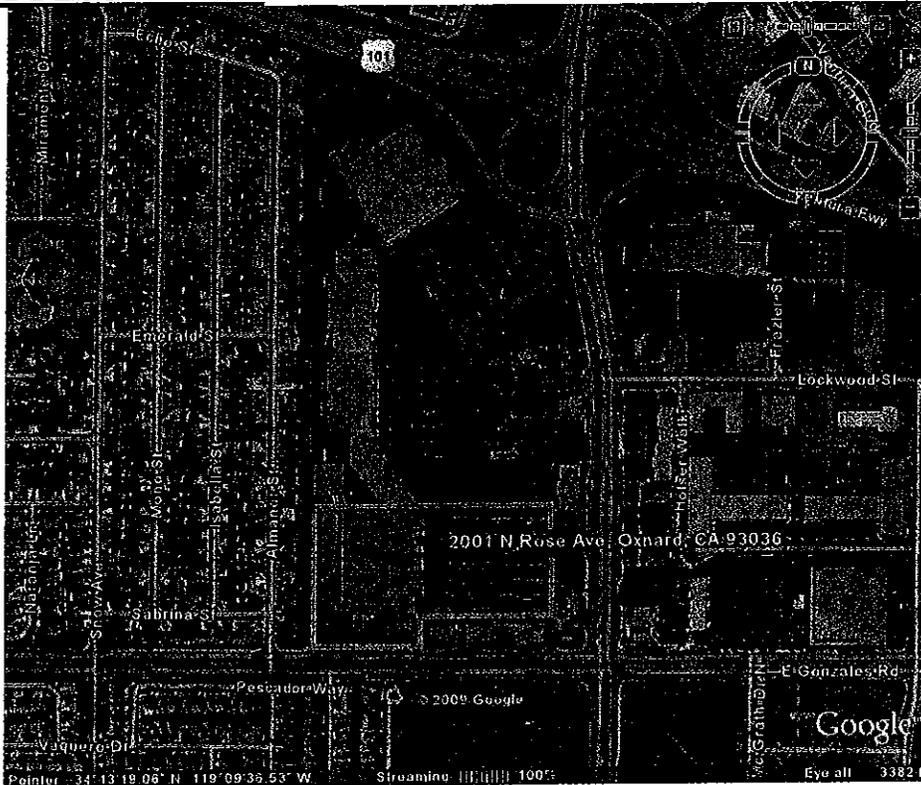
ATTACHMENT 6
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**SPECIAL USE PERMIT APPLICATION FOR SALE OF ALCOHOLIC BEVERAGES
AT EXISTING WALMART STORE**

THE REQUEST

Pursuant to Sections 16-177 and 16-530 through 16-535 of the Oxnard Municipal Code, Wal-Mart Stores, Inc. (“Walmart” or the “Applicant”) requests a Special Use Permit to allow the sale of alcoholic beverages at its existing store for off-site consumption.

PROJECT DESCRIPTION



Walmart is requesting a Special Use Permit to permit the sale of alcoholic beverages for off-site consumption at its existing store, which is located at 2001 N. Rose Avenue (the “Store”) and is part of the Shopping at the Rose shopping center (“Shopping Center”).¹ The Store and Shopping Center are adjacent to other commercial uses as well as residential uses. The site is zoned BRP (Business & Research Park), which permits off-premise alcohol sales with a Special Use Permit. No external modifications will need to be made to the store to incorporate the sale of alcoholic beverages, as they will be located in the store’s grocery section.

¹ Please note that the City approved off-sale alcoholic beverages sales at the Walmart store in Special Use Permit No. 1489, which was approved in 1992; however, that permission expired 12 months after the issuance of Special Use Permit No. 1489.

Walmart Stores, Inc.
SUP Request
2/26/2010

ATTACHMENT

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Local residents and businesses will benefit from the convenience of alcoholic beverage sales at the Walmart store because they would be able to purchase alcoholic beverages at the same time as other retail goods at Walmart's low prices. The sale of alcoholic beverages would be a relatively minor part of the store's overall sales, but would offer an enormous convenience to customers. In addition to increasing efficiency for shoppers, the sale of alcoholic beverages at the existing store may also decrease traffic congestion throughout the city by reducing travel by residents and visitors to numerous locations to meet their shopping needs. Further, the addition of alcoholic beverages to the Walmart store will increase the City's tax revenues.

MANDATORY FINDINGS FOR SPECIAL USE PERMIT

- A. The proposed sale of alcoholic beverages will not adversely affect or be materially detrimental to such adjacent uses, buildings or structures or to the public health, safety or general welfare.**

Adjacent Uses, Buildings and Structures

The approval of a Special Use Permit in order to allow the sale of alcoholic beverages at the existing Oxnard store will not detrimentally affect adjacent uses. In fact, the addition of alcoholic beverage sales will benefit the adjacent uses because it will both increase convenience for local residents and businesses and decrease the need for shoppers to make multiple trips to shop for alcoholic beverages in addition to retail goods. The approval of the request will provide nearby residents and businesses with a safe and convenient location in which they can purchase alcoholic beverages at the same time as they are shopping for other household items, food and personal needs at Walmart's low prices. In addition, the secure and convenient sale of alcoholic beverages at Walmart will result in increased efficiency for shoppers and may also decrease traffic congestion throughout the city by reducing travel by residents and visitors who currently have to go to multiple stores to meet their shopping needs.

The sale of alcoholic beverages will be proper in relation to adjacent uses. The Walmart store is located within the Shopping at the Rose shopping center, which, in addition to Walmart, includes a Sam's Club, a beauty supply store, electronics and cell phone stores, a bank, a hair salon, a nail salon, a bridal store, a vitamin store, a grocery store, an office supply store, a toy store, a bridal store, a dry cleaners, numerous clothing stores, a shoe store, a jewelry store, numerous restaurants, a dental office and a gas station. The addition of alcoholic beverages will increase shopper amenities and convenience consistent with the character of the Shopping Center.

The existing Walmart store is conveniently located close to nearby residential and commercial areas. The area immediately to the north of the store includes the rest of the Shopping Center which is also zoned BRP and the 101 Freeway beyond that. The area to the east of the store is also zoned BRP. The areas to the west and south of the store are zoned residential (R-1 and R-2-PD). Permitting alcoholic beverage sales at the existing store will provide nearby residents and businesses with a safe and convenient location in which they can purchase alcoholic beverages along with other retail goods, and as noted above, will increase shopping amenities in the area.

In addition, since the addition of alcoholic beverages at the existing store will not require any external modifications to the store, adjacent buildings and structures will not be affected by the approval. The store has ample on-site parking and its parking lots are regularly patrolled by security guards as well as employees collecting shopping carts. Accordingly, the addition of alcoholic beverage sales will not negatively affect adjacent uses, buildings or structures.

Further, the sale of alcoholic beverages for off-site consumption is not detrimental to the existing use. The existing Walmart store is located in the BRP zone, which permits the sale of alcoholic beverages with an approved Special Use Permit. The sale of alcoholic beverages will enable Walmart to better serve both the neighborhood surrounding the store and the greater community as a full-service retailer. Both the residents and businesses in Oxnard will benefit from a conveniently located, full service retail shopping option. Approval of Applicant's Special Use Permit will provide a benefit to adjacent property owners and businesses because residents and businesses will be able to complete all of their shopping in one convenient, close, and safe location.

Public Health, Safety and General Welfare

The sale of alcoholic beverages at the existing Walmart store will not adversely affect public health, safety or general welfare of persons residing or working in the surrounding community. In fact, allowing Walmart to sell alcoholic beverages at its existing store will be beneficial to Oxnard, to its residents and to its businesses for the following reasons:

(1) Will Help Oxnard's Residents and Businesses Save Time and Money. This store's customers are mostly families who would benefit from the convenience of being able to pick up beer and wine at the same time as they are shopping for other retail goods at Walmart's low prices. The sale of alcoholic beverages at Walmart will result in increased efficiency for shoppers and may also decrease traffic congestion throughout the

city by reducing travel by residents and visitors who currently have to go to multiple stores to meet their shopping needs.

(2) Walmart is a Safe Place to Shop. Walmart provides security both in the store and in the parking lot to keep its shoppers safe. In addition, Walmart employs undercover security guards (loss prevention associates) inside the store. The store also utilizes security cameras positioned at strategic locations throughout the store to monitor activity within the store. Further, the Shopping Center also employs security guards which patrol the rest of the Shopping Center and parking lot. The Walmart parking lot is well lit (in fact, Walmart just upgraded its parking lot lighting) and the continual presence of employees returning carts to the cart corrals discourages loitering. Employees working in the parking lot are instructed to call Walmart Loss Prevention if they observe loitering or other unusual behavior in the parking lot.

Granting Applicant's request will help keep the community safe because it will provide residents and businesses with a safe location to purchase alcoholic beverages. Walmart and the Shopping Center have already implemented four site-specific security measures to keep their shoppers safe. First, Walmart employs undercover security guards that monitor the store and ensure the customers' safety during business hours as well as a parking lot security patrol that monitors the parking lot 24 hours a day, seven days a week. Second, cashiers will be specially trained with respect to the sale of alcoholic beverages to ensure compliance with the law and the safety and security of patrons. Walmart will closely monitor alcoholic beverages purchases and ensure that minors and intoxicated shoppers do not purchase or otherwise gain possession of the alcoholic beverages. Third, the Shopping Center employs security guards to monitor the rest of the Shopping Center and parking lot. These security guards patrol the stores and parking lot in order to prevent loitering or other nuisances to adjacent uses and/or residential neighborhoods. Finally, Walmart already provides ample night lighting to prevent unwanted or illegal behavior outside the store. As mentioned above, Walmart just recently upgraded the lighting in the parking lot.

In addition to these physical security measures, Walmart already has well-established policies in place to monitor the sale of alcohol and ensure that the sale of alcohol will preserve the community's public health, safety and general welfare. In all of its stores that sell alcohol, Walmart has implemented an alcohol sales training program called Techniques of Alcohol Management ("TAM"). The training program focuses on recognizing and preventing sales of alcohol that may be detrimental to the public welfare (i.e., the sale of alcohol to minors and intoxicated persons). The California Coordinated Council of Beverage Service (the group authorized by the ABC to certify training programs for the sale of alcohol) has certified the TAM program for use by Walmart.

Implementation of the TAM program at the Oxnard Walmart will ensure that the sale of alcohol at the store will not be detrimental to persons residing or working in the area.

Granting the Applicant's request will promote safety through the legal and responsible sale of alcohol in the area. The sale of alcoholic beverages at Walmart will not necessarily encourage consumers to purchase more alcohol but instead will encourage them to purchase alcoholic beverages from Walmart, a responsible vendor, where consumers also benefit from more security, lower prices, and the convenience and efficiency of buying it at the same place they buy other goods. Walmart's practices and reputation for the responsible sale of alcohol will improve safety for consumers and the greater community. Additionally, the Applicant's TAM program will ensure that employees keep alcohol out of the wrong hands. Permitting Walmart to sell alcoholic beverages will support the Department of Alcoholic Beverage Control's mission to administer the sale of alcohol "in a manner that fosters and protects the health, safety, welfare, and economic well being of the people of the State."²

(3) Walmart is a Responsible Vendor of Alcohol. Walmart's policies prohibiting underage sales and sales to intoxicated persons are reinforced with technology, training, monitoring and discipline. For example, there are video cameras located over every cash register in the store, and associates are advised that they will be terminated if they fail to follow the procedures for verifying the age of customers purchasing alcoholic beverages. Further, a distinction can be drawn between large stores like Walmart and liquor stores. While liquor stores generally serve a customer primarily purchasing alcohol, Walmart does not cater to a single purchase patron. The purchase of alcoholic beverages at Walmart would be incidental to the purchase of other products, particularly given that Walmart is focused on an entire family shopping for numerous types of goods. Additionally, given that Walmart is a worldwide corporation, it is more sophisticated than a neighborhood liquor store in training its employees in responsible alcohol sales, loss prevention, safety and security.

(4) Will Increase City of Oxnard's Sales Tax Revenues. The convenience of being able to purchase alcoholic beverages at Walmart may encourage shoppers to spend their money directly in their neighborhood rather than traveling to surrounding areas to find "one-stop shops," thus increasing sales tax revenue in the City of Oxnard. Permitting alcoholic beverage sales at the Walmart is an easy and responsible way for the City to increase its sales tax revenues.

² <http://www.abc.ca.gov/mission.html>

The sale of alcoholic beverages at the existing Walmart store will not adversely affect economic welfare of persons residing or working in the surrounding community. Rather, the sale of alcoholic beverages at the existing Walmart will benefit Oxnard by encouraging consumers to shop within the city and providing convenience for local shoppers. The surrounding businesses and their employees, as well as people commuting on adjacent streets, will benefit from the convenience of being able to purchase alcoholic beverages for business-related or personal needs at the same time and place they meet other retail needs. This will in fact encourage residents and businesses to do their shopping for their basic retail needs in the Oxnard, rather than traveling to other cities to shop at large retail stores. Keeping shoppers in Oxnard will keep tax dollars in the City of Oxnard.

To conclude, Walmart's record of safety, security, and responsible alcohol sales combined with reasonable prices and a convenient, one-stop shopping experience will enhance the surrounding area and provide an enormous public convenience to the residents and businesses in Oxnard.

B. The site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and items which may be required by section 16-532.

The addition of alcoholic beverages at the existing store will not require any external modifications to the store, as the alcoholic beverages will be placed within the existing food aisle. The store is in the process of finalizing its expansion and is adequate in size and shape to accommodate the sale of alcoholic beverages. In addition, Walmart provides ample parking. Therefore, no changes need to be made to the yards, walls, fences, parking and loading facilities, landscaping, or other developmental features in connection with the sale of the alcoholic beverages.

C. The site is served by highways adequate in width and improved as necessary to carry the kind and quantity of traffic such use would generate.

The sale of alcoholic beverages will not require any changes to the streets and highways around the store. The site is adequately served by streets and highways of sufficient width. In fact, the addition of alcoholic beverages to Walmart's already extensive selection of retail goods will reduce customers' need to drive to multiple locations around the City to obtain various products. If Walmart is able to sell alcoholic beverages, customers will not need to make an extra trip which may, in turn, decrease traffic congestion.

D. The site is provided with adequate sewerage, water, fire protection and storm drainage facilities.

As discussed above, the addition of alcoholic beverages will not require any exterior or structural modifications to the store and will not effect the store's sewerage, water, fire protection or storm drainage needs. The alcoholic beverages will be placed in the store's grocery section. Accordingly, the site is provided with adequate sewerage, water, fire protection and storm drainage facilities.

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