



**Planning Division**

**PLANNING COMMISSION  
STAFF REPORT**

**TO:** Planning Commission

**FROM:** Linda Windsor, Associate Planner

**DATE:** August 5, 2010

**SUBJECT:** Planning and Zoning Permit No. 10-510-08 (Special Use Permit-Alcohol)  
Located at 1600 East Gonzales Road.

- 1) **Recommendation:** That the Planning Commission approve Planning and Zoning Permit No. 10-510-08 for a special use permit, subject to certain findings and conditions.
- 2) **Project Description and Applicant:** A request to allow on-site sales of beer, wine, and spirits with meals (ABC License Type 47) in a new 6,706 square foot restaurant (Buffalo Wild Wings Grill & Bar) located at 1600 East Gonzales Road, within the Rose Ranch Shopping Center (APN: 215-0-290-095), in the Northeast Community Specific Plan area, West Village Neighborhood. Filed by Lingle Design Group, on behalf of Buffalo Wild Wings Grill & Bar, and Parkstone Company.
- 3) **Existing & Surrounding Land Uses:** The subject site is located on a vacant portion of the recently constructed Rose Ranch shopping center.

LOCATION	GENERAL COMMERCIAL	GENERAL COMMERCIAL	VACANT PAD
Project Site	General Commercial Planned Development (C-2-PD)	General Commercial	Vacant pad in shopping center
North	Business & Research Park (BRP)	Specialized Commercial	Shopping at the Rose (freeway-oriented commercial retail)
South	Multi-family Planned Development (R-2-PD)	General Commercial, Beyond: Residential Low-Medium (8-12 DU/Acre)	Rose Ranch Shopping Center (vacant space), Single Family Residential beyond
East	Business & Research Park (BRP)	General Commercial Public/Semi-Public Facility beyond Rose Avenue	Rose Ranch Shopping Center parking, St John's Regional Medical Center on east side of Rose Avenue
West	Multi-family Planned Development (R-2-PD)	Residential Low-Medium (8-12 DU/Acre)	Single Family Residential

**4) Background Information:** : On January 6, 2009, the City Council approved the Rose Ranch commercial project involving the construction of 77,697 square feet of retail and commercial space. Entitlements for the project included a Specific Plan Amendment to the Northeast Community Specific Plan (PZ No. 07-630-04), General Plan Amendment (PZ No. 07-620-06), Zone Change (PZ No. 07-570-05), Special Use Permit (PZ No. 07-500-15), Tentative Map (PZ No. 07-300-15), and Certification of a Subsequent Environmental Impact Report (SEIR 08-02/SCH #2003051045). This site is within the Northeast Community Specific Plan.

The Planning Manager has approved three minor modifications for slight adjustments to the buildings' architectural treatment and site plan, as well as slight changes to the adopted sign program. The most recent minor modification included approval of the architectural design and site plan adjustments to accommodate the subject restaurant.

**5) Environmental Determination:** In accordance with Section 15061(b) (3) of the California Environmental Quality Act (CEQA) Guidelines (the "General Rule" exemption), the proposed project is not subject to environmental review. This exemption states that when it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the project is not subject to the California Environmental Quality Act. Since alcohol sales is an ancillary use to the restaurant use, the proposed alcohol sales use for the restaurant does not increase the intensity, or change the approved land uses on the project site. The addition of the alcohol use would not create a significant effect on the environment. Therefore, staff has determined that there is no substantial evidence that the project may have a significant effect on the environment and recommends that Planning Commission accept the Notice of Exemption (see Attachment C).

**6) Analysis:**

**a) General Discussion:** Buffalo Wild Wings (BWW)\* operates over 600 restaurants nationwide, as of December 2009. Of the 12 BWWs in California, the closest is in Burbank. This restaurant will be the first BWW in Ventura County.

Buffalo Wild Wings Restaurant will occupy a freestanding pad of the Rose Ranch Shopping Center, near the northwest corner of the site, directly south of the western driveway onto the site from Gonzales Road. Approximately 1700 square feet of outdoor dining area is provided on the east side of the building, adjacent to a walkway and the parking area. A four-foot tall metal fence separates the outdoor dining area from the walkway. The main building entrance faces east, at the northeast corner of the building.

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\* Buffalo Wild Wings was originally called **Buffalo Wild Wings & Weck**, from which the abbreviation BW3 was created. The company later changed its name to Buffalo Wild Wings, but still uses the name BW3 on occasion due to the common usage by customers who were familiar with the restaurant under the old name. (Source: Wikipedia)

Operating hours for this restaurant would be:

- Monday through Thursday: 11 AM to 1 AM
- Friday and Saturday: 11 AM to 2 AM
- Sunday: 11 AM to midnight

The restaurant will employ 75 persons, with 25 employees on each of two shifts. The restaurant provides seating for 351 persons, including 102 within the patio dining area.

- b) General Plan Consistency:** The 2020 General Plan designates the subject parcel as General Commercial. The underlying zoning designation is C-2-PD (General Commercial-Planned Development), which is consistent with the General Commercial 2020 General Plan land use designation. Restaurants are listed as a principally permitted use; however, ancillary sales of alcoholic beverages require the approval of a special use permit. In approving the shopping center development, the Planning Commission determined that the project is consistent with the Northeast Community Specific Plan. Approval of this special use permit for alcohol is consistent with the policies and standards of the General Plan, Northeast Community Specific Plan and the C-2-PD zoning designation.
- c) Request for Sale of Alcoholic Beverages for On-site Consumption:** The applicant has filed an application with the Department of Alcoholic Beverage Control (ABC) for their Type 47 License location, and requires City of Oxnard approval of this special use permit prior to opening for business. The Type 47 License (On-sale Beer, Wine and Spirits – Eating Place) allows alcohol sales in conjunction with a restaurant.
- d) Police Department Review:** The Police Department reviewed the proposed alcohol use as required by City Council Resolution No. 11,896 for sale of alcoholic beverages. The Police Department's report (Attachment D) provides information regarding the number of incidents of police response, and whether there is a presumption of undue concentration of establishments selling alcoholic beverages that is likely to significantly aggravate policing problems.
- i) **Concentration of Alcohol Sales:** Two Off-sale General alcohol outlets are within 350 feet (Fresh & Easy Market, scheduled to open in September, and Walgreen's, open now). Because these existing alcohol uses are a different type than this application, no presumption of undue concentration exists regarding the applicant's request. Four other alcohol outlets are within 1000 feet, including two gas stations with off-site alcohol sales, and two restaurants with on-sale alcohol service. Since these existing businesses are outside the 350 foot radius, the applicant's request does not create or add to a presumption of undue concentration.
- ii) **Crime Statistics 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 is 247 during the same 12-month time period. This is 111% higher than the average crime rate citywide. According to the Police report, these numbers do not accurately portray policing problems in the area because many of these calls are generated at or around St. John's Regional Medical Center and Wal-Mart, which are within the 1000-foot radius. In the case of the hospital, many of the police calls are for crimes that occurred in other areas, but were reported as a result of the victims being treated at the hospital. After removing these calls from the total, the average crime rate in this area drops to approximately 50% above the citywide average. Police calls for service around Wal-Mart are generally related to thefts inside Wal-Mart, and may be related to the store's aggressive loss-prevention program.

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, sex offenses, drug abuse violations, driving under the influence, liquor laws, drunkenness, and disorderly conduct

- iii) **Additional Police Input:** The Police Department has no serious concerns about adding an alcohol outlet in this particular area other than to note that a large number of calls have been reported at Wal-Mart and the immediately surrounding area.

The floor plan for the restaurant shows a substantial amount of outdoor seating (1700 sq. ft.) on the east side of the building overlooking the parking area. The Police Department report notes that allowing outdoor seating where alcohol is being served can often create security concerns unless adequate physical separation is maintained between customers and non-customers. The applicant's proposal to construct a four-foot high fence around the patio and install a significant amount of landscape material to create a separate between restaurant customers and the public areas should adequately secure the patio and sufficiently address the Police Department's concerns.

With previous proposals for outdoor dining near residential areas, members of the Responsible Alcohol Policy Action Coalition (RAPAC) echoed the police concerns about outdoor dining adjacent to walkways, and added that outdoor activity should be limited to prevent disruption to neighboring residential uses. They have suggested that the outdoor areas not be permitted to allow amplified music or live entertainment to reduce the potential for problems and this is included as a condition of approval.

- iv) **Conclusion:** The statistical analysis shows the area to have an adjusted crime rate that is 50% higher than the city-wide average and. the Police Department does not consider this area to be a policing problem.

There is not a local issue of undue concentration because no similar uses are within 350 feet. In addition, the establishment is in a retail center where restaurant establishments selling alcoholic beverages for consumption on the premises are appropriate. There are

likely to be two more similar uses as other spaces become occupied. According to Department of Alcoholic Beverage Control guidelines, there is no issue of undue concentration under State criteria.

The primary issue regarding this proposal is the outdoor seating which the Police Department determines has been effectively mitigated by the applicant's proposal to border the outdoor dining area with a four-foot fence and substantial landscaping.

The Police Department's experience is that the proposed license (Type 47 - Restaurant), 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. The Police Department's standard and special recommended operating conditions have been incorporated into the attached Planning Commission resolution.

**7) Community Workshop:** On July 9, 2010, the applicant mailed notices of the Community Workshop to all property owners within the West Village Neighborhood. The applicant also provided notice on the project site with a brief description of the project and contact information for the Community Workshop, conducted on July 19, 2010. Prior to the Community Workshop, Planning staff received a phone call from a neighboring property owner expressing opposition to the project because of the proximity to Pacifica High School, the number of other alcohol outlets (of all types) in the vicinity, and the number of children living in the area. Of the 17 people attending the Community Workshop, three persons attended specifically regarding BWB that were not affiliated with the applicant. One person spoke against approval of this special use permit, based upon the number of other alcohol outlets in the general area, and suggested BWB open their restaurant without alcohol, adding alcohol after having more experience in this location. The other two persons attending the workshop separately expressed their support of this request, stating that they have patronized BWB in other states prior to relocating to Oxnard, and have driven as far as Palmdale and Burbank to enjoy BWB.

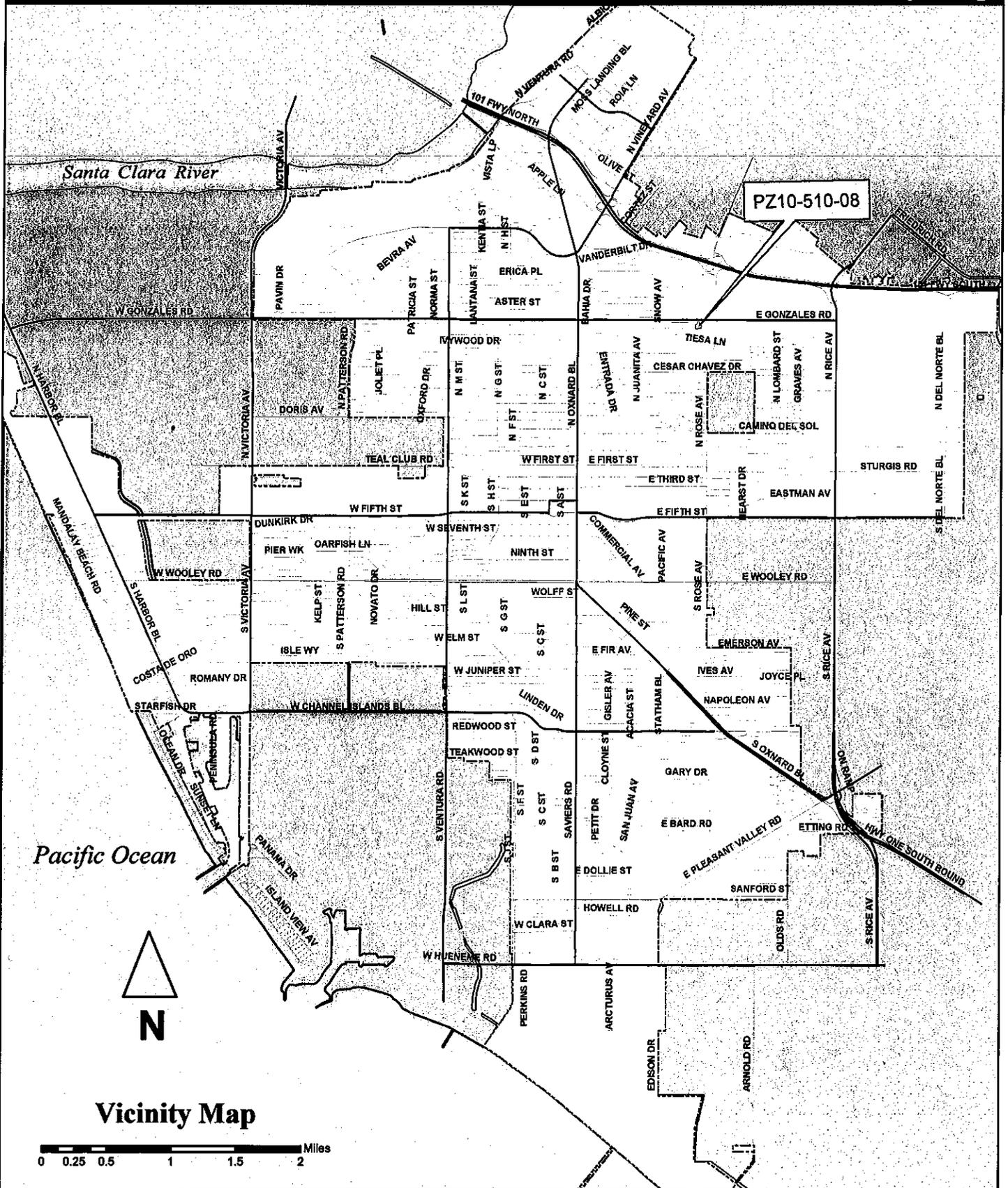
**8) Appeal Procedure:** In accordance with Section 16-545 of the City Code, the Planning Commission's decision may be appealed to the City Council within 18 days. Appeal forms may be obtained from the City Clerk and must be submitted with the appropriate fees before the end of the appeal period.

**Attachments:**

- A. Maps (Vicinity, General Plan, Zoning)
- B. Reduced Project Plans
- C. Notice of Exemption
- D. Police Department Report
- E. Resolution

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

# Vicinity Map



## Vicinity Map

0 0.25 0.5 1 1.5 2 Miles



Oxnard Planning

July 16, 2010

PZ 10-510-08  
 Location: 1600 E Gonzales Rd  
 APN: 21529009  
 Buffalo Wild Wings

# General Plan Map

CSRS

E GONZALES RD

CG

RLM

TERRONEZ PL

CG

N ROSE AV

VALEROSA WY

RLM

RLM

URBANA LN

RLM

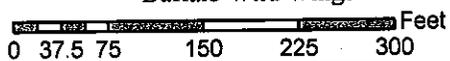
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General Plan Map



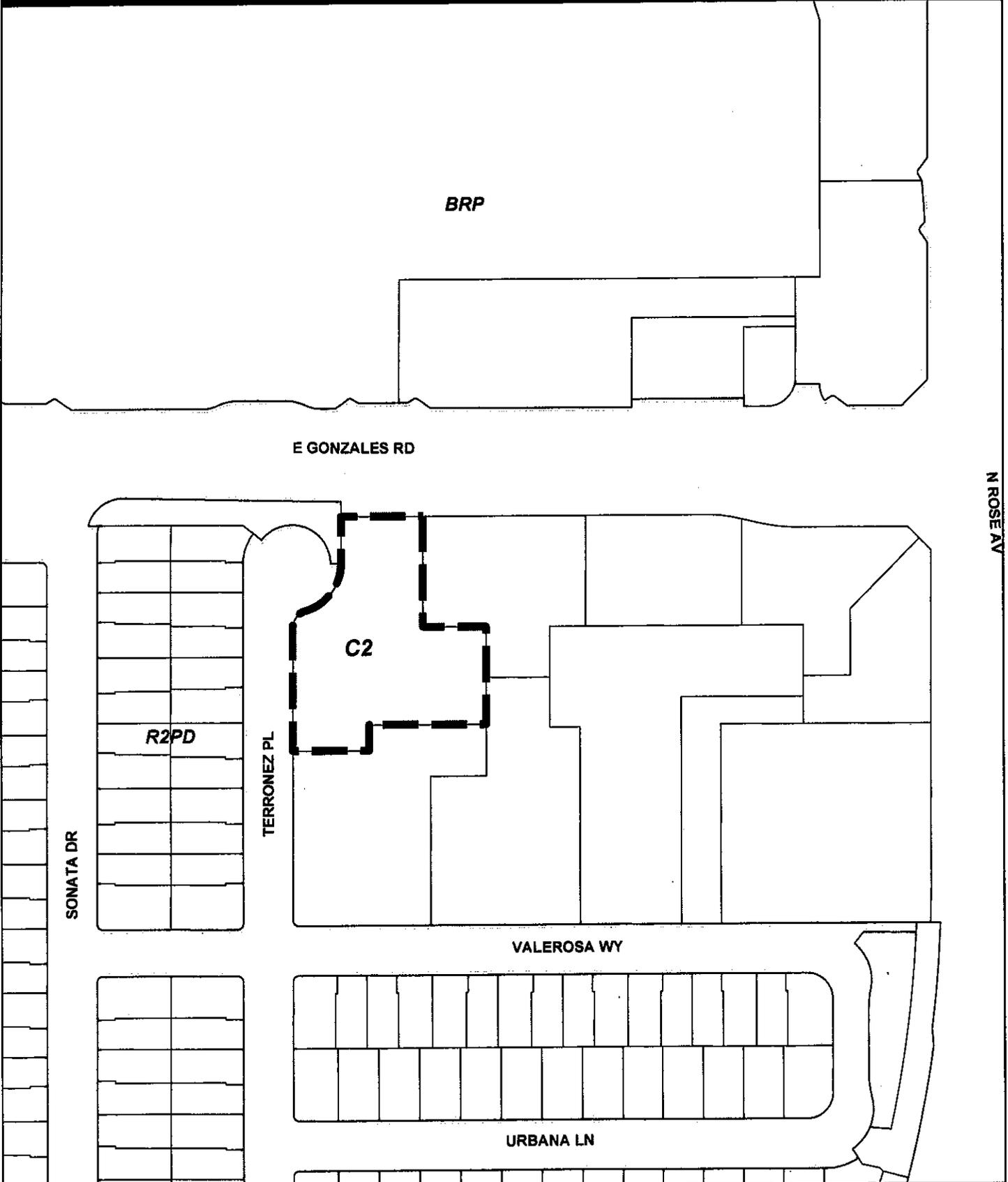
Oxnard Planning  
July 20, 2010

PZ 10-510-08  
Location: 1600 E Gonzales Rd  
APN: 21529009  
Buffalo Wild Wings



1:1,818

# Zone Map



Oxnard Planning  
July 16, 2010

PZ 10-510-08  
Location: 1600 E Gonzales Rd  
APN: 21529009  
Buffalo Wild Wings



## Zone Map



1:1,979









## NOTICE OF EXEMPTION

### *Project Description:*

PLANNING AND ZONING PERMIT NO. 10-510-08 (Special Use Permit for Alcohol) a request to permit the sale of beer, wine and spirits for on-site consumption (ABC License Type 47) in a restaurant known as Buffalo Wild Wings Grill & Bar, located at 1600 East Gonzales Road, in the Rose Ranch Shopping Center. The restaurant provides seating for up to 351 customers. Hours of operation will be Monday through Thursday 11 AM to 1 AM; Friday and Saturday 11 AM to 2 AM; and Sunday 11 AM to midnight. The project site is within the Northeast Community Specific Plan area. Filed by Lingle Design Group, 158 W Main Street, Lena, Il 61048, on behalf of Buffalo Wild Wings Grill & Bar and The Parkstone Company.

### *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 the California Environmental Quality Act Guidelines and Section 15061(b)(3) of the California Code of Regulations, when it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, these projects may be found to be exempt from the requirements of CEQA. This proposal consists of adding alcohol sales to an approved restaurant, involving no physical changes to the project. Therefore, staff has determined that there is no substantial evidence that the project may have a significant effect on the environment.

(Date)

Susan L. Martin, AICP  
Planning Division Manager

Planning Division

214 South C Street, Oxnard, CA 93030 ♦ (805) 385-7858 ♦ FAX (805) 385-7417



## Police Department

John Crombach, Police Chief

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Date: July 22, 2010

To: Linda Windsor, Associate Planner

From: Cliff Waer, Senior Alcohol Compliance Officer

Subject: 1600 E. Gonzales Road (Buffalo Wild Wings) **PZ-10-510-08**

### **Site Information:**

The proposed site is located on the southwest corner of Rose Avenue and Gonzales Road in the Rose Ranch shopping center that is in the final phases of construction. The space is situated on the westernmost edge of the shopping center, parallel to Terronez Place and the front doors open east toward the parking lot. The business can seat approximately 350 guests with an outdoor patio that will accommodate 100 customers.

The site it is generally bordered by Gonzales Road on the north, Rose Avenue to the east, and residences to the west and south. The nearest residences are approximately 100 feet to the south and 250 feet to the west with a block wall separating the shopping center from the residential neighborhood. Other nearby uses include a Fresh & Easy Market and Walgreen's Pharmacy in the same retail center. Saint John's Regional Medical Center is immediately east of the site and the "Shopping at the Rose" retail center with a Wal-Mart and grocery store are to the north.

There are no similar uses within 350 feet of the site and two similar uses within 1000 feet. Slightly outside of the 1000 foot radius that is typically considered the area of influence for alcohol outlets, there are two additional similar uses (Friday's and Chili's). The Police Department is also aware that at least two or three more restaurants in the Rose Ranch complex may be considering the sale of alcohol in the near future.

The applicant has requested to obtain an ABC License Type-47 which is a restaurant that allows for the sale of beer, wine and distilled spirits.

Alcohol outlets located within 350 feet of the establishment include:

BUSINESS NAME	LOCATION	LICENSE TYPE	LICENSE TITLE	LICENSE DESC.	ALCOHOL ALLOWED
1. Fresh and Easy (Permitted but not open)	1600 block E Gonzales	Type-21	Off-Sale Beer, Wine and Spirits	Market	Beer, Wine and Spirits
2. Walgreens	1600 block E Gonzales	Type-21	Off-Sale Beer, Wine and Spirits	Market	Beer, Wine and Spirits

Alcohol outlets located within 1000 feet of the establishment include:

BUSINESS NAME	LOCATION	LICENSE TYPE	LICENSE TITLE	LICENSE DESC.	ALCOHOL ALLOWED
1. Rose Shell	1901 N Rose	Type-20	Off-Sale Beer and Wine	Market	Beer and Wine
2. Chevron Market	1900 N Rose	Type-20	Off-Sale Beer and Wine	Market	Beer and Wine
3. Rubio's	2121 N Rose	Type 47	On-Sale Beer, Wine and Spirits	Restaurant	Beer, Wine and Spirits
4. Oh! Sushi	2121 N Rose	Type 41	On-Sale Beer and Wine	Restaurant	Beer and Wine

**Crime Statistics 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 247 during the same 12-month time period. This is 111% higher than the average crime rate citywide which would normally be of great concern to the Police Department. However, in this particular case, the number of reported Part I and Part II crimes are influenced considerably by the sites proximity to St. John's Hospital and Wal-Mart (Shopping at the Rose).

Each of these two locations generates a significant number of police calls for service but the area is not necessarily considered to be a policing problem. A substantial number of serious events are often attributed to St. John's due to the fact that many assault victims are treated at the hospital. The vast majority of the reported Part I or II crimes at St. John's did not actually occur in the area surrounding the site and should not have any significant influence on the proposed

use. When the crime rate was calculated without including the reported events at St John's, the average crime rate drops substantially to approximately 50% above the citywide average.

The events that occurred in and around Wal-Mart are somewhat more alarming in that there were approximately 429 police calls for service at the store and the nearby parking lot. Many of the calls were related to thefts inside Wal-Mart and are included in the Part I crime totals. Most of the theft calls are surely a direct result of Wal-Mart's aggressive loss prevention efforts and arrests are made in the majority of the calls. However, the inordinate number of such events does indicate that theft may be of concern to nearby businesses and preventative measures should be implemented.

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, sex offenses, drug abuse violations, driving under the influence, liquor laws, drunkenness, and disorderly conduct.

**Police Department Input:**

The Beat Coordinator for the area was contacted and said the surrounding area is not generally considered to be a crime problem but he is concerned about the significant number of calls that have been reported at Wal-Mart and the surrounding area. He was unaware of any other existing problems that may be exacerbated by the granting of the permit and supported the inclusion of the standard police conditions to minimize the risk for problems.

The floor plan for the restaurant indicates there is a substantial amount of outdoor seating (100+ persons) on the east side of the building. Allowing outdoor seating where alcohol is being served can often create security concerns if there is not adequate separation between customers and non-customers or if the area is difficult to monitor (such as with multiple entry/exit points). The applicant has indicated they intend to construct a four-foot high fence around the patio area which is slightly lower than what the Police Department typically recommends (five feet is the standard). However, the conceptual landscape plan shows a significant amount of landscape material surrounding the majority of the patio which creates an adequate separation between restaurant customers and the public areas. As proposed, this should adequately secure the patio and sufficiently addresses the police concerns.

**Community Input:**

The Police Department did not directly contact any community groups or neighborhood representatives regarding this proposal. Prior to the Planning Commission hearing, the Police Department intends to communicate with the local alcohol coalition to discuss this proposal.

**Conclusion:**

The statistical analysis shows the area to have a crime rate that is 111% higher than the city-wide average with most of the incidents being crimes associated with calls to Shopping at the Rose and St. John's Hospital. The adjusted crime rate is approximately 50% above average and the area is generally not considered to be a policing problem. There are no similar uses within 350 feet so there is no local issue of undue concentration.

The primary issue regarding this proposal is the outdoor seating which has been effectively mitigated by the applicant's proposal to surround the patio with a four-foot fence and include substantial landscaping around the exterior of the fence.

The Police Department's experience is that the proposed license (Type 47 - Restaurant), 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 Planning Commission Resolution.

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## **Police Standard Operating Conditions**

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1. Permittee and all sellers or servers shall complete a course in Responsible Beverage Service (RBS) within sixty days of license granting and/or date of employment. Applicant can contact the Alcohol Compliance Officer at the Oxnard Police Department to make arrangements (PL/PD)
2. Permittee and all general managers, managers or policy makers shall complete a course in the Responsible Alcohol Policy Program (available through the Oxnard Police Department) within 12 months of license granting and/or date of employment. (PD)
3. Sales of alcoholic beverages shall be incidental to the sale of food. It shall not be considered a violation of this condition if customers are served alcoholic beverages in any lounge, bar or staging area and who are waiting to be seated for the service of food. Employees shall make a good faith effort to ensure that all customers being served alcoholic beverages are also on the premises for the purpose of consuming food items. (PD)
4. When security personnel are present or required per Oxnard City Code, Permittee shall maintain accurate records of all security personnel on the premise at any given time and make those available to the police upon demand. These records shall, at a minimum, provide the name, date of birth, copies of security guard credentials or license and any other permits or certifications related to security work. This would include copies of permits for weapons or other tools the guard may be authorized to carry. Security personnel shall remain in compliance with updated training related to their work as set forth by any existing or future state and/or local regulations.
5. 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 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)
6. The premises shall be equipped with an adequate number of seats to accommodate all customers. There shall be no service area that is designed or used as a standing area only or as a combined standing and seating area.
  7. The quarterly gross sales of alcoholic beverages shall not exceed the gross sales of food during the same period. Permittee shall at all times maintain records which reflect separately the gross sales of food and the gross sales of alcoholic beverages of the licensed business. Said records shall be kept no less frequently than on a quarterly basis and shall be made available to the Police Department upon demand. (PL/PD)
  8. Permittee shall comply with the provisions of Section 23038 of the Business and Professions Code and acknowledges that incidental, sporadic, or infrequent sales of meals or a mere offering of meals without actual sales shall not be deemed sufficient to consider the premises in compliance with the aforementioned section.(PL/PD)
  9. The premises shall be equipped and maintained in good faith as a bonafide restaurant and shall possess, in operative condition, such conveniences for cooking and storage of foods such as stoves, ovens, broilers, refrigeration or other devices, as well as pots, pans or containers which can be used for cooking or heating foods on the type heating device employed. (PL/PD)
  10. The premises shall possess the necessary utensils, table service, and the condiment dispensers with which to serve meals to the public.(PL/PD)
  11. The use of any amplifying system or device shall not be audible outside the premise nor shall it be disruptive to neighboring uses. (PD)
  12. 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)
  13. The sale of alcoholic beverages for consumption off the premises is strictly prohibited.
  14. Sales of alcohol shall not occur between the hours of 1:30 a.m. and 6:00 a.m. (PL/PD)
  15. Alcoholic beverages shall not be offered at significantly reduced prices (typically more than 25% reduction) that are meant to encourage greater consumption of alcohol such as during "happy hour" type promotions. Permittee shall not develop any other promotional activity that is designed to encourage excessive drinking of alcoholic beverages. Promoting a "happy hour" or other event that offers reduced prices on food or other items shall not be considered a violation of this condition and are actually encouraged. (PD)
  16. Alcoholic beverages shall be served in standard sizes that are consistent with the industry and shall not be served by the pitcher, "bucket" or similar high capacity amounts exceeding 36oz total. (PD)

17. In the areas surrounding the business, not otherwise licensed by the Department of Alcoholic Beverage Control allowing the service of alcohol, Permittee shall post prominent, permanent signs indicating that loitering, open containers and the consumption of alcoholic beverages is prohibited. This includes the parking lot, walkways and other adjacent areas under Permittee's reasonable control. (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". (PD)
19. Employees shall not be allowed to consume alcoholic beverages at any time during their shift or at any time within eight (8) hours prior to the beginning of their shift.
20. Permittee shall not create any bar, lounge or other area in which the exclusive use would be the service of alcoholic beverages. Food shall be made available in all areas where customers are seated. An area designated for customers who are waiting to be seated at a food service table shall not be considered a violation of this condition as long as the area is not used primarily for the service of alcohol. Condition number 3, above, shall be adhered to regardless of where customers are seated. (PD)
21. The subject Alcoholic Beverage Control License shall not be exchanged for any other type of Alcoholic Beverage Control License without review and approval by the Police Chief or his designee, Planning Commission or City Council.
22. 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 in the Oxnard City Code, Police Department may initiate Planning Commission review the existing SUP and apply or remove conditions as appropriate to mitigate existing or potential problems.
23. Any graffiti painted or marked upon the premises or on any adjacent area under the control of Permittee shall be removed or painted over within twenty-four (24) hours of being applied. (PL/PD)
24. Permittee shall be responsible for maintaining free of litter the area adjacent to the premises over which Permittee has reasonable control. (PL/PD)
25. The area surrounding premises under the reasonable control of Permittee (including the rear of the business) shall be equipped with lighting of sufficient power to illuminate and make easily discernable the appearance and conduct of all persons in or about the area. (PL/PD)
26. No pay phone on the exterior of the premises shall be allowed within 100 feet of the front or rear doors and any pay phones installed inside shall be blocked from incoming calls. (PL/PD)
27. Permittee shall regularly police the area under Permittee's control in an effort to prevent the loitering of persons about the premises. (PL/PD)

28. 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 does not constitute a violation. (PD)
  29. Permittee shall establish cash handling procedures to reduce the likelihood of robberies and thefts. (PD)
  30. Permittee shall install a video surveillance system that shall be maintained at a reasonable industry standard and shall, at a minimum, monitor the entrances and exits, any centralized point of sale and areas immediately surrounding the exterior of the business. (PD)
  31. Permittee shall install an electronic intrusion detection system that detects portal openings, glass break, and interior motion. (PD)
  32. 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. (PD)
  33. 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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34. If alcoholic beverages are to be sold and consumed in any patio area, the patio must be properly licensed by the City of Oxnard Planning Division and Department of Alcoholic Beverage Control. The entire patio shall be adequately enclosed to the satisfaction of the Chief of Police or his designee. Low or excessively wide spaced fencing will not be considered sufficient.
35. Customer access to and from the patio shall be made through the interior of the business only.
36. Any exits on the patios shall not be used as a means of access or egress by patrons to and from the licensed premises and, other than during emergencies or for handicapped access per ADA guidelines, shall be kept closed at all times. The exit doors shall close automatically and be equipped with an audible sounding device to alert employees when it has been opened. Adequate signs shall be posted near the gate stating it is an emergency exit or handicapped access only and that an alarm will sound if opened.
37. There shall not be any outdoor or patio bar (portable or otherwise) where alcoholic beverages are stored or served.
38. There shall be no live entertainment or amplified sound permitted in outdoor areas (including any patio dining area). Recorded music or acoustic performances for the purposes of creating ambience that is appropriate for the proposed use is permitted but shall be subdued and at no time be disruptive to neighboring uses.

RESOLUTION NO. 2010- [10-510-08]

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF OXNARD, APPROVING PLANNING AND ZONING PERMIT NO. PZ 10-510-08 (SPECIAL USE PERMIT-ALCOHOL) TO ALLOW BEER, WINE AND SPIRITS SALES FOR ON-SITE CONSUMPTION WITHIN A 6700 SQUARE FOOT RESTAURANT WITH A 1700 SQUARE FOOT OUTDOOR DINING AREA (BUFFALO WILD WINGS GRILL & BAR), LOCATED ON THE SOUTH SIDE OF GONZALES ROAD, APPROXIMATELY 500 FEET WEST OF ROSE AVENUE, ALSO KNOWN AS 1600 EAST GONZALES ROAD, (APN 215-0-290-095), WITHIN THE ROSE RANCH SHOPPING CENTER AND THE NORTHEAST COMMUNITY SPECIFIC PLAN AREA, SUBJECT TO CERTAIN FINDINGS AND CONDITIONS. FILED BY LINGLE DESIGN GROUP, 158 W MAIN STREET, LENA, IL 61048, ON BEHALF OF BUFFALO WILD WINGS GRILL & BAR AND THE PARKSTONE COMPANY.

WHEREAS, the Planning Commission of the City of Oxnard has considered an application for Planning and Zoning Permit No. 10-510-08, filed by Lingle Design Group, in accordance with Section 16-530 through 16-553 of the Oxnard City Code and City Council Resolution No. 11,896; and

WHEREAS, Section 15061(b) (3) of Title 14 of the California Code of Regulations exempts the project from the requirement for the preparation of environmental documents imposed by the California Environmental Quality Act; and

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

1. The proposed use is in conformance with the 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. That the proposed development is in conformance with adopted goals, policies and standards of the Northeast Community Specific Plan.

7. The establishment is in a retail center where restaurant establishments selling alcoholic beverages for consumption on the premises is appropriate, and the proposed use will not result in or add to an undue concentration of establishments selling alcoholic beverages at retail within 1000 feet of the location for which the special use permit is applied.
8. The proposed use is not likely to create or significantly aggravate police problems within 1,000 feet of the location for which the special use permit is applied.

WHEREAS, the Planning Commission finds that the applicant agrees with the necessity of and accepts all elements, requirements, and conditions of this resolution as being a reasonable manner of preserving, protecting, providing for, and fostering the health, safety, and welfare of the citizenry in general and the persons who work, visit or live in this development in particular.

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

Note: The abbreviations below identify the City department or division responsible for determining compliance with these standard conditions. The first department or division listed has responsibility for compliance at plan check, the second during inspection and the third at final inspection, prior to issuance of a certificate of occupancy, or at a later date, as specified in the condition. If more than one department or division is listed, the first will check the plans or inspect the project before the second confirms compliance with the condition. The italicized code at the end of each condition provides internal information on the source of each condition: Some are standard permit conditions (e.g. *G-1*) while some are taken from environmental documents (e.g. *MND-S2*).

DEPARTMENTS AND DIVISIONS			
CA	City Attorney	PL	Planning Division
DS	Dev Services/Eng Dev/Inspectors	TR	Traffic Division
PD	Police Department	B	Building Plan Checker
SC	Source Control	FD	Fire Department
PK	Public Works, Landscape Design	CE	Code Compliance

**GENERAL PROJECT CONDITIONS**

1. This permit is granted for the property described in the application on file with the Planning Division, and may not be transferred from one property to another. (PL, *G-1*).
2. This permit is granted for the plans dated July 19, 2010, (“the plans”) on file with the Planning Division. The project shall conform to the plans, except as otherwise specified in these conditions, or unless a minor modification to the plans is approved by the Planning Manager or a major modification to the plans is approved by the Planning Commission. A

minor modification may be granted for minimal changes or increases in the extent of use or size of structures or of the design, materials or colors of structures or masonry walls. A major modification shall be required for substantial changes or increases in such items. (PL, G-2)

3. By commencing any activity related to the project or using any structure authorized by this permit, Developer accepts all of the conditions and obligations imposed by this permit and waives any challenge to the validity of the conditions and obligations stated therein. (CA, G-5)
4. Developer agrees, as a condition of adoption of this resolution, at Developer's own expense, to indemnify, defend and hold harmless the City and its agents, officers and employees from and against any claim, action or proceeding to attack, review, set aside, void or annul the approval of the resolution or any condition attached thereto or any proceedings, acts or determinations taken, done or made prior to the approval of such resolution that were part of the approval process. Developer's commencement of construction or operations pursuant to the resolution shall be deemed to be an acceptance of all conditions thereof. (CA, G-6)
5. Any covenants, conditions, and restrictions (CC&Rs) applicable to the project property shall be consistent with the terms of this permit and the City Code. If there is a conflict between the CC&Rs and the City Code or this permit, the City Code or this permit shall prevail. (CA, G-7)
6. Developer shall complete the "Notice of Land Use Restrictions and Conditions" form, using the form provided by the City, for recording with the Ventura County Recorder. Before the City issues building permits, Developer shall submit the original completed, signed and notarized document, together with the required fees to the Planning Manager. (PL, G-8)
7. Developer shall provide off-street parking for the project, including the number of spaces, stall size, paving, striping, location, and access, as required by the City Code. (PL/B, G-9)
8. Before placing or constructing any signs on the project property, Developer shall obtain a sign permit from the City. Except as provided in the sign permit, Developer may not change any signs on the project property. (PL/B, G-10)
9. Developer shall obtain a building permit for any new construction or modifications to structures, including interior modifications, authorized by this permit. (B, G-11)
10. Developer shall not permit any combustible refuse or other flammable materials to be burned on the project property. (FD, G-12)
11. Developer shall not permit any materials classified as flammable, combustible, radioactive, carcinogenic or otherwise potentially hazardous to human health to be handled, stored or used on the project property, except as provided in a permit issued by the Fire Chief. (FD, G-13)

12. If Developer, owner or tenant fails to comply with any of the conditions of this permit, the Developer, owner or tenant shall be subject to a civil fine pursuant to the City Code. (CA, G-14)
13. Prior to issuance of building permits, Developer shall correct all violations of the City Code existing on the project property. (PL, G-15).

#### **PLANNING DIVISION STANDARD CONDITIONS**

14. Developer may not modify any use approved by this permit unless the Planning Division Manager determines that Developer has provided the parking required by the City Code for the modified use. (PL, PL-7)
15. Prior to issuance of building permits, Developer shall pay a document imaging fee for the planning files in an amount calculated by planning staff at the time of building permit review based on fees then in effect. (PL/B, PL-16).

#### **PLANNING DIVISION SPECIAL CONDITIONS**

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

#### **POLICE STANDARD CONDITIONS**

17. Permittee and all sellers or servers shall complete a course in Responsible Beverage Service (RBS) within sixty days of license granting and/or date of employment. Applicant can contact the Alcohol Compliance Officer at the Oxnard Police Department to make arrangements (PL/PD)
18. Permittee and all general managers, managers or policy makers shall complete a course in the Responsible Alcohol Policy Program (available through the Oxnard Police Department) within 12 months of license granting and/or date of employment. (PD)
19. Sales of alcoholic beverages shall be incidental to the sale of food. It shall not be considered a violation of this condition if customers are served alcoholic beverages in any lounge, bar or staging area and who are waiting to be seated for the service of food. Employees shall make a good faith effort to ensure that all customers being served alcoholic beverages are also on the premises for the purpose of consuming food items. (PD)
20. When security personnel are present or required per Oxnard City Code, Permittee shall maintain accurate records of all security personnel on the premise at any given time and make those available to the police upon demand. These records shall, at a minimum, provide the name, date of birth, copies of security guard credentials or license and any other permits or certifications related to security work. This would include copies of

permits for weapons or other tools the guard may be authorized to carry. Security personnel shall remain in compliance with updated training related to their work as set forth by any existing or future state and/or local regulations.

21. 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 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)
22. The premises shall be equipped with an adequate number of seats to accommodate all customers. There shall be no service area that is designed or used as a standing area only or as a combined standing and seating area.
23. The quarterly gross sales of alcoholic beverages shall not exceed the gross sales of food during the same period. Permittee shall at all times maintain records which reflect separately the gross sales of food and the gross sales of alcoholic beverages of the licensed business. Said records shall be kept no less frequently than on a quarterly basis and shall be made available to the Police Department upon demand. (PL/PD)
24. Permittee shall comply with the provisions of Section 23038 of the Business and Professions Code and acknowledges that incidental, sporadic, or infrequent sales of meals or a mere offering of meals without actual sales shall not be deemed sufficient to consider the premises in compliance with the aforementioned section.(PL/PD)
25. The premises shall be equipped and maintained in good faith as a bonafide restaurant and shall possess, in operative condition, such conveniences for cooking and storage of foods such as stoves, ovens, broilers, refrigeration or other devices, as well as pots, pans or containers which can be used for cooking or heating foods on the type heating device employed. (PL/PD)
26. The premises shall possess the necessary utensils, table service, and the condiment dispensers with which to serve meals to the public.(PL/PD)
27. The use of any amplifying system or device shall not be audible outside the premise nor shall it be disruptive to neighboring uses. (PD)
28. 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)
29. The sale of alcoholic beverages for consumption off the premises is strictly prohibited. . (PL/PD)

30. Sales of alcohol shall not occur between the hours of 1:30 a.m. and 6:00 a.m. (PL/PD)
31. Alcoholic beverages shall not be offered at significantly reduced prices (typically more than 25% reduction) that are meant to encourage greater consumption of alcohol such as during "happy hour" type promotions. Permittee shall not develop any other promotional activity that is designed to encourage excessive drinking of alcoholic beverages. Promoting a "happy hour" or other event that offers reduced prices on food or other items shall not be considered a violation of this condition and are actually encouraged. (PD)
32. Alcoholic beverages shall be served in standard sizes that are consistent with the industry and shall not be served by the pitcher, "bucket" or similar high capacity amounts exceeding 36oz total. (PD)
33. In the areas surrounding the business, not otherwise licensed by the Department of Alcoholic Beverage Control allowing the service of alcohol, Permittee shall post prominent, permanent signs indicating that loitering, open containers and the consumption of alcoholic beverages is prohibited. This includes the parking lot, walkways and other adjacent areas under Permittee's reasonable control. (PD)
34. 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". (PD)
35. Employees shall not be allowed to consume alcoholic beverages at any time during their shift or at any time within eight (8) hours prior to the beginning of their shift. (pd)
36. Permittee shall not create any bar, lounge or other area in which the exclusive use would be the service of alcoholic beverages. Food shall be made available in all areas where customers are seated. An area designated for customers who are waiting to be seated at a food service table shall not be considered a violation of this condition as long as the area is not used primarily for the service of alcohol. Condition number 3, above, shall be adhered to regardless of where customers are seated. (PD)
37. The subject Alcoholic Beverage Control License shall not be exchanged for any other type of Alcoholic Beverage Control License without review and approval by the Police Chief or his designee, Planning Commission or City Council. (PD)
38. 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 in the Oxnard City Code, Police Department may initiate Planning Commission review the existing SUP and apply or remove conditions as appropriate to mitigate existing or potential problems. (PD)
39. Any graffiti painted or marked upon the premises or on any adjacent area under the control of Permittee shall be removed or painted over within twenty-four (24) hours of being applied. (PL/PD)
40. Permittee shall be responsible for maintaining free of litter the area adjacent to the premises over which Permittee has reasonable control. (PL/PD)

41. The area surrounding premises under the reasonable control of Permittee (including the rear of the business) shall be equipped with lighting of sufficient power to illuminate and make easily discernable the appearance and conduct of all persons in or about the area. (PL/PD)
42. No pay phone on the exterior of the premises shall be allowed within 100 feet of the front or rear doors and any pay phones installed inside shall be blocked from incoming calls. (PL/PD)
43. Permittee shall regularly police the area under Permittee's control in an effort to prevent the loitering of persons about the premises. (PL/PD)
44. 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 does not constitute a violation. (PD)
45. Permittee shall establish cash handling procedures to reduce the likelihood of robberies and thefts. (PD)
46. Permittee shall install a video surveillance system that shall be maintained at a reasonable industry standard and shall, at a minimum, monitor the entrances and exits, any centralized point of sale and areas immediately surrounding the exterior of the business. (PD)
47. Permittee shall install an electronic intrusion detection system that detects portal openings, glass break, and interior motion. (PD)
48. 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. (PD)
49. 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 SPECIAL CONDITIONS**

50. If alcoholic beverages are to be sold and consumed in any patio area, the patio must be properly licensed by the City of Oxnard Planning Division and Department of Alcoholic Beverage Control. The entire patio shall be adequately enclosed to the satisfaction of the Chief of Police or his designee. Low or excessively wide spaced fencing will not be considered sufficient.
51. Customer access to and from the patio shall be made through the interior of the business only.
52. Any exits on the patios shall not be used as a means of access or egress by patrons to and from the licensed premises and, other than during emergencies or for handicapped access per ADA guidelines, shall be kept closed at all times. The exit doors shall close automatically and be equipped with an audible sounding device to alert employees when it

has been opened. Adequate signs shall be posted near the gate stating it is an emergency exit or handicapped access only and that an alarm will sound if opened.

- 53. There shall not be any outdoor or patio bar (portable or otherwise) where alcoholic beverages are stored or served.
- 54. There shall be no live entertainment or amplified sound permitted in outdoor areas (including any patio dining area). Recorded music or acoustic performances for the purposes of creating ambience that is appropriate for the proposed use is permitted but shall be subdued and at no time be disruptive to neighboring uses.

PASSED AND ADOPTED by the Planning Commission of the City of Oxnard on this 5th day of August, 2010, by the following vote:

AYES: Commissioners:

NOES:

ABSENT:

\_\_\_\_\_  
Randall Elliott, Chairman

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