



**Planning Division**

**PLANNING COMMISSION  
STAFF REPORT**

**TO:** Planning Commission

**FROM:** Justin Beranich, Assistant Planner

**DATE:** October 7, 2010

**SUBJECT:** Planning and Zoning Permit No. 10-510-11 (Alcohol Special Use Permit)  
Located at 1811 South Rose Avenue.

- 1) **Recommendation:** That the Planning Commission approve Planning and Zoning Permit No. 10-510-11 for a special use permit, subject to certain findings and conditions.
  
- 2) **Project Description and Applicant:** A request to allow the sale of beer and wine (ABC License Type 41) within a proposed restaurant and outdoor dining area (Hook Burger Bistro), located at 1811 N. Rose Avenue at the southwest corner of Rose Avenue and East Gonzales Road, within the Rose Ranch Shopping Center. Filed by Brent Reichard, on behalf of Hook Burger Bistro, and Parkstone Company, 23 Hitchcock Way, Santa Barbara, CA 93105.
  
- 3) **Existing & Surrounding Land Uses:** The subject site is located within a multi tenant pad building on the southwest corner of Rose Avenue and Gonzales Road in the Rose Ranch shopping center.

LOCATION	ZONING	GENERAL PLAN	EXISTING LAND USE
Project Site	General Commercial Planned Development (C-2-PD)	Commercial General	Multi-tenant pad building 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)	Commercial General, Beyond: Residential Low-Medium (8-12 DU/Acre)	Rose Ranch Shopping Center (Walgreens), Single Family Residential beyond
East	Business & Research Park (BRP)	Semi-Public Facility beyond Rose Avenue	St John's Regional Medical Center on east side of Rose Avenue
West	Multi-family Planned Development (R-2-PD)	Commercial General, Beyond: Residential Low-Medium (8-12 DU/Acre)	Rose Ranch Shopping Center parking, Single Family Residential beyond

- 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), which included the sale of alcohol for off-site consumption at Walgreens, 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.

On August 5, 2010, the Planning Commission approved Special Use Permit No 10-510-08, for the on-site sale of beer, wine and distilled spirits in conjunction with a proposed restaurant (Buffalo Wild Wings).

Most recently, the Planning Manager approved minor modification (PZ No. 10-140-10) for changes to the center's master sign program.

- 5) Environmental Determination:** In accordance with Section 15301 of the California Environmental Quality Act (CEQA) Guidelines, projects involving "minor alteration of existing... structures" may be found to be exempt from the requirements of CEQA. The request is for on-site consumption of beer and wine within a proposed restaurant. There is no new development or expansion of development associated with this request. 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:** Hook Burger Bistro will be the second business within a multi tenant pad building near the northeast corner of the property, directly north of the western driveway onto the site from Rose Avenue. The proposed restaurant has 900 square feet of indoor dining area and an outdoor dining area with seating for 36 patrons is provided on the south side of the building, adjacent to Rose Avenue and the parking area. A five-foot high fence/planter separates the outdoor dining area from the adjacent sidewalks and parking areas.

Operating hours for this restaurant would be:

- Monday through Sunday: 11 AM to 9 PM

The restaurant will employ 25 employees with a total of seven employees per shift. The building's occupant load allows for 60 persons inside and the patio provides seating for up to 36 persons outside.

- 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 a Type 41 License at the location, and requires City of Oxnard approval of this special use permit prior to opening for business. The Type 41 License (On-sale Beer and Wine) 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:** There is one similar use within 350 feet of the site (the new Buffalo Wild Wings in the same shopping center) and two others 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).

**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).

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

*Additional Police Input:* The Police Department does not consider the surrounding area to be a crime problem but is concerned about the significant number of calls that have been reported at the Wal-Mart and the surrounding area. The Police Department is unaware of any other existing problems that may be exacerbated by the granting of the permit and supports the standard police conditions to minimize the risk for problems.

The applicant has proposed outdoor seating for 36 persons on the east and south 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 five-foot high fence/planter around the patio area which is consistent with the standards typically recommended by the Police Department. As proposed, this should adequately secure the patio and sufficiently addresses any police concerns.

*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 is one similar use within 350 feet so there is a presumption of undue concentration. The presumption of undue concentration has been rebutted by a preponderance of evidence, which shows that the establishment is in a retail center where multiple restaurant establishments selling alcoholic beverages for consumption on the premises are typical of such environments and generally appropriate.

The problems that are often associated with insufficiently enclosed patios have been effectively mitigated by the applicant's proposal to surround the patio with a five-foot fence and landscape planter.

The Police Department's experience is that the proposed license (Type 41 - 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 recommended operating conditions have been included in the proposed Planning Commission Resolution approving the special use permit.

- 7) Community Workshop:** On September 9, 2010, the applicant mailed notices of the Community Workshop to all property owners within the Rio Lindo, West Village and East Village Neighborhoods. 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 September 20, 2010. One person spoke against the establishment selling alcohol.
- 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

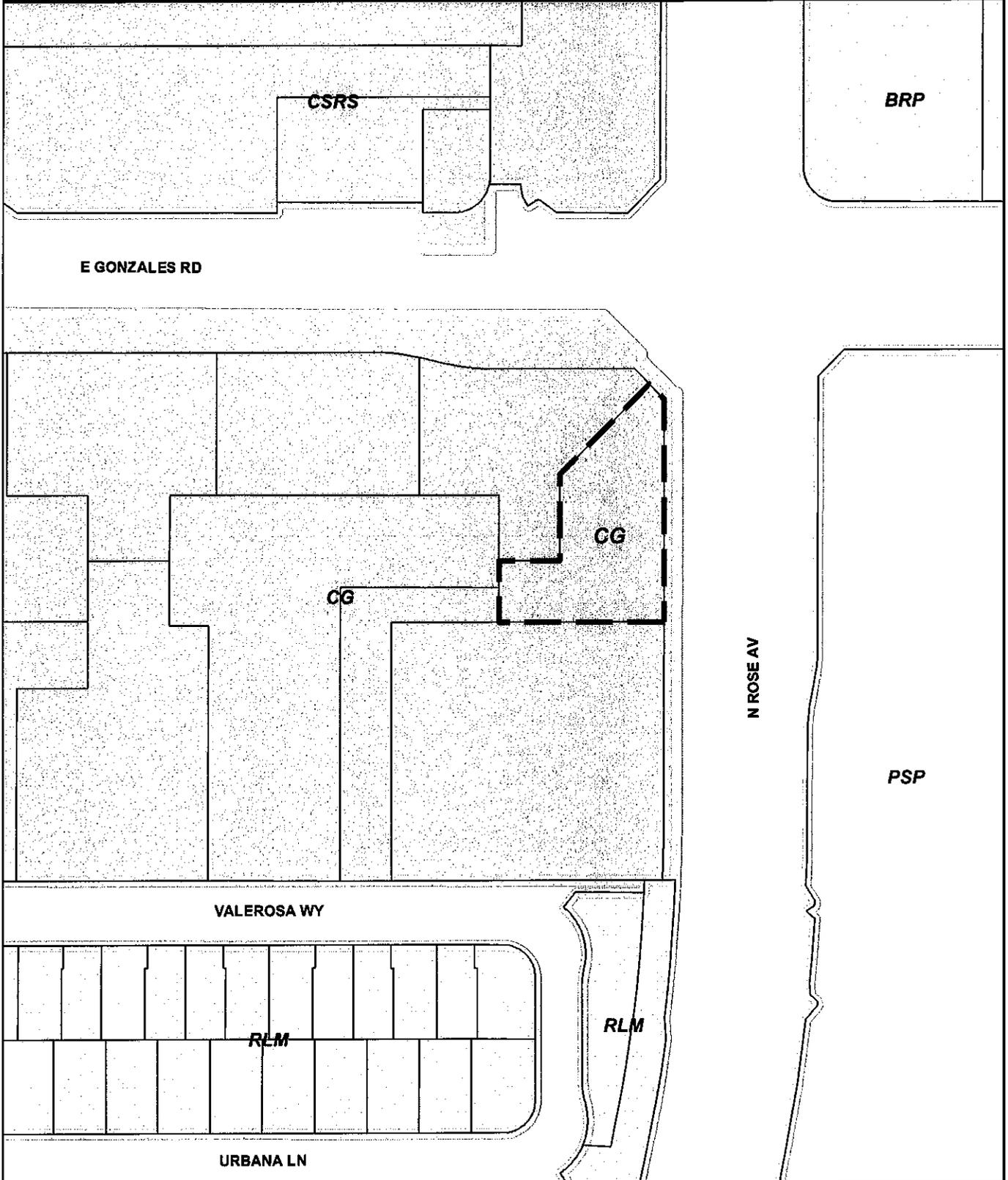
Prepared by: <u>JB</u> JB
Approved by: <u>SM</u> SM

**ATTACHMENT A**

**MAPS (VACINITY, GENERAL PLAN,  
ZONING)**

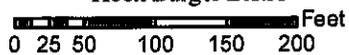


# General Plan Map



Oxnard Planning  
August 4, 2010

PZ 10-510-11  
Location: 1800 N Rose Av  
APN: 215006112  
Hook Burger Bistro

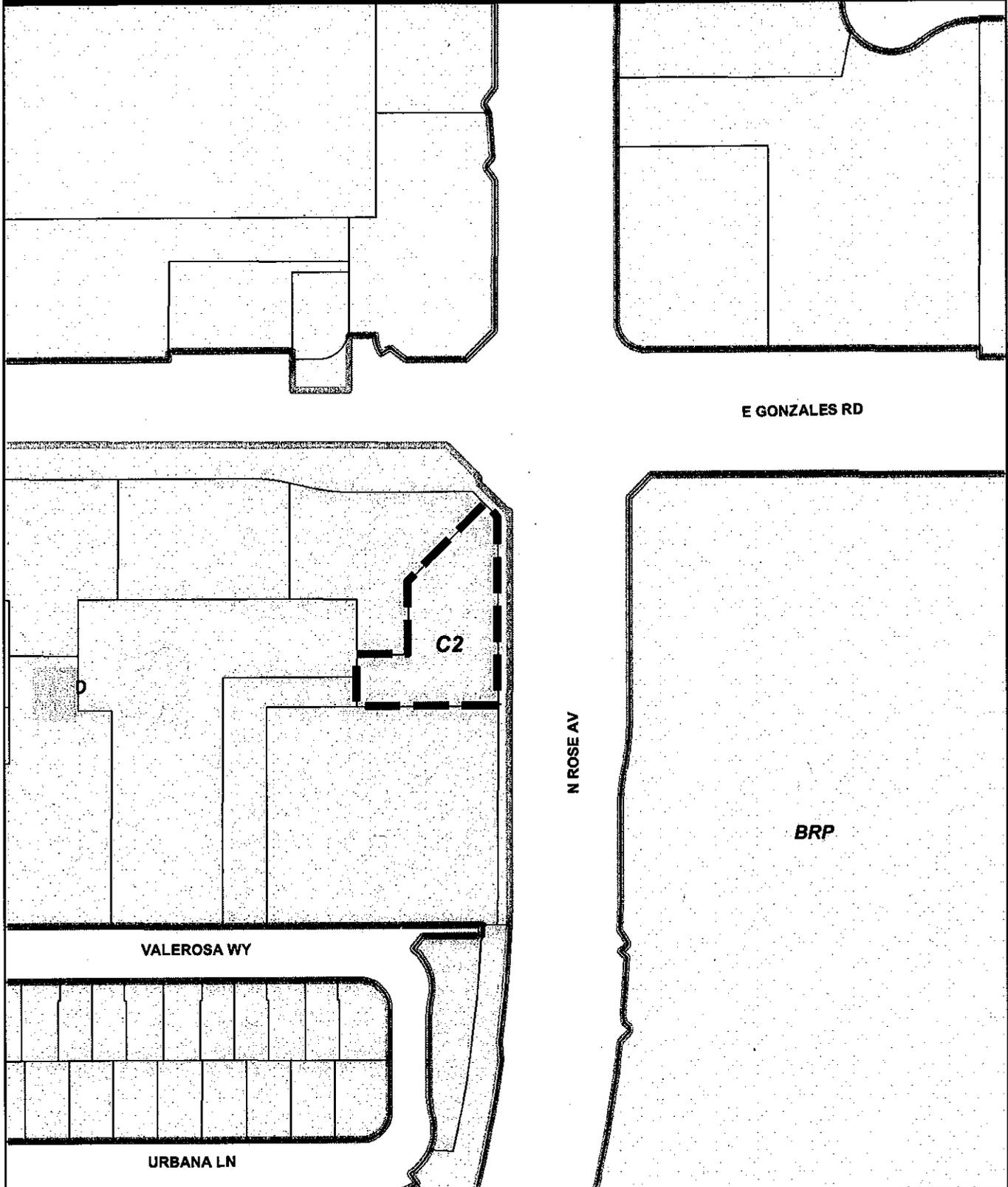


General Plan Map

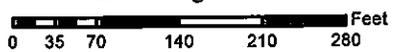


1:1,541

# Zone Map



PZ 10-510-11  
Location: 1800 N Rose Av  
APN: 215006112  
Hook Burger Bistro



## Zone Map



1:1,833

**ATTACHMENT B**

**REDUCED PROJECT PLANS**





**ATTACHMENT C**  
**NOTICE OF EXEMPTION**



## NOTICE OF EXEMPTION

### *Project Description:*

PLANNING & ZONING PERMIT NO. 10-510-11 (Special Use Permit), a request to allow the sale of beer and wine (ABC License Type 41) within a proposed restaurant and outdoor dining area (Hook Burger Bistro), located at 1811 N. Rose Avenue at the southwest corner of Rose Avenue and East Gonzales Road, within the Rose Ranch Shopping Center. The proposed project is exempt from environmental review under Section 15301 of the CEQA Guidelines. Filed by Brent Reichard, on behalf of Hook Burger Bistro, and Parkstone Company, 23 Hitchcock Way, Santa Barbara, CA 93105.

### *Finding:*

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

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

**Supporting Reasons:** In accordance with Section 15301 of the California Environmental Quality Act (CEQA) Guidelines, projects involving "minor alteration of existing...structures" may be found to be exempt from the requirements of CEQA. The request is for entertainment and on-site consumption of beer and wine. There is no new development or expansion of development associated with this request. 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

**ATTACHMENT D**

**POLICE DEPARTMENT REPORT**



## Police Department

John Crombach, Police Chief

---

Date: September 16, 2010  
To: Justin Beranich, Assistant Planner  
From: Cliff Waer, Senior Alcohol Compliance Officer  
Subject: 1811 North Rose Avenue (Hook Burger Bistro) **PZ-10-510-1**

### **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 easternmost edge of the shopping center, parallel to Rose Avenue and the front doors open west toward the parking lot. The business can seat approximately 60 guests inside with an outdoor patio that will accommodate approximately 40 customers.

The site is generally bordered by Gonzales Road on the north, Rose Avenue to the east, and commercial to the west and south. The nearest residences are approximately 300 feet to the south and 700 feet to the west with a block wall separating the shopping center from the residential neighborhood. Other nearby uses in the same retail center include a large restaurant, a Fresh and Easy Market and Walgreen's Pharmacy. 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 is one similar use within 350 feet of the site (the new Buffalo Wild Wings in the same shopping center) and two others 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 applicant has requested to obtain an ABC License Type-41 which is a restaurant that allows for the sale of beer and wine.

Alcohol outlets located within 350 feet of the establishment include:

BUSINESS NAME	LOCATION	LICENSE TYPE	LICENSE TITLE	LICENSE DESC.	ALCOHOL ALLOWED
1. Buffalo Wild Wings (Permitted but not yet open)	1600 E. Gonzales	Type-47	On-Sale General (Eating Place)	Restaurant	Beer, Wine and Spirits
2. Fresh and Easy (Permitted but not yet open)	1600 block E Gonzales	Type-21	Off-Sale Beer, Wine and Spirits	Market	Beer, Wine and Spirits
3. Walgreens (Permitted but not yet open)	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. Rubio's	2121 N Rose	Type 41	On-Sale Beer and Wine	Restaurant	Beer and Wine
2. Oh! Sushi	2121 N Rose	Type 41	On-Sale Beer and Wine	Restaurant	Beer and Wine
3. Rose Shell	1901 N Rose	Type-20	Off-Sale Beer and Wine	Market	Beer and Wine
4. Chevron Market	1900 N Rose	Type-20	Off-Sale Beer and Wine	Market	Beer and Wine
5. Wal-Mart	2101 N Rose	Type 21	Off-sale General	Grocery Supercenter	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 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 the 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 applicant has proposed outdoor seating for approximately 40 persons on the east and south 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 five-foot high fence/planter around the patio area which is consistent with the standards typically recommended by the Police Department. As proposed, this should adequately secure the patio and sufficiently addresses any 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 is one similar use within 350 feet so there is a presumption of undue concentration. The presumption of undue concentration has been rebutted by a preponderance of evidence, which shows that the establishment is in a retail center where multiple restaurant establishments selling alcoholic beverages for consumption on the premises are typical of such environments and generally appropriate.

The problems that are often associated with insufficiently enclosed patios have been effectively mitigated by the applicant's proposal to surround the patio with a five-foot fence and landscape planter.

The Police Departments experience is that the proposed license (Type 41 - 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.

## **Police Standard Operating Conditions**

---

- 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 10:00 p.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 involved in the sale or service of alcoholic beverages shall not be allowed to consume alcoholic beverages at any time during their shift. Employees shall not report to work with evidence of having consumed any intoxicants such as alcohol, illegal drugs or controlled substances. (PD)
- 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 and shall not permit 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)

---

## **Police Special Conditions**

---

- 1) 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.
- 2) Customer access to and from the patio shall be made through the interior of the business only.
- 3) 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.

- 4) There shall not be any outdoor or patio bar (portable or otherwise) where alcoholic beverages are stored or served.
  
- 5) 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.

**ATTACHMENT E**

**RESOLUTION**

RESOLUTION 2010-

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF OXNARD APPROVING PLANNING AND ZONING PERMIT NO. 10-510-11 (SPECIAL USE PERMIT), TO ALLOW THE SALE OF BEER AND WINE FOR ON-SITE CONSUMPTION (ABC LICENSE TYPE 41) IN A PROPOSED RESTAURANT LOCATED AT 1811 NORTH ROSE AVENUE, (APN 215-0-290-055), SUBJECT TO CERTAIN FINDINGS AND CONDITIONS. FILED BY DESIGNATED AGENT MR. BRENT REICHARD, 23 HITCHCOCK WAY, SANTA BARBARA, CA 93105.

WHEREAS, the Planning Commission of the City of Oxnard has considered an application for Planning and Zoning Permit No. 10-510-11, a special use permit to allow the sale of beer and wine for on-site consumption in a proposed restaurant located at 1811 North Rose Avenue, filed by designated agent Brent Reichard, in accordance with sections 16-530 through 551 of the Oxnard City Code and City Council Resolution No. 11,896; and

WHEREAS, section 15301 of Title 14 of the California Code of Regulations exempts the project from the requirements for the preparation of 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. That the proposed use is in conformance with the General Plan, the Northeast Community Specific Plan, and other adopted policies of the City of Oxnard.
2. That 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. That the site for the proposed project 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. That 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. That the site for the proposed use will be provided with adequate sewerage, water, fire protection and storm drainage facilities.
6. The establishment is in a retail center where restaurants selling alcoholic beverages for consumption on the premises are 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.
7. The proposed use is not likely to create or significantly aggravate police problems within 1,000 feet of the location for which the special use permit is applied.

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

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

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

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

**GENERAL PROJECT CONDITIONS**

1. This permit is granted for the property described in the application on file with the Planning and Environmental Services Division (“Planning Division”), and may not be transferred from one property to another. (PL, *G-1*).
2. This permit is granted for the plans dated September 23, 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 and Environmental Services Manager (“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. 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)
6. Developer shall obtain a building permit for any new construction or modifications to structures, including interior modifications, authorized by this permit. (B, G-11)
7. Developer shall not permit any combustible refuse or other flammable materials to be burned on the project property. (FD, G-12)
8. 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)
9. 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)
10. 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**

11. Any application for a minor modification to the project shall be accompanied by four copies of plans reflecting the requested modification, together with applicable processing fees. (PL, PL-2)
12. If the project property is already occupied or use has already been initiated, Developer shall comply with all conditions of this permit within 30 days of approval thereof. (PL/B, PL-6)
13. 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)
14. Within 30 days of approval of this permit, 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**

15. 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**

16. 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).
17. 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)
18. 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)
19. 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.
20. 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)
21. 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.

22. 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)
23. 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)
24. 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)
25. The premises shall possess the necessary utensils, table service, and the condiment dispensers with which to serve meals to the public.(PL/PD)
26. The use of any amplifying system or device shall not be audible outside the premise nor shall it be disruptive to neighboring uses. (PD)
27. 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)
28. The sale of alcoholic beverages for consumption off the premises is strictly prohibited.
29. Sales of alcohol shall not occur between the hours of 10:00 p.m. and 6:00 a.m. (PL/PD)
30. 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)
31. 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)
32. 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)

33. 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)
34. Employees involved in the sale or service of alcoholic beverages shall not be allowed to consume alcoholic beverages at any time during their shift. Employees shall not report to work with evidence of having consumed any intoxicants such as alcohol, illegal drugs or controlled substances. (PD)
35. 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)
36. 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.
37. 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.
38. 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)
39. Permittee shall be responsible for maintaining free of litter the area adjacent to the premises over which Permittee has reasonable control. (PL/PD)
40. 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)
41. 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)
42. Permittee shall regularly police the area under Permittee's control and shall not permit the loitering of persons about the premises. (PL/PD)
43. 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)

44. Permittee shall establish cash handling procedures to reduce the likelihood of robberies and thefts. (PD)
45. 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)
46. Permittee shall install an electronic intrusion detection system that detects portal openings, glass break, and interior motion. (PD)
47. 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)
48. 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**

49. 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.
50. Customer access to and from the patio shall be made through the interior of the business only.
51. 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.
52. There shall not be any outdoor or patio bar (portable or otherwise) where alcoholic beverages are stored or served.
53. 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 7<sup>th</sup> day of October, 2010, by the following vote:

AYES: Commissioners:

NOES: Commissioners:

ABSENT: Commissioners:

---

Randall Elliott, Chairman

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