

Written materials relating to an item on this agenda that are distributed to the legislative bodies within 72 hours before the item is to be considered at its regularly scheduled meeting will be made available for public inspection at the City Clerk's Office, 300 West Third Street 4th Floor during customary business hours. Agenda reports are also on the City of Oxnard web site at www.oxnard.org.



AGENDA
OXNARD CITY COUNCIL
OXNARD COMMUNITY DEVELOPMENT COMMISSION SUCCESSOR AGENCY
OXNARD FINANCING AUTHORITY
OXNARD HOUSING AUTHORITY
Council Chambers, 305 West Third Street
December 7, 2021
Closed Session - 4:30 PM
Appointment Items - 5:30 PM
Regular Meeting - 6:00 PM

Zoom details to call-in for public comment during a meeting:

Closed Session Only - Public Comments Dial: 805-276-4238

Appointment Items - 5:30 PM & Regular Meeting - 6:00 PM

- 1. Dial Phone Number: (888) 475-4499**
- 2. Enter Meeting ID: 828 5488 8608**
- 3. Passcode: 908571**

If you wish to speak during public comments or a particular item on the agenda, please sign-on by following the zoom calling in steps listed above. Once the Mayor calls for public speakers, press *9 to raise your hand to inform the clerk you would like to speak during the public speaking section for that particular item on the agenda, while in the zoom waiting room.

This meeting is being held in accordance with Assembly Bill 361, allowing members of the City Council, members of the public and staff to participate via teleconference.

Consistent with City policies imposed to promote social distancing, the facility where the City Council regularly meets is temporarily closed to the public. The public is encouraged to view the meeting from home on Spectrum channel 10, Frontier channel 35, or YouTube at [Youtube.com/oxnardnews](https://www.youtube.com/oxnardnews). Video recordings of the meeting are typically available online following the meeting at the City's website at www.oxnard.org/city-meetings.

*Please see the link for the Measure M pre-recorded presentation video for each item listed on this agenda.

YOU MAY PARTICIPATE IN THE MEETING IN THE FOLLOWING WAYS:

1. EMAILING COMMENTS OR REQUESTING TO SIGN UP TO SPEAK BEFORE THE MEETING

- a. Submit an email to cityclerk@oxnard.org no later than 3 p.m. on the day of the meeting (Please indicate the agenda item number in the subject line). All email correspondence will be forwarded to the City Council prior to the start of the meeting and made part of the legislative record.
- b. Submit a request to speak by no later than 3 p.m. on the day of the meeting by using the form available at www.oxnard.org/city-meetings, emailing the City Clerk at cityclerk@oxnard.org, or calling the City Clerk at (805) 385-7803.

2. PROVIDING PUBLIC COMMENTS DURING THE MEETING

- a. To provide public comment without requesting to speak prior to the meeting, during the meeting dial (888) 475-4499 and enter the Meeting ID and Passcode listed above as the Zoom details for this meeting.

In compliance with the Americans with Disabilities Act, if you require special assistance to participate in a meeting, please contact the City Clerk's Office at 385-7803. Notice at least 72 hours prior to the meeting will enable the City to reasonably arrange for your accessibility to the meeting.

Agenda Item time estimates: (Presentation / Council Discussion / Public Comment)

- b. Public comments on agenda items shall be taken following the announcement of the item. After all public speakers have been given an opportunity to speak on an agenda item, the public comment period shall be held open for three minutes to allow additional speakers to register or otherwise be recognized for the purpose of providing public comment. During this three minute time period, the City Council or staff may discuss the item being considered or briefly respond to previous comments.

Detailed participation instructions can be found at www.oxnard.org/city-meetings.

In the event of a disruption which prevents a legislative body of the City of Oxnard from broadcasting a meeting using a call-in option or internet-based service option, or in the event of a disruption within the City's control which prevents members of the public from offering public comment using the call-in option or internet-based service option, the legislative body shall take no further action on items appearing on a meeting agenda until public access to the meeting via the call-in option or internet-based service option is restored. However, if any of the broadcast options are disrupted, but any of the other broadcast options is still available to the public, the legislative body may take further action on items appearing on a meeting agenda without waiting for the disrupted broadcast option(s) to be restored.

* The City has filed pre-election and post-election lawsuits regarding the validity of Measure M.

A. ROLL CALL, POSTING OF AGENDA

THE FOLLOWING LEGISLATIVE BODIES ARE MEETING: City Council, Community Development Commission Successor Agency, Financing Authority, and Housing Authority.

B. PUBLIC COMMENTS ON CLOSED SESSION ITEMS

At this time, a person may address the legislative body only on matters appearing on the closed session agenda. The presiding officer shall limit public comments to three minutes.

C. CLOSED SESSION (4:30 PM)

1. CONFERENCE WITH LEGAL COUNSEL — EXISTING LITIGATION (Government Code Section 54956.9(d)(1))
Name of cases: National Prescription Opiate Litigation commonly known as the “Distributor” and “Janssen” settlements (see, www.nationalopioidsettlement.com and www.oag.ca.gov/opioids).
Legislative Body: City Council
2. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION (Government Code section 54956.9(d)(2))
Based on existing facts and circumstances, there is significant exposure to litigation against the City in one potential case regarding change orders requested by Harbour Constructors, Inc. for specification No. PW 17-16.
Legislative Body: City Council

D. APPOINTMENT ITEMS (5:30 PM)

1. City Manager Department
SUBJECT: Ventura County Civic Alliance State of the Region Report. (5:30 p.m.)
RECOMMENDATION: That the City Council receive the State of the Region Report from the Ventura County Civic Alliance.
Legislative Body: City Council
Contact: Alexander Nguyen, (805) 385-7430

E. OPENING CEREMONIES (6:00 PM)

Pledge of allegiance to the flag of the United States.

F. CEREMONIAL ITEMS

1. SUBJECT: Declare Results of the Canvass of Returns of the November 2, 2021 District 2 Special Municipal Vacancy Election and Administer the Oath of Office. (5/10/10)
2. SUBJECT: Special Guest from the North Pole.

G. PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA

A person may address the legislative body only on matters not appearing on the agenda and within the subject matter jurisdiction of the legislative body. Speaker requests shall be submitted as set forth on the first page of this agenda. Speakers are limited to three minutes. After 30 minutes, if all speakers have not had the opportunity to speak, the remaining speakers will be given an opportunity to speak prior to adjournment of the meeting. The legislative body cannot enter into a detailed discussion or take action on any items presented during public comments at this time. Such items may only be referred to the City Manager/Executive Director/Secretary for administrative action or scheduled on a subsequent agenda for discussion. Persons wishing to speak on public hearing items should do so at the time of the hearing.

H. REPORT OF CITY MANAGER/EXECUTIVE DIRECTOR/SECRETARY

The City Manager/Executive Director/Secretary shall report on items of interest to the legislative body occurring since the last meeting. The legislative body cannot enter into detailed discussion or take action on any item presented during this report. Such items may only be referred to the City Manager/Executive Director/Secretary for administrative action or scheduled on a subsequent agenda for discussion.

1. City Manager Department

SUBJECT: COVID-19 Update from Director of Emergency Services. (10/5/5)

RECOMMENDATION: That the City Council:

1. Receive and file an update from the Director of Emergency Services on the COVID19 Local Emergency.
 2. Approve the re-authorization of remote teleconference meetings of the legislative bodies of the City of Oxnard in accordance with Assembly Bill 361.
- Legislative Body: City Council
Contact: Alexander Nguyen, (805) 385-7430

I. CITY COUNCIL/HOUSING AUTHORITY/SUCCESSOR AGENCY/FINANCING AUTHORITY
BUSINESS/COMMITTEE REPORTS

At this time, a member of the legislative body may make a brief announcement, or make a brief report on his or her activities. Further, members of the legislative body may request to schedule consideration of whether to place an item on a future agenda. The legislative body cannot enter into detailed discussion or take action on any item presented during this report. The member's report shall not exceed three minutes, unless additional time is granted by the presiding officer.

J. REVIEW OF INFORMATION/CONSENT AGENDA

The members of the legislative body will consider whether to remove Information/Consent Agenda items for discussion later during the meeting.

K. PUBLIC COMMENTS ON INFORMATION/CONSENT AGENDA

At this time, a person may address the legislative body only on matters appearing on the information/consent agenda. The presiding officer shall limit public comments to three minutes.

L. INFORMATION/CONSENT AGENDA

1. City Clerk Department

SUBJECT: Approval of Minutes.

RECOMMENDATION: That the City Council approve the minutes of the October 19, 2021 regular meeting as presented.

Legislative Body: City Council

Contact: Rose Chaparro, (805) 385-7805

2. City Manager Department

SUBJECT: State of California Grant for the South Oxnard Aquatic Center.

RECOMMENDATION: That the City Council:

1. Adopt a resolution approving the filing of project applications for \$5,000,000 in State of California Specified Grant funds for the South Oxnard Aquatic Center at College Park, delegating authority to the City Manager regarding negotiations and execution of all documents necessary for the completion of the project scopes, and making required certifications and agreements to comply; and
2. Approve a budget appropriation for the use of the awarded grant funds.

Legislative Body: City Council

Contact: Alexander Nguyen, (805) 385-7430

3. Police Department

SUBJECT: Resolution Commending John Brisslinger for 21 Years of Exemplary Service to the City of Oxnard.

RECOMMENDATION: That the City Council adopt a resolution commending John Brisslinger for twenty-one years of outstanding service to the City of Oxnard Polic Department.

Legislative Body: City Council

Contact: Jason Benites, (805) 385-7624

4. Police Department

SUBJECT: Federal and State Asset Forfeiture Funds.

RECOMMENDATION: That City Council approve a budget appropriation in the amount of \$217,000 for the use of Federal (\$60,000) and State (\$157,000) asset forfeiture funds allocated to the City of Oxnard's Police Department.

(The Community Services, Public Safety, Housing and Development Committee approved 2-0 on November 9, 2021.)

Legislative Body: City Council

Contact: Jason Benites, (805) 385-7624

5. City Manager Department

SUBJECT: 2022 Meeting Schedule for Legislative Bodies.

RECOMMENDATION: That City Council, Community Development Commission Successor Agency, Financing Authority, and Housing Authority approve the proposed meeting dates for the calendar year 2022.

Legislative Body: City Council, Community Development Commission Successor Agency.

Financing Authority, and Housing Authority Board

Contact: Alexander Nguyen, (805) 385-7430

M. PUBLIC HEARINGS

1. Community Development Department

SUBJECT: Project Name: FGH Retail Services, LLC. - Appeal of the Planning Commission's Decision to Approve Planning and Zoning Permit No. 21-516-36 (Special Use Permit- Cannabis Retail) regarding property at 2320 North Rose Avenue (APN: 213-0-011-255). (20/10/10)

RECOMMENDATION: That the City Council:

1. Conduct a public hearing;
2. Find the Project to be Categorically Exempt from environmental review pursuant to the California Environmental Quality Act (CEQA) Guidelines Section 15301 (Existing Facilities); and
3. Adopt a Resolution denying the appeal and upholding the Planning Commission's approval of Planning and Zoning Permit No. 21-516-36 (Special Use Permit- Cannabis Retail), subject to certain conditions and findings.

Please click the following link to view the required Measure M pre-recorded presentation video:

<https://youtu.be/KMtSWbZH4kg>

Legislative Body: City Council

Contact: Vyto Adomaitis, (805) 385-7882

2. Community Development Department

SUBJECT: Planning & Zoning (PZ) Permit No. 21-580-05 Bed and Breakfast Parking Regulations (Zone Text Amendment) – Amendment to the Oxnard City Code Section 16-374 “Standards for Traditional Bed and Breakfast (Homestay)” allowing Bed and Breakfast Homestays (containing no more than two guest bedrooms) located on corner lots may credit the nonprimary street frontage toward the parking requirement, with 25 linear feet equal to one parking space, subject to approval of the decision maker associated with the underlying permit. (5/5/5)

RECOMMENDATION: That the City Council:

1. Conduct a public hearing;
2. Determine the Zone Text Amendment is exempt from environmental review pursuant to the California Environmental Quality Act (CEQA) Guidelines 15060(c)(2) and (3) and 15061(b)(3); and
3. Introduce an Ordinance for first reading (by title only, waiving further reading) allowing Bed and Breakfast Homestays (containing no more than two guest bedrooms) located on corner lots may credit the nonprimary street frontage toward the parking requirement, with 25 linear feet equal to one parking space, subject to approval of the decision maker associated with the underlying permit.

(Planning Commission recommend approval 7-0)

Please click the following link to view the required Measure M pre-recorded presentation video:

<https://youtu.be/NnnpkWA0Hiw>

Legislative Body: City Council

Contact: Vyto Adomaitis, (805) 385-7882

N. REPORTS

1. Community Development Department

SUBJECT: DMV Oxnard Field Office Drainage Easement Vacation; Planning and Zoning (PZ) Permit No. 21-660-02 (Easement Vacation); A Resolution of Intention to vacate two forty (40) foot wide drainage easements, totaling approximately 24,600 square feet, located at 4050 South Saviers Road. (0/5/5)

RECOMMENDATION: That the City Council:

1. Find the project exempt from environmental review pursuant to the California Environmental Quality Act (CEQA) Guidelines Section 15061(b)(3);
2. Adopt a Resolution declaring its intention to vacate its right, title and interest in two forty (40) foot wide drainage easements, totaling approximately 24,600 square feet, crossing the two parcels located at 4050 South Saviers Road; and
3. Direct the City Clerk to schedule a public hearing in accordance with the vacation procedures contained in California Streets and Highway Code Section 8300 et seq to be held on Tuesday, January 4, 2022 at 6:00 p.m. at the at the City Council Chambers of the City of Oxnard located at 305 West Third Street in Oxnard, California.

Please click the following link to view the required Measure M pre-recorded presentation video:

<https://youtu.be/JRals4Gx1VU>

Legislative Body: City Council

Contact: Vyto Adomaitis, (805) 385-7882

2. Finance Department

SUBJECT: Update on Corrective Action Plan (CAP). (0/5/5)

RECOMMENDATION: That the City Council receive an update on the Corrective Action Plan (CAP).

(Finance and Governance Committee approved 3-0)

Please click the following link to view the required Measure M pre-recorded presentation

video: <https://youtu.be/HBu5eAtGz88>

Legislative Body: City Council

Contact: Betsy George, 805-200-5400

3. City Manager Department

SUBJECT: American Rescue Plan Act budget appropriation, authorization of new FTEs for ARPA projects, and delegation of ARPA contract awarding and executing authority to the City Manager. (0/5/5)

RECOMMENDATION: That the City Council:

1. Approve a budget appropriation recognizing \$16,192,200 in federal grant revenue and appropriating \$48,192,200 for the Council approved City's American Rescue Plan Act (ARPA) funding of projects and programs that will respond to the COVID-19 pandemic, address its economic fallout, and lay the foundation for a strong and equitable recovery in

the City of Oxnard;

2. Adopt a resolution approving an amendment to the classification and salary range resolution for the Senior Project Manager classification to implement ARPA projects;
3. Adopt a resolution approving an amendment to the position control resolution to add four (4) Full-time Equivalent employees to implement ARPA projects; and
4. Adopt a resolution delegating contract awarding and executing authority to City Manager for non-public projects, and for subrecipient agreements funded in whole or in part by ARPA.

Please click the following link to view the required Measure M pre-recorded presentation video: <https://youtu.be/V9EKteDKEMY>

Legislative Body: City Council

Contact: Alexander Nguyen, (805) 385-7430

4. Public Works Department

SUBJECT: Agreement A-8400 to G2K Construction, Inc. for the Replacement of Truck Weigh Scales at the Del Norte Recycling Center and Transfer Station Project Specification No. PW 20-59. (0/5/5)

RECOMMENDATION: That the City Council approve and authorize the following for a total of \$3,576,216 in Project funds for the Replacement of Truck Weigh Scales at the Del Norte Recycling Center and Transfer Station Project, Specification No. PW 20-59 (Project No. 216803):

1. The Mayor to execute Agreement A-8400 with G2K Construction, Inc. in the amount of \$2,980,180 for the Project;
2. A Project contingency amount of \$298,018 for the Project;
3. A Project allocation amount of \$298,018 for engineering, inspection, survey and project management for the Project; and
4. A budget appropriation in the amount of \$1,126,216 from the available fund balance in the Solid Waste Operating Fund (631) for the Project.

Please click the following link to view the required Measure M pre-recorded presentation video: <https://youtu.be/ERtr8-J5TtU>

Legislative Body: City Council

Contact: Michael Wolfe, (805) 385-8055

O. ADJOURNMENT

HARBOUR CONSTRUCTORS, CO.

General Engineering Contractors
License No. A-907269

6 September 2021

Nik Boas
Supervising Civil Engineer
Public Works Department
City of Oxnard
305 West Third St, East Wing, Third Floor
Oxnard, CA 93030

Paul Early
Assistant City Attorney
Office of the City Attorney
City of Oxnard
305 West Third Street, Suite 100E
Oxnard, CA 93030

Ref: Pilaster Jacket Repairs at Mandalay Bay Seawall Project
Specification PW 17-16

S/N L-033

Dear Messrs. Boas and Early:

This letter is in response to your correspondence of 2 September 2021 which, as a matter of correcting the record is in response to our letter of 10 July 2021 not 2 September.

As you recall we met informally on 22 June 2021 to find common ground to settle our differences without the assistance of a third party. My understanding following the meeting was we had an agreement for a path forward whereby I would accept your calculated hours of 190.5 for the impact caused by the busted survey and the City would review and come to a conclusion on the expenses associated with these hours along with the balance of submitted RFC's.

Each of the RFCs were discussed as to merit and cost and I believed we had a plan for a resolution. However, the September 2 letter seems to deviate from that direction which, as you can imagine, is very frustrating after waiting two and half months for a response. For example, with respect to RFC #3, I explained that we were specifically told by Omar Ortiz that the City and Engineer did not want more than two groups being worked on at the time and that we could not move to another location. Both Groups 1 and 2 were affected by this disgruntled resident that was impacting the ability to work at the time. This was addressed during our meeting, and it seemed clear to everyone that we had no option but to shut the project down until the issue was resolved. Yet, the September 2 letter notes the defense to this claim was the assertion the Contractor could remobilize to another location. This position is not consistent with what happened on the project and frankly not productive to trying to achieve an informal resolution.

RFC #7 was discussed and was a direct result from our incurring differing site conditions. Although the City may find six days to respond to our RFI reasonable, and perhaps the City may find 30 days reasonable as well, that is not the issue. As discussed in our 22 June meeting, the issues discussed in the RFIs are differing site conditions and the costs associated therewith are the City's. Our request for a same day response was solely to mitigate the City's expenses and when the response did not arrive as requested, we followed the Standard Specifications

requirements for judicious handling of equipment and labor. To be clear, the time to respond to the RFI is not the issue; the differing site condition that the RFI needed to address is.

The City has introduced a new argument in rejection of RFC #8, *"Contractor was not acting in good faith during the negotiating period."* Not only is this accusatory, subjective, and the first we have heard, but the City was also within their right to find an alternative contractor should the City have determined our pricing was out of line.

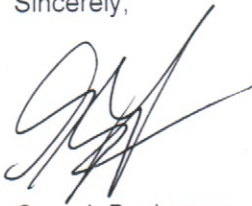
Lastly, RFC #4, requested compensation for the dive work associated with the survey elevation error. The "requested" amount of \$157,149.52 was established as a final number, not negotiable, and predicated upon the City accepting all other RFC's at their submitted value. Our methodology of proposing this number as acceptable was simply the total value we anticipated being awarded in a litigious setting minus anticipated legal expenses.

The City's response however, *"The equipment cost is still very high with a majority of equipment shown not associated directly with dive work"* is astounding. Did the City not review our L-032 and cost breakdowns where equipment not directly associated with the dive work was placed on a stand-by basis as discussed in our 22 June meeting? Where does the City find that while *"using a fully laden labor rate and therefore should not be charging an additional 10% mark up"* an allowable reason for price reduction? Does the City recognize this is simply stating they are only willing to pay cost irrespective of the Contractor's field and home office overhead?

Paul, I am disappointed at the positions taken and the time it took to get nowhere. Please discuss the case with your team and if they are not prepared to do what we agreed at our meeting, then I suggest we hire a mediator and try to resolve the claims that way. If the City is not prepared to participate in mediation in good faith, then we will proceed with litigation.

Should you have any questions or need additional information please contact me at 714.822.5214.

Sincerely,

A handwritten signature in black ink, appearing to read 'Greg J. Buchanan', with a stylized, cursive script.

Greg J. Buchanan



CITY COUNCIL AGENDA REPORT

APPOINTMENT ITEMS (5:30 PM) AGENDA ITEM NO. D.1

DATE: December 7, 2021

TO: City Council

FROM: Alexander Nguyen, City Manager, (805) 385-7430, alexander.nguyen@oxnard.org

SUBJECT: Ventura County Civic Alliance State of the Region Report. (5:30 p.m.)

RECOMMENDATION

That the City Council receive the State of the Region Report from the Ventura County Civic Alliance.

BACKGROUND

STRATEGIC PRIORITIES

This agenda item is a routine operational item or does not relate to the five strategic priorities adopted by City Council on March 16, 2021.

FINANCIAL IMPACT

There is no financial impact.

COMMITTEE OUTCOME

This item did not originate in Committee.

Prepared by: Luly Lopez, Executive Assistant I

ATTACHMENTS

None



CITY COUNCIL AGENDA REPORT

CEREMONIAL ITEMS AGENDA ITEM NO. F.1

DATE: December 7, 2021

TO: City Council

FROM: Rose Chaparro, City Clerk, (805) 385-7805, rose.chaparro@oxnard.org

SUBJECT: Declare Results of the Canvass of Returns of the November 2, 2021 District 2 Special Municipal Vacancy Election and Administer the Oath of Office. (5/10/10)

RECOMMENDATION

That the City Council:

1. Adopt a resolution declaring the results of the canvass of returns of the November 2, 2021 District 2 (Short Term) Special Municipal Vacancy Election in the City of Oxnard;
2. Authorize the City Clerk to administer the oath of office to the newly elected officer, Gabriel Teran, followed by remarks from the City Treasurer, City Clerk, Councilmembers, and Mayor.

BACKGROUND

The final official canvass shows that Gabriel Teran was the successful candidate for Oxnard City Council District 2.

The County Clerk certified the election on November 19, 2021 and the Board of Supervisors is anticipated to approve the results at its December 7, 2021 meeting.

The Certificates of Election Results are attached to the proposed resolution.

STRATEGIC PRIORITIES

This agenda item is a routine operational item or does not relate to the five strategic priorities adopted by City Council on March 16, 2021.

FINANCIAL IMPACT

There is no financial impact.

COMMITTEE OUTCOME

This item did not originate in Committee.

Prepared by: Rose Chaparro, City Clerk

ATTACHMENTS

1. Resolution Certifying Nov2021 Special Election District 2 12 07 2021
2. Exhibit A Certificate of the County Clerk

CITY COUNCIL OF THE CITY OF OXNARD

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OXNARD
DECLARING THE RESULTS OF THE CANVASS OF THE SPECIAL
ELECTION FOR DISTRICT 2 RETURNS FROM THE SPECIAL MUNICIPAL
ELECTION HELD ON NOVEMBER 2, 2021

WHEREAS, the City Council of the City of Oxnard called for a special municipal election in the City of Oxnard on November 2, 2021, to elect a Councilmember for Council District 2 for a term of one year; and

WHEREAS, notice of the special election was duly given in the time, form, and manner provided by law, and the special election was held on the above date, and the votes cast were canvassed and the returns thereof made at the time and in the manner and form provided by law; and

WHEREAS, on this 7th day of December, 2021, the City Council duly assembled at its usual place of meeting and received the certification of the election from the County Clerk.

NOW, THEREFORE, the City Council of the City of Oxnard does hereby resolve:

1. That a special municipal election was held on November 2, 2021, and that the Vote By Mail and in-person ballots cast were duly canvassed in the form and in the manner required by law.

2. That this City Council has reviewed the canvass of the returns of the election and from the returns it appears, and this City Council finds, that the whole number of votes cast in the City of Oxnard in the election, the names of the persons voted for and for what office each person was voted for, the number of votes cast for each person, and the total number of votes given to each measure, are as shown on Exhibit "A", attached hereto and incorporated herein by this reference.

3. That Gabriel Teran received the highest number of votes for the office of Councilmember for Council District 2 and is hereby declared to be elected.

PASSED AND ADOPTED this 7th day of December, 2021, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

John C. Zaragoza, Mayor

ATTEST:

APPROVED AS TO FORM:

Rose Chaparro, City Clerk

Stephen M. Fischer, City Attorney

EXHIBIT A

CERTIFICATE OF THE COUNTY CLERK
(Elections Code Sections 15372 and 10264)

CITY OF OXNARD, DISTRICT 2 (SHORT TERM)
SPECIAL MUNICIPAL VACANCY ELECTION
NOVEMBER 2, 2021

State of California
County of Ventura

} SS.

I, **MARK A. LUNN**, Clerk-Recorder, Registrar of Voters of the County of Ventura, State of California, do hereby certify that the attached is a true and correct Canvass of the Votes Cast for all the candidates for the one office of Member of the City Council, District 2 (Short Term) for the City of Oxnard Special Municipal Vacancy Election held on November 2, 2021.

I further certify that the total ballots cast at the City of Oxnard, District 2 (Short Term) Special Municipal Vacancy Election are as follows:

PRECINCT
BALLOTS CAST
62

VOTE BY MAIL
BALLOTS CAST
2195

TOTAL
BALLOTS CAST
2257

I further certify that the total votes cast for the one office of Member of the City Council are as follows:

<u>MEMBER OF THE</u> <u>CITY COUNCIL</u>	<u>PRECINCT</u> <u>VOTE</u>	<u>VOTE BY MAIL</u> <u>VOTE</u>	<u>TOTAL</u> <u>VOTE</u>
GABRIEL TERAN	30	1202	1232
TAI HARTLEY	25	803	828
EDUARDO Q. HUERTA	5	152	157

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal
this 19th day of November 2021.



MARK A. LUNN, CERA, REO
Clerk-Recorder, Registrar of Voters
County of Ventura



CITY COUNCIL AGENDA REPORT
INFORMATION/CONSENT AGENDA
AGENDA ITEM NO. L.1

DATE: December 7, 2021
TO: City Council
FROM: Rose Chaparro, City Clerk, (805) 385-7805, rose.chaparro@oxnard.org
SUBJECT: Approval of Minutes.

RECOMMENDATION

That the City Council approve the minutes of the October 19, 2021 regular meeting as presented.

BACKGROUND

Approval of Minutes.

STRATEGIC PRIORITIES

This agenda item is a routine operational item.

FINANCIAL IMPACT

There is no financial impact.

COMMITTEE OUTCOME

This item did not originate in Committee.

Prepared by: Rose Chaparro, City Clerk

ATTACHMENTS

1. MINUTES 10 19 2021 CC Regular Meeting

MINUTES
OXNARD CITY COUNCIL
Council Meeting
October 19, 2021

A. ROLL CALL, POSTING OF AGENDA

At 4:33 p.m., Mayor John C. Zaragoza called to order the regular meeting of the Oxnard City Council, in the City Hall Council Chambers at 305 W. Third Street, Oxnard, California. The City Clerk called the roll and announced the posting of the agenda. Mayor Pro Tem Bryan A. MacDonald and Councilmembers Gabriela Basua, Vianey Lopez, Oscar Madrigal, Bert E. Perello, Gabriel (Gabe) Teran were present via videoconference. Mayor Zaragoza was present in person.

Staff members present in person were Alexander Nguyen, City Manager; Stephen M. Fischer, City Attorney; and Rose Chaparro, City Clerk.

Staff members participating via videoconference Ashley Golden, Assistant City Manager; Shiri Klima, Deputy City Manager; Paul Early, Assistant City Attorney; Jason Zaragoza, Deputy City Attorney; Jason Benites, Police Chief; Denise Shadinger, Assistant Chief of Police; Eric Sonstegard, Assistant Chief of Police; Alexander Hamilton, Fire Chief; Michael Wolfe, Public Works Director; Steve Howlett, Assistant Public Works Director; Tatiana Arnaout, Senior Civil Engineer; Timothy Beaman, Supervising Civil Engineer; Tim Bochum, City Traffic Engineer; Abraham Maldonado, Water Resources Manager; Chris Peyton, Water Operations Manager; Omar Castro, Water Division Manager; Daniel Sanchez, Water Meter Operations Chief Operator; Emilio Ramirez, Housing Director; Vyto Adomaitis, Community Development Director; Scott Kolwitz, Planning & Environmental Services Manager; Kathleen Mallory, Planning & Sustainability Manager; and Eden Alomeri, Revenue & Licensing Director & Assistant City Treasurer.

Sara Mares, Director at NBS Local Government Consultants; Christian Sprunger, Assistant Vice President at NHA Advisors; Craig Hill, Managing Principal at NHA Advisors; Chris Cole, Managing Principal at DPGF Management; John Gebhardt, Principal at SEG Advisors; Fernando Villa, Partner at Allen Matkins; Maryann L. Goodkind, CFD Counsel at Norton Rose Fullbright; and Spencer Waterman, Associate Planner with Systems Consulting, Inc.; also participated via videoconference.

THE FOLLOWING LEGISLATIVE BODIES ARE MEETING: City Council.

B. PUBLIC COMMENTS ON CLOSED SESSION ITEMS (None received.)

C. CLOSED SESSION (4:30 PM)

1. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION (Government Code section 54956.9(d)(4))

Based on existing facts and circumstances, the City Council shall decide whether to initiate litigation in one potential case.

Legislative Body: City Council

At 4:39 p.m., the City Council recessed to a closed session. At 5:05 p.m., the City Council reconvened in open session in the Council Chambers. The City Attorney announced that there were no reportable actions out of closed session.

D. APPOINTMENT ITEMS (5:10 PM)

1. City Manager Department

SUBJECT: Police Department Update

RECOMMENDATION: That the City Council receive a Police Department update.

Jason Benites, Chief of Police, gave a report and answered Council's questions. Public comments were received from Reverend Greg Runyon. Report was received and filed, no formal action was required.

E. OPENING CEREMONIES (6:00 PM)

The flag salute was followed by a moment of silence.

F. CEREMONIAL ITEMS

1. SUBJECT: Presentation of a Proclamation Designating the Month of October 2021 as "Multicultural Month" in the City of Oxnard.

Mayor Zaragoza read the proclamation and presented it to Adam Lopez, Community Relations Committee Chair, who made some remarks.

2. SUBJECT: Presentation of a Proclamation Designating November 11, 2021 as "Veterans Day" in the City of Oxnard.

Mayor Zaragoza read the proclamation and presented it to Ronald Eugene Fitzgerald, Public Affairs Officer for the Vietnam Veterans of Ventura County, who made some remarks.

3. SUBJECT: Presentation of a Commendation to Mixteco Indigena Community Organizing Project (MICOP) on the Occasion of Their 20th Anniversary.

Mayor Zaragoza read the proclamation and presented it to Arcenio Lopez, Executive Director and Genevieve Flores-Haro MPA, Associate Director at Mixteco Indigena Community Organizing Project (MICOP); who made some remarks.

G. PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA

Public comments were received from Douglas Partello, Walter J. Snyder, Manuel Herrera, and Lucy Cartagena.

H. REPORT OF CITY MANAGER/EXECUTIVE DIRECTOR/SECRETARY

1. City Manager Department

SUBJECT: COVID-19 Update from Director of Emergency Services and adoption of **Resolution #15,496** re-authorizing remote teleconference meetings of legislative bodies of the City of Oxnard. (10/5/5)

RECOMMENDATION: That the City Council:

1. Receive and file an update from the Director of Emergency Services on the COVID-19 Local Emergency.
2. Adopt **Resolution #15,496** re-authorizing remote teleconference meetings of the legislative bodies of the City of Oxnard in accordance with Assembly Bill 361.

Alexander Nguyen, City Manager, presented and answered questions from Council. No public comments were received. Discussion ensued among the Council and staff.

It was moved by Mayor Pro Tem MacDonald, seconded by Councilmember Perello, to approve the recommended action. VOTE: MacDonald, Perello, Lopez, Zaragoza, Madrigal, Teran and Basua voted in favor; the motion carried 7-0.

I. CITY COUNCIL/HOUSING AUTHORITY/SUCCESSOR AGENCY/FINANCING AUTHORITY BUSINESS/COMMITTEE REPORTS

1. Community Development Department

SUBJECT: **Resolution #15,497** in Support of H.R. 2307 - Energy Innovation and Carbon Dividend Act of 2021. (10/10/10)

RECOMMENDATION: That the City Council adopt **Resolution #15,497** in support of H.R. 2307 - Energy Innovation and Carbon Dividend Act of 2021.

Vyto Adomaitis, Community Development Director, presented and answered questions from Council. Public comments were received from Maria Margarita Navarro, Max Ghenis, Mindy Greenberg, and Jade Chongsathaport. Discussion ensued among the Council and staff.

It was moved by Councilmember Teran, seconded by Mayor Zaragoza, to approve the recommended action. VOTE: Zaragoza, MacDonald, Perello, Lopez, Madrigal, Basua, and Teran voted in favor; the motion carried 7-0.

J. REVIEW OF INFORMATION/CONSENT AGENDA

Items L-1 through L-7 were discussed among the Council and staff.

K. PUBLIC COMMENTS ON INFORMATION/CONSENT AGENDA (None received.)

L. INFORMATION/CONSENT AGENDA

1. City Clerk Department

SUBJECT: Approval of Minutes.

RECOMMENDATION: That the City Council approve the minutes of the July 29, 2021 and September 7, 2021 regular meetings as presented.

2. Public Works Department

SUBJECT: California Resilience Challenge Grant Program Application.

RECOMMENDATION: That City Council adopt **Resolution #15,498** ratifying the authorization of the City Manager to execute in the name of the City of Oxnard all grant documents, including but not limited to, applications, agreements, amendments and requests for payment, necessary to secure grant funds and implement the approved grant project for \$200,000 in California Resilience Challenge Grant funds, to be used for the completion of a City-wide park drought and heat resiliency project.
(This item did not originate in Committee.)

3. Community Development Department

SUBJECT: Adoption of **Ordinance No. 2998** - Planning & Zoning (PZ) Permit No. 20-580-05 (Zone Text Amendment).

RECOMMENDATION: That the City Council adopt Ordinance No. 2998 amending Chapter 16 of the Oxnard City Code to add Medical Clinics and Hospitals as sensitive uses requiring separation from Firearm Ranges and Businesses Engaged in the Sale of Firearms and Ammunition.

4. Community Development Department

SUBJECT: Adoption of **Ordinance Nos. 2999, 3000, 3001, 3002 and 3003** - Planning & Zoning (PZ) Permit No. 21-580-03 (Zoning Text Amendments) - Implementation of the 6th Cycle 2021-2029 Housing Element.

RECOMMENDATION: That the City Council adopt the following Ordinances amending Chapter 16 of the Oxnard City Code (OCC) to implement the 6th Cycle 2021-2029 Housing Element:

1. Ordinance No. 2999 - An Ordinance of the City Council of the City of Oxnard to Repeal the All-affordable Housing Opportunity Program (AAHOP) and replace these regulations with newly created Affordable Housing, Permitted (-AHP) And Affordable Housing, Discretionary (-AHD) Additive Zone Definitions, Designations and Regulations in OCC Sections 16-420a through 16-420k; and
2. Ordinance No. 3000 - An Ordinance of the City Council of the City of Oxnard amending the General Commercial zone permitted and related uses in OCC

Section 16-135 & 16-136; and

3. Ordinance No. 3001 - An Ordinance of the City Council of the City of Oxnard amending the Business And Research Park (BRP) zone permitted uses in OCC Section 16-162 & 16-163; and
4. Ordinance No. 3002 - An Ordinance of the City Council of the City of Oxnard amending the Density Bonus ordinance approval authority and appeal provision in OCC Section 16-410; and
5. Ordinance No. 3003 - An Ordinance of the City Council of the City of Oxnard Creating a Ministerial Site Plan Review process OCC Sections 16-523 through 16-523.12.

(This item originated from a Public Hearing at the October 5, 2021 City Council meeting and was previously heard by the Planning Commission, therefore this item did not originate in Committee.)

5. Fire Department

SUBJECT: Adjustment of State Surcharge Fees for Certified Unified Program Agency (CUPA) Services and Permits.

RECOMMENDATION: That City Council adopt **Resolution 15,499** to adjust the existing State General Oversight Surcharge fees.

(Approved at Finance & Governance Committee on September 28, 2021 with a vote of 3-0.)

6. Police Department

SUBJECT: Increase in Reward Funds for Unsolved Homicide Cases.

RECOMMENDATION: That the City Council receive and file a report from the Oxnard Police Department on the increase of reward funds for unsolved homicide cases. (The Public Safety Committee approved 3-0.)

7. Public Works Department

SUBJECT: Agreement A-8375 with Sancon Technologies, Inc., for On-Call Cured-in-Place Pipe Repair Services.

RECOMMENDATION: That the City Council approve and authorize the Mayor to execute Agreement A-8375 with Sancon Technologies, Inc., in the amount not to exceed \$450,000 for a three-year term ending November 1, 2024, for On-Call Cured in Place Pipe Repair Services for the Wastewater Division.

(As of the date of this City Council agenda being posted, there is not yet an outcome from the October 12, 2021 Public Works and Transportation Committee. Staff is available to answer any questions.)

Consent Agenda Items: L.1, L.2, L.4, L.5, L.6, L.7:

Councilmember Lopez requested a revision to the September 7, 2021 Council meeting minutes, a correction to the title of Senator Monique Limon, representing California Senate District 19.

It was moved by Councilmember Lopez, seconded by Mayor Zaragoza, to approve the Information/Consent items L.1 – L.2 and L.4 – L.7 as presented. VOTE: Lopez, Basua, Teran, Zaragoza, MacDonald, Perello, and Madrigal voted in favor; motion passed 7-0.

Consent Agenda Item: L.3:

It was moved by Councilmember Lopez, seconded by Mayor Zaragoza, to approve the Information/Consent item L.3 as presented. VOTE: Lopez, Basua, Teran, Zaragoza, Perello, and Madrigal voted in favor, MacDonald voted against; motion passed 6-1.

M. PUBLIC HEARINGS

1. Public Works Department

SUBJECT: 2020 Urban Water Management Plan and Water Shortage Contingency Plan. (10/10/30)

RECOMMENDATION: That the City Council:

1. Receive a presentation and hold a Public Hearing to receive public comments on the 2020 Urban Water Management Plan and Water Shortage Contingency Plan; and
2. Adopt **Resolution #15,500** to approve the 2020 Urban Water Management Plan and Water Shortage Contingency Plan and authorize City staff to file the plans with the State of California. (Public Works and Transportation Committee approved 3-0). (Presentation will be live upon consultant's request.)

The City Clerk announced the affidavit of publication and stated that no written communications were received. Abraham Maldonado, Water Resources Manager introduced Spencer Waterman, Associate Planner with Systems Consulting, Inc., which gave a report and answered questions.

Mayor Zaragoza opened the public testimony portion of the public hearing. No public comments were received.

Without objection, the Council approved closing the public testimony portion of the public hearing. Discussion ensued among the Council and staff.

It was moved by Mayor Pro Tem MacDonald, seconded by Councilmember Perello, to approve the recommended action as presented. VOTE: Perello, MacDonald, Madrigal, Basua, Zaragoza, Lopez, and Teran voted in favor; the motion carried 7-0.

At 9:58 p.m. City Council voted to continue the meeting past 10:00 p.m., and take action on the remainder of the items on the agenda.

It was moved by Councilmember Teran, seconded by Councilmember Perello, to approve the recommended action as presented. VOTE: Madrigal, Lopez, Teran, MacDonald, Perello, and Zaragoza; voted in favor; the motion carried 6-0. Councilmember Basua was not available to vote

on this item due to technical issues.

N. REPORTS

1. Finance Department

SUBJECT: Authorize Issuance and Sale of Water Revenue Refunding Bonds, Series 2021, to Refinance Outstanding 2014 Bonds. (10/10/10)

RECOMMENDATION: That the City Council adopt a **Resolution #15,501** authorizing the issuance and sale of Water Revenue Refunding Bonds, Series 2021, in an aggregate principal amount that shall not exceed \$25,000,000.00, to refinance outstanding bonds, authorizing execution of Indenture of Trust, Placement Agent Agreement, and related official actions. (Finance and Governance Committee approved 3-0). (Presentation will be live upon Consultant's request.)

Shiri Klima, Deputy City Manager introduced Christian Sprunger, Assistant Vice President at NHA Advisors, who presented and answered questions. No public comments were received. Discussion ensued among the Council and staff.

It was moved by Councilmember Teran, seconded by Councilmember Perello, to approve the recommended action as presented. VOTE: MacDonald, Zaragoza, Perello, Madrigal, Basua, Teran, and Lopez voted in favor; motion passed 7-0.

2. Finance Department

SUBJECT: Authorize Execution and Delivery of Schedule of Property to the Banc of America Master Equipment Lease/Purchase Agreement A-7667 for the Acquisition, Financing, and Leasing of Certain Equipment. (10/10/10)

RECOMMENDATION: That the City Council:

1. Adopt **Resolution #15,502** authorizing the execution and delivery of Schedules of Property to the Master Equipment Lease/Purchase Agreement not to exceed \$10.5 million for the acquisition, financing and leasing of certain equipment for the public benefit within the terms provided herein; authorizing the execution and delivery of other documents required in connection therewith; and authorizing the taking of all other actions necessary to the consummation of the transactions contemplated by this resolution; and

2. Adopt **Resolution #15,503** declaring the intent of the City to be reimbursed for certain capital expenditures from the proceeds of indebtedness. (Finance and Governance Committee approved 3-0) (Presentation will be live upon Consultant's request).

Shiri Klima, Deputy City Manager introduced Christian Sprunger, Assistant Vice President at NHA Advisors, who presented and answered questions. No public comments were received. Discussion ensued among the Council and staff.

It was moved by Councilmember Perello, seconded by Mayor Zaragoza, to approve the recommended action as presented. VOTE: Teran, Basua, Zaragoza, Lopez, MacDonald, Madrigal, and Perello voted in favor; motion passed 7-0.

3. Housing Department

SUBJECT: A Review of Rent Control and Tenant Protection Strategies (0/20/20)

RECOMMENDATION: That the City Council:

1. Conduct a review of potential strategies regarding tenant protection strategies;
2. Give direction to staff on the preferred components of the tenant protection strategies; and
3. Direct staff to return to the City Council for consideration of specific components of the tenant protection strategies.

Alexander Nguyen, City Manager reported and introduced Emilio Ramirez, Housing Director, who presented and answered questions. Public comments were received from Luz Maria Ramirez, Maria Navarro, Zuleth Lucero, Teresa, Arturo, Hugo, Maria S., Lucila, Petra, Caridad, Yesenia Gonzales, Marilu, Kimberly Garcia, Claudia Quezada, Olga Medina, Adriana, Soledad, Carmen Obeso, Guillermo, Nancy Lindholm, Reyna, Juanito, Petra Rodriguez, Marisol Torrez, Lucino Solano, Josefino Cervantes, Luz, Marisol Jimenez, Debbie Mitchell, Max Ghenis, Danielle Leidner-Peretz, Thomas Cady, Maria Torres, Graciela Silva, Virgida Gomez, Matt Capritto, Karen Sher, Sher Heard, Matthew Buck, Mauel Herrera, Veronica Garcia, Daniel Wilson, Barbara Macri Ortiz, Ryan, Janet Sprisser, Ian Gamble, and Mindy Greenberg. Discussion ensued among the Council and staff.

Councilmember Lopez made a motion to direct staff to draft a local ordinance version of AB 1482, with a 5% cap on rent increases, expiring December 31, 2030.

Additionally, that staff returns to council with a proposal for a public education program and enforcement mechanism for local rent control. And, accept the staff recommendations from the September 14, 2021 staff report on short term and long term recommendations on tenant rights education, local tenant protection act, density bonus permit, building new affordable housing, continuing to enforce the inclusionary ordinance, and the employee pipeline.

City Manager Nguyen stated that a draft of the ordinance will be brought to Council for their consideration in January 2022.

It was moved by Councilmember Lopez, seconded by Councilmember Teran, to approve the recommended action as presented. VOTE: Basua, Madrigal, MacDonald, Teran, Lopez, Perello, and Zaragoza voted in favor; motion passed 7-0.

4. Public Works Department

SUBJECT: Formation and Levy of a Special Tax of the City of Oxnard Community Facilities District No. 9 (Northshore at Mandalay Bay) and Dissolution of the City of Oxnard Community Facilities District No. 6 (Northshore at Mandalay Bay). (0/5/5)

RECOMMENDATION: That the City Council:

1. Conduct a Second Reading and Adopt **Ordinance No. 3004** authorizing the levy of a special tax within the Community Facilities District 9 (Northshore at Mandalay Bay); and

2. Introduce **Ordinance No. 3005** (by title only, further reading waived) Ceasing Levy of Special Tax, Extinguishing Lien and Dissolving Community Facilities District No. 6 (Northshore at Mandalay Bay).

Steve Howlett, Assistant Public Works Director, presented and answered questions. No public comments were received. Discussion ensued among the Council and staff.

It was moved by Councilmember Perello, seconded by Councilmember Teran, to approve the recommended action as presented. VOTE: Madrigal, MacDonald, Teran, Lopez, Perello, and Zaragoza voted in favor; motion passed 6-0. Councilmember Basua was not available to vote on this item due to technical issues.

5. Public Works Department

SUBJECT: Award Agreements for Automated Meter Infrastructure Installation Project PW 17-32. (0/10/30)

RECOMMENDATION: That the City Council approve and authorize the following for a total of \$30,481,628.12 in Project funds for the Advanced Meter Infrastructure (AMI) Installation Project PW 17-32 (Project No. 206503):

1. The Mayor to award and execute Agreement A-8371 with Badger Meter, Inc., for \$22,062,283.12 for Installation of Water Meters;
 2. A Project contingency amount of \$2,206,228;
 3. A Project allocation of \$2,206,228 for engineering, inspection, survey and project management; and
 4. The Mayor to award and execute Agreement A-8350 with Carollo Engineers, Inc., for \$4,006,889 for Construction Management Services.
- (Public Works and Transportation Committee approved 3-0).

Tim Bochum, City Traffic Engineer, presented and answered questions. No public comments were received. Discussion ensued among the Council and staff.

It was moved by Mayor Pro Tem MacDonald, seconded by Councilmember Lopez, to approve the recommended action as presented. VOTE: Basua, Madrigal, MacDonald, Teran, Lopez, Perello, and Zaragoza voted in favor; motion passed 7-0.

6. Public Works Department

SUBJECT: Update of Bicycle and Pedestrian Projects. (0/5/5)

RECOMMENDATION: That the City Council receive and file a report from the Oxnard Police Department on the increase of reward funds for unsolved homicide cases.

(The Public Safety Committee approved 3-0.)

Tim Bochum, City Traffic Engineer, presented and answered questions. No public comments were received. Discussion ensued among the Council and staff. Report was received and filed, no formal action was required.

7. City Manager Department

SUBJECT: Consideration of Draft Supervisorial District Maps. (0/20/20)

RECOMMENDATION: That the City Council consider draft supervisorial maps presented to the Board of Supervisors and determine:

1. What map, if any, the City Council wishes to recommend that the Board of Supervisors adopt on or before December 15, 2021; OR
2. The specific recommendation(s) the City Council wishes to provide on needed changes to one or more specific supervisorial maps that are being considered by the Board of Supervisors; OR

3. That the City Council will take no further official action regarding the supervisorial map recommended to be adopted by the Board of Supervisors; OR

4. Another alternative action(s) that the City Council wishes to take regarding the supervisorial map redistricting process.

Jason Zaragoza, Deputy City Attorney, presented and answered questions. Public comments were received from Debbie Mitchell and Barbara Macri-Ortiz. Discussion ensued among the Council and staff.

A motion was made to **approve recommended action No. 3**, that the City Council takes no further official action regarding the supervisorial map.

It was moved by Councilmember Basua, seconded by Councilmember Madrigal, to approve the recommended action as presented. VOTE: Madrigal, Lopez, MacDonald, Basua, and Perello voted in favor; Teran and Zaragoza voted against, motion passed 5-2.

8. City Attorney Department

SUBJECT: Funding Obligations for Community Facilities District No. 5 (RiverPark) (0/10/10)

RECOMMENDATION: That the City Council (acting as the legislative body of Community Facilities District No. 5 (RiverPark)) adopt **Resolution #15,504** entitled: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OXNARD ACTING IN ITS ROLE AS THE LEGISLATIVE BODY OF COMMUNITY FACILITIES DISTRICT NO. 5 (RIVERPARK) OF THE CITY OF OXNARD SPECIFYING THE PROCESS THAT MUST BE FOLLOWED BEFORE COMMUNITY FACILITIES DISTRICT NO. 5 (RIVERPARK) OF THE CITY OF OXNARD MAY REIMPOSE THE FUNDING OBLIGATION FOR FIRE PROTECTION SERVICES AT A FUTURE DATE.

Alexander Nguyen, City Manager, presented and answered questions. Public comments were received from Tai M. Hartley, Douglas Partello, and Alicia Percell. Discussion ensued among the Council and staff.

It was moved by Councilmember Teran, seconded by Councilmember Perello, to approve the recommended action as presented. VOTE: Madrigal, Lopez, Teran, MacDonald, Basua, Perello, and Zaragoza voted in favor; motion passed 7-0.

O. ADJOURNMENT

There being no further business on the agenda, and without objection, Mayor Zaragoza adjourned the meeting at 1:32 a.m.

ROSE CHAPARRO
City Clerk

JOHN C. ZARAGOZA
Mayor



CITY COUNCIL AGENDA REPORT

INFORMATION/CONSENT AGENDA

AGENDA ITEM NO. L.2

DATE: December 7, 2021

TO: City Council

FROM: Alexander Nguyen, City Manager, (805) 385-7430, alexander.nguyen@oxnard.org

SUBJECT: State of California Grant for the South Oxnard Aquatic Center.

RECOMMENDATION

That the City Council:

1. Adopt a resolution approving the filing of project applications for \$5,000,000 in State of California Specified Grant funds for the South Oxnard Aquatic Center at College Park, delegating authority to the City Manager regarding negotiations and execution of all documents necessary for the completion of the project scopes, and making required certifications and agreements to comply; and
2. Approve a budget appropriation for the use of the awarded grant funds.

BACKGROUND

On July 30, 2021, State Senator Monique Limón and Councilmember Vianey Lopez publicly announced that the City had been awarded \$5,000,000 in grant funding from the State of California (State) to construct the South Oxnard Aquatic Center. The announcement took place at College Park, the future site of the facility.

The \$5,000,000 in grant funding will serve as seed money to initiate the design, engineering, CEQA analysis, community outreach, and the first stage of construction of the South Oxnard Aquatic Center. There is no required City match. It is anticipated that the remaining costs to complete the Aquatic Center will be bond financed.

The State legislature has delegated the administration of the grant to the California Department of Parks and Recreation (State Parks). State Parks requires that the City adopt a resolution certifying the approval of a project application (attached) before entering into a contract to complete the project. A budget appropriation is attached for approval.

STRATEGIC PRIORITIES

This agenda item supports the Infrastructure and Natural Resources strategy. The purpose of the Infrastructure and Natural Resources strategy is to preserve and improve our roads, utilities, parks, trees, water supply and natural resources through effective planning, prioritization, and an equitable and efficient use of available funding.

This agenda item supports the Quality of Life strategy. The purpose of the Quality of Life strategy is to restore and increase quality services and programs that enrich Oxnard's diverse community, promotes safe neighborhoods, encourages community engagement, and supports our residents in their efforts to improve their quality of life.

FINANCIAL IMPACT

The City has been awarded \$5,000,000 in grant funding from State Parks. Upon receipt, grant funds will be deposited into Fund 219-5595-532-71-31 (State Grant Revenue) / Project 225502 for use in the design, engineering, CEQA analysis, community outreach, and the first stage of construction of the South Oxnard Aquatic Center. The grant funding is reimbursable, with payments issued by State Parks after receiving expenditure documentation from the City.

To monitor progress and rules for the grant funding for the South Oxnard Aquatic Center project, State Parks requires routine status reports every six months. These status reports continue until the City submits a Grant Completion Packet, attesting that the grant funding for the project has been fully expended.

COMMITTEE OUTCOME

This item did not originate in Committee.

Prepared by: Adam Smith, Project Manager, Eric Humel, Grants Specialist

ATTACHMENTS

1. Resolution
2. Budget Appropriation - Aquatic Center Grant
3. Specified Grant Application - City of Oxnard Aquatic Center
4. SG-56-003 Guide.Aquatic Ctr

CITY COUNCIL OF THE CITY OF OXNARD
RESOLUTION NO: _____

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OXNARD APPROVING
APPLICATION(S) FOR SPECIFIED GRANT FUNDS

WHEREAS, the State Department of Parks and Recreation has been delegated the responsibility by the Legislature of the State of California for the administration of a grant to the City of Oxnard, setting up necessary procedures governing application(s); and

WHEREAS, said procedures established by the State Department of Parks and Recreation require the applicant's Governing Body to certify by resolution the approval of project application(s) before submission of said applications to the State; and

WHEREAS, the applicant will enter into a contract with the State of California to complete the project(s);

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Oxnard hereby:

1. Approves the filing of project application(s) for specified grant project(s); and
2. Certifies that said applicant has or will have available, prior to commencement of project work utilizing specified grant funds, sufficient funds, including those provided by this grant, to complete the project; and
3. Certifies that the applicant has or will provide sufficient funds to operate and maintain the project(s); and
4. Certifies that the applicant has reviewed, understands, and agrees to the General Provisions contained in the contract shown in this Procedural Guide; and
5. Delegates the authority to the City Manager, or designee to conduct all negotiations, sign and submit all documents, including, but not limited to applications, agreements, amendments, and payment requests, which may be necessary for the completion of the project scope(s); and
6. Agrees to comply with all applicable federal, state and local laws, ordinances, rules, regulations and guidelines.

PASSED AND ADOPTED THIS _____ day of _____, 2021, by the following vote:

Ayes:

Noes:

Abstain:

Absent:

John C. Zaragoza, Mayor

ATTEST:

APPROVED AS TO FORM:

Rose Chaparro, City Clerk

Stephen M. Fischer, City Attorney

REQUEST FOR BUDGET APPROPRIATION - **FY21-22**

Department: Recreation / City Manager
Project/Program
Manager: Adam Smith

Date: November 16, 2021
Phone: 808-385-3918

Reason for Appropriation:

To recognize and appropriate \$5M of State Grant Funding to initiate the first stage of construction of South Oxnard Aquatic Center, including design, engineering, CEQA analysis, and community outreach.

Accounts and Descriptions

AMOUNT

Fund: 219 STATE/LOCAL-MY GRANTS

Revenues/Transfers In

AQUATIC CENTER SOUTH OXNARD (Project No. 225502)

219-5595-532.71-31	STATE GRANT REVENUES	5,000,000
	Sub-total Revenues	5,000,000

Expenditures/Transfers Out

AQUATIC CENTER SOUTH OXNARD (Project No. 225502)

219-5595-821.81-04	SUPPLIES-SHOP & FIELD	25,000
219-5595-821.82-09	SVCS-OTHER PROF/CONTRACT	2,500,000
219-5595-821-84-51	SERVICES FROM OTHER PROGRAMS	275,000
219-5595-821-86-02	BUILDINGS NEW	2,200,000
	Sub-total Revenues	5,000,000

Net Change to Fund Balance **0**

Net Appropriation Change **5,000,000**

Approvals

Department Director	_____
Chief Financial Officer	_____
City Manager	_____



State of California – The Natural Resources Agency
DEPARTMENT OF PARKS AND RECREATION

Specified Grant Application Packet Checklist

GRANTEES must complete the checklist below and submit it with the APPLICATION PACKET.
An APPLICATION PACKET is not complete unless all items on the checklist are submitted.
Each PROJECT requires its own APPLICATION PACKET.

Check if included	Check if not applicable	Application Item	Procedural Guide Page #	Check when signed by AUTHORIZED REPRESENTATIVE	Application Packet Page #
☒		Application Packet Checklist Digital file name: checklist.pdf	Pg. 8		Pg. _____
☒		Application Digital file name: application.pdf	Pg. 12	☐	Pg. <u>1</u>
☒	☐	Project Scope/Cost Estimate or Digital file name: scope.pdf	Pg. 13	☐	Pg. <u>2</u>
☒	☐	Funding Sources Form Digital file name: fundingsources.pdf	Pg. 14	☐	Pg. <u>3</u>
☒		CEQA Compliance Certification Digital file name: ceqa.pdf	Pg. 15	☐	Pg. <u>4</u>
☐	☒	Acquisition Requirements Digital file names: acqscope.pdf & acqdocs.pdf	Pg. 19	☐	Pg. _____
☒	☐	Land Tenure documentation Digital file names: ownership.pdf or nonownership.pdf	Pg. 9		Pg. <u>5</u>
☐	☒	Sub-Leases or Agreements Digital file name: otheragreements.pdf	Pg. 9		Pg. _____
☐	☒	Site Plan Digital file name: siteplan.pdf	Pg. 9		Pg. _____
☒		Project Location Map Digital file name: map.pdf	Pg. 9		Pg. <u>20</u>



State of California – The Natural Resources Agency
DEPARTMENT OF PARKS AND RECREATION

Specified Grant Project Application Form

PROJECT NAME South Oxnard Aquatic Center	REQUESTED GRANT AMOUNT \$ \$5,000,000
PROJECT SITE NAME and PHYSICAL ADDRESS where PROJECT is located including zip code (substitute latitude and longitude where no street address is available) College Park 3250 S. Rose Ave Oxnard, CA 93030	LAND TENURE (☒ all that apply) ☒ Owned in fee simple by GRANTEE ☐ Available (or will be available) under a () year lease or easement
NEAREST CROSS STREET S. Rose Ave & E. Channel Islands Blvd	
Project Type (Check one) Acquisition ☐ Development ☒	
COUNTY OF PROJECT LOCATION Ventura	
GRANTEE NAME AND MAILING ADDRESS City of Oxnard, 400 W. 3rd St, 4th Floor, Oxnard, CA 93030	
AUTHORIZED REPRESENTATIVE AS SHOWN IN RESOLUTION	
Name (typed or printed) and Title Email address Phone Alexander Nguyen, City Manager; alexander.nguyen@oxnard.org; (805) 385-7447	
GRANT CONTACT-For administration of grant (if different from AUTHORIZED REPRESENTATIVE)	
Name (typed or printed) and Title Email address Phone Adam Smith, Project Manager; adam.smith@oxnard.org; (805) 385-3918	
GRANT SCOPE: I represent and warrant that this APPLICATION PACKET describes the intended use of the requested GRANT to complete the items listed in the attached Development PROJECT Scope/Cost Estimate Form or acquisition documentation. I declare under penalty of perjury, under the laws of the State of California, that the information contained in this APPLICATION PACKET, including required attachments, is accurate.	
Signature of AUTHORIZED REPRESENTATIVE as shown in Resolution Date Print Name: Alexander Nguyen Title: City Manager	



State of California – The Natural Resources Agency
DEPARTMENT OF PARKS AND RECREATION

Specified Grant Development Project Scope/Cost Estimate Form

GRANTEE:
City of Oxnard

PROJECT Name
South Oxnard Aquatic Center

Development project scope (Describe the project in 30 words or less):

Community outreach, CEQA analysis, design, construction documentation, bid, and the first stage of construction which comprises the mass grading of the site.

Project Scope Items - ☐ all that apply:

Install new	Renovate existing	Replace existing	Recreation Element
☐	☐	☐	Pool, aquatic center, splash pad
☐	☐	☐	Trails or walking paths
☐	☐	☐	Landscaping or irrigation
☐	☐	☐	Group picnic, outdoor classrooms, other gathering spaces
☐	☐	☐	Play equipment, outdoor fitness equipment
☐	☐	☐	Sports fields, sports courts, court lighting
☐	☐	☐	Community center, gym, other indoor facilities
☐	☐	☐	Restroom, concession stand
☒	☐	☐	Other: Community outreach, CEQA analysis, design, construction documentation, bid
☒	☐	☐	Other: 1st stage of construction: mass grading of the site
☐	☐	☐	Minor elements which support one or more of the recreation elements checked above: benches, lighting, parking, signage, etc.

PRE-CONSTRUCTION (costs incurred prior to ground-breaking, such as design, permits, bid packages, CEQA). **\$2,800,000.00**

Construction **\$2,200,000.00**

Total PROJECT cost **\$5,000,000.00**

Total GRANT amount requested **\$5,000,000.00**

The GRANTEE understands that all elements listed on this form must be complete and open to the public before the final grant payment will be made.

AUTHORIZED REPRESENTATIVE Signature

Date

Alexander Nguyen, City Manager

Print Name and Title



State of California – The Natural Resources Agency
DEPARTMENT OF PARKS AND RECREATION

Specified Grant Funding Sources Form

GRANTEE: City of Oxnard	PROJECT Name South Oxnard Aquatic Center
----------------------------	---

PROJECTS funded by the program are not complete until the PROJECT SCOPE is complete, and the PROJECT is open to the public. PROJECTS will:

- Be entirely funded by the GRANT, *or*
- Require funds in excess of the GRANT.

If the PROJECT requires funds in excess of the GRANT, the SCOPE of the PROJECT may be either the SCOPE of the larger project, or a subset of the larger project.

For example, if the PROJECT is \$100,000 towards construction of a \$500,000 park, the SCOPE can be the \$500,000 park, or a \$100,000 element of the park, such as a playground, that can be complete and open to the public.

- ☒ The PROJECT will be entirely funded by the GRANT, *or*
☐ The PROJECT requires funds in excess of the GRANT:
☐ The SCOPE is the same as the scope of the larger project, *or*
☐ The SCOPE is a subset of a larger project, the scope of that larger project is:

Larger project cost: \$

Anticipated completion date:

List all funds that will be used. Submit revised Funding Sources form should funding sources be added or modified.

Funding Source	Date Committed	Amount
Specified Grant/State of California	July 1, 2021	\$ 5,000,000
		\$
		\$

I represent and warrant that I have full authority to execute this Funding Sources Form on behalf of the GRANTEE. I declare under penalty of perjury, under the laws of the State of California, that this status report, and any accompanying documents, for the above-mentioned GRANT is true and correct to the best of my knowledge.

AUTHORIZED REPRESENTATIVE Signature

Date

Alexander Nguyen, City Manager

Print Name and Title



State of California – The Natural Resources Agency
DEPARTMENT OF PARKS AND RECREATION

CEQA Compliance Certification

GRANTEE: City of Oxnard

Project Name: South Oxnard Aquatic Center

Project Address: 3250 S. Rose Ave Oxnard, CA 93030

Is CEQA complete? ☐ Yes ☒ No Is completing CEQA a PROJECT SCOPE item? ☒ Yes ☐ No

What document was filed, or is expected to be filed for this project's CEQA analysis:

Date complete/expected to be completed

- ☐ Notice of Exemption (attach recorded copy if filed)
☒ Notice of Determination (attach recorded copy if filed) December 31, 2022
☐ Other:

If CEQA is complete, and a Notice of Exemption or Notice of Determination was not filed, attach a letter from the Lead Agency explaining why, certifying the project has complied with CEQA and noting the date that the project was approved by the Lead Agency.

Lead Agency Contact Information	
Agency Name:	
Contact Person:	
Mailing Address:	
Phone: ()	Email:

Certification:

I hereby certify that the above referenced Lead Agency has complied or will comply with the California Environmental Quality Act (CEQA) and that the project is described in adequate and sufficient detail to allow the project's construction or acquisition.

I further certify that the CEQA analysis for this project encompasses all aspects of the work to be completed with grant funds.

AUTHORIZED REPRESENTATIVE Signature

Date

Alexander Nguyen, City Manager

Print Name and Title

FOR OGALS USE ONLY

CEQA Document	Date Received	PO Initials
☐ NOE ☐ NOD		

RECORDED AT THE REQUEST OF
CHICAGO TITLE CO.-72

Recording Requested By and
When Recorded Mail to:

City of Oxnard
Attn: City Manager
City Manager's Office
300 West Third Street
Oxnard, California 93030



Ventura, County Recorder
RICHARD D. DEAN

DOC- 2000-0097235-00

Acct 3-Chicago Title

Tuesday, JUN 20, 2000 08:00:00

Ttl Pd \$0.00

Nbr-0000179837

LGP/RP/1-14

Request recording without fee. Record for the benefit of the
City of Oxnard pursuant to section 6103 of the Government Code.

204015202-301 (Space above this line for Recorder's use)

QUITCLAIM DEED

For and in consideration of the perpetual use of the hereafter described real property as and for solely and exclusively public park and recreation purposes, THE COUNTY OF VENTURA, herein called "County," does hereby release and quitclaim to the CITY OF OXNARD, a municipal corporation, herein called "City," the real property described in Exhibit A, attached hereto and incorporated herein by this reference, including, without limitation, all improvements thereon (hereafter the "Property"), "AS IS" and without warranty of any kind, to have and to hold forever subject to the reservations, exceptions, restrictions, conditions and covenants hereinafter set forth.

1. The Property is quitclaimed by the County to the City, subject to any and all outstanding easements and/or covenants, restrictions, reservations, conditions and agreements of record which now exist affecting the subject Property.

2. This quitclaim conveyance is subject to both a condition subsequent and a covenant that runs with the land that the Property hereby conveyed shall be used and maintained solely and exclusively for public park and recreation purposes.

3. It is agreed and understood by and between the County and the City, and the City by acceptance of this quitclaim deed does acknowledge its understanding of the agreement, and does covenant and agree for itself, its successors and assigns, forever, as follows:

a. The subject Property shall be used and maintained solely and exclusively for public park and recreation purposes in perpetuity.

b. Permitted public park and recreation uses shall be limited to those uses specified in the "Program of Utilization" ("POU") attached as Exhibit B hereto and incorporated herein by this reference; provided, however, that public park and recreation uses of lesser intensity are authorized without further review or approval by the County. Public park and recreation uses of greater intensity than those specifically specified in the POU are permitted only by mutual written agreement between the County and the City.

c. A portion of the Property was acquired and/or improved by the County, using, in whole or in part, "Land Water Conservation Fund Act" grant moneys from the federal government, along with a share of grant moneys from the State of California. Among other things, there is a "Land and Water Conservation Fund Project Agreement" ("Agreement") that imposed certain continuing obligations on the County. For the period commencing on the date this deed is recorded and thereafter, City shall assume, succeed to and be responsible for carrying out and performing all future obligations applicable to the "Participant" pursuant to that Agreement to the extent that any obligations remain outstanding, continuing and/or applicable.

d. Further, as specified in the "Memorandum of Understanding" ("MOU") between the City of Oxnard, the "County of Ventura Department of Parks" and the "California State Department of Parks and Recreation" ("State"), which MOU is being executed in connection with the transfer of the subject Property from the County to the City, "through the years the County has received funding for the subject park from various state sources in the form of grants administered through agreements by the State." The State sets forth in the MOU that "Prior to transferring control of [the park] to the City, the County had completed all requirements and satisfied all conditions associated with the grant agreements with the State and was subject only to" clauses "regarding use of facilities, nondiscrimination, and the standard hold harmless clause" which clauses are thereafter set forth. In the MOU, among other things, the City agrees to comply with the specified "continuing assurances" and to consult with the state concerning any proposed actions that might constitute either a nonconforming use or discrimination. The MOU further specifies that "the County is relieved of any obligation to the State for grant agreements associated with the subject parks [sic]."

To the extent that the MOU does not relieve the County from any further or continued obligation under grant agreements associated with the subject park, either to

the state or to the federal government, for the period commencing on the date this deed is recorded and thereafter, the City shall assume, succeed to and be responsible for carrying out and performing all future obligations applicable to the grant recipient pursuant to any and all applicable grant agreements to the extent that any obligations remain outstanding, continuing and/or applicable.

e. City acknowledges that it has had a full opportunity to review the County public files and to do such due diligence inquiry as it considered appropriate in determining the extent of any remaining grant conditions and obligations being assumed by City pursuant to subparagraphs c. and d. above.

f. The subject Property shall be operated and maintained for the benefit and use of all residents of the county. In this regard, there shall be no discrimination, in any respect, in connection with management, operation or use of the subject Property, against any person on the basis of residence. By way of example, but without limitation, there shall be no discrimination with regard to reservations, or with respect to admission, use, or any fees charged, on the basis of residence. It is specifically recognized that the foregoing requirements are more stringent than the requirements under certain grant terms (see MOU, paragraph B.2) and that the more stringent requirements set forth herein shall govern.

g. The City is concerned that the Property is or may be encumbered by leases and subleases between the County and the County of Ventura Public Facilities Corporation, and an option to purchase, recorded at pages 64120 et seq. in Book 1985 of the official records of the County Recorder, and by related documents including an unrecorded trust agreement, evidencing and securing an obligation in the approximate amount of \$855,650. The County does not believe that the Property is so encumbered at all. If indeed the referenced encumbrance presently exists, the County cannot, and does not, guarantee that it can be removed, and the County is unwilling to pay \$855,650, or any other sum, to remove any such encumbrance if it exists. The County does agree that it will use its best efforts to remove, or to assist the City in obtaining removal of, any such encumbrance, if it exists, but County shall not be obligated to expend County funds to do so and City shall pay all costs, if any, involved in obtaining such removal. If such removal is indeed necessary and cannot be accomplished to the City's satisfaction, City shall have the right, at its option, to rescind this transaction and to reconvey the Property to the County. Such rescission and reconveyance shall be the City's sole remedy and, in no event, shall City be entitled to damages or any other compensation from the County.

h. If the Property hereby conveyed is not used and maintained solely and exclusively for public park and recreation purposes, then the County, or any County successor or assign, at its option, without having to pay any compensation for any

of the Property and that it accepts the Property in "AS IS" CONDITION, WITH AND SUBJECT TO "ANY AND ALL FAULTS."

IN WITNESS WHEREOF, the County and the City have caused this instrument to be executed on their behalf by their respective duly authorized officers.

County:

COUNTY OF VENTURA



By:

Kathy Long
Kathy Long, Chair
Board of Supervisors

NOTARIZATION REQUIRED

THE CITY OF OXNARD HEREBY ACCEPTS THIS QUITCLAIM DEED AND AGREES TO ALL TERMS AND CONDITIONS SET FORTH THEREIN.

City:

CITY OF OXNARD

By:

Dr. Manuel M. Lopez 06/13/00
Dr. Manuel M. Lopez, Mayor

NOTARIZATION REQUIRED

ACKNOWLEDGMENT

State of California)
County of Ventura)

On April 18, 2000, before me, Roberta Rodriguez, Deputy County Clerk, personally appeared KATHY I. LONG known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her authorized capacity, and that by her signature on the instrument the entity upon behalf of which she acted executed the instrument.



WITNESS my hand and official seal.
RICHARD D. DEAN, County Clerk
County of Ventura, California

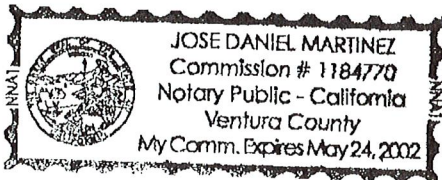
By Roberta Rodriguez
Deputy County Clerk

ACKNOWLEDGMENT

State of California)
County of Ventura)

On June 13, 2000, before me, the undersigned, a Notary Public in and for said state, personally appeared Dr. Manuel M. Lopez known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity and that by his signature on the instrument the entity upon behalf of which he acted executed the instrument.

WITNESS my hand and official seal.



Jose Daniel Martinez
NOTARY PUBLIC in and for said
County and State

COLLEGE PARK
VT-V02-118-05
DATE: 3-18-85
WRITTEN: RJM
CHECKED: FEL
TYPED: SC

LEGAL DESCRIPTION
PAA - COLLEGE PARK

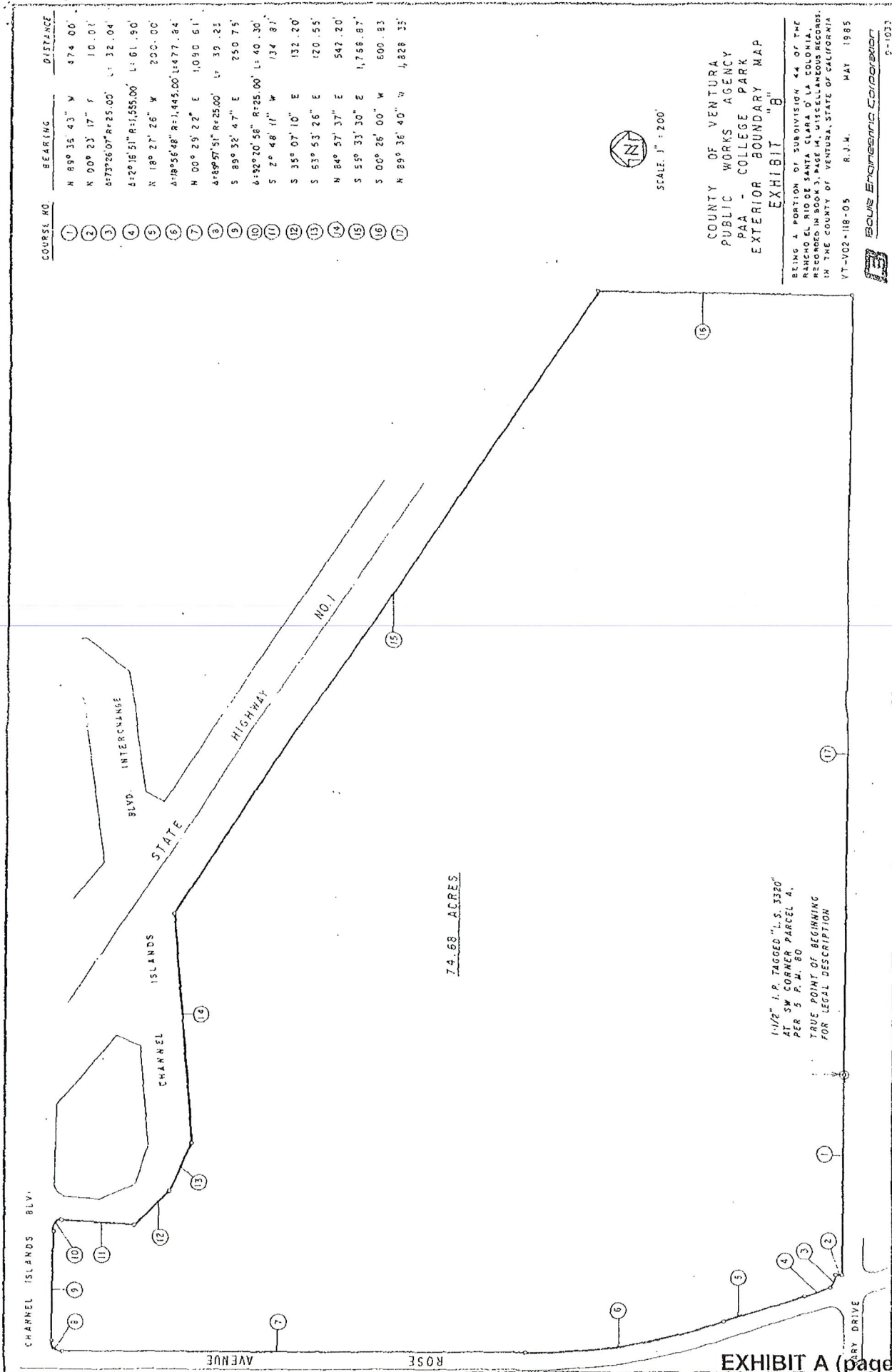
A portion of Subdivision 44, Rancho El Rio de Santa Clara O'La Colonia, in the City of Oxnard, County of Ventura, State of California, as shown on the map recorded in Book 3, Page 14, of Miscellaneous Records in the office of the County Recorder of said County and described as follows:

Beginning at the southwesterly corner of Parcel A of a Parcel Map filed June 5, 1969 in the office of said County Recorder in Book 5 of Parcel Maps of Page 80, said southwesterly corner being defined by a 1-1/2" iron pipe monument set per said Parcel Map, as the TRUE POINT OF BEGINNING; thence,

1. North 89°36'43" West 474.00 feet; thence,
2. North 00°23'17" East 10.01 feet to the beginning of a curve concave northeasterly and having a radius of 25.00 feet, the radial at the beginning of said curve bearing North 00°23'17" East to the center of same; thence,
3. Northerly along said curve through a central angle of 73°26'07" an arc distance of 32.04 feet to a point of reverse curve, said curve having a radius of 1555.00 feet; thence,
4. Northerly along said reverse curve through a central angle of 2016'51" an arc distance of 61.90 feet; thence,
5. North 18°27'26" West 200.00 feet to the beginning of a tangent curve concave easterly and having a radius of 1445.00 feet; thence,
6. Northerly along said curve through a central angle of 180°56'48" an arc distance of 477.84 feet; thence,
7. North 00°29'22" East 1090.61 feet to the beginning of a tangent curve concave southeasterly and having a radius of 25.00 feet; thence,
8. Easterly along said curve through a central angle of 89°57'51" an arc distance of 39.25 feet; thence,

9. South $89^{\circ}32'47''$ East 250.75 feet to the beginning of a tangent curve concave southwesterly and having a radius of 25.00 feet; thence,
10. Southerly along said curve through a central angle of $92^{\circ}20'58''$ an arc distance of 40.30 feet; thence,
11. South $2^{\circ}48'11''$ West 134.81 feet; thence,
12. South $35^{\circ}07'10''$ East 132.20 feet; thence,
13. South $63^{\circ}53'26''$ East 120.55 feet; thence,
14. North $84^{\circ}57'37''$ East 542.20 feet; thence,
15. South $55^{\circ}33'30''$ East 1768.87 feet; thence,
16. South $0^{\circ}26'00''$ West 600.83 feet; thence,
17. North $89^{\circ}36'40''$ West 1828.35 feet to the TRUE POINT OF BEGINNING.

Said College Park containing 74.68 acres.



COURSE NO.	BEARING	DISTANCE
1	N 89° 35' 43" W	374.00'
2	N 00° 23' 17" E	10.01'
3	S 73° 26' 07" E R=25.00'	L= 32.04'
4	S 18° 16' 51" E R=1,555.00'	L= 61.90'
5	N 18° 27' 26" W	200.00'
6	S 18° 56' 48" E R=1,445.00'	L= 477.84'
7	N 00° 29' 22" E	1,090.61'
8	S 89° 57' 51" E R=25.00'	L= 30.23'
9	S 89° 32' 47" E	250.75'
10	S 92° 20' 56" E R=25.00'	L= 40.30'
11	S 2° 48' 11" W	134.81'
12	S 35° 07' 10" E	132.20'
13	S 63° 53' 26" E	120.55'
14	N 84° 57' 37" E	542.20'
15	S 55° 33' 30" E	1,788.87'
16	S 00° 26' 00" W	600.23'
17	N 89° 36' 40" W	1,828.35'



COUNTY OF VENTURA
PUBLIC WORKS AGENCY
PAA - COLLEGE PARK
EXTERIOR BOUNDARY MAP
EXHIBIT "B"

BEING A PORTION OF SUBDIVISION 44 OF THE
RANCHO EL RIO DE SANTA CLARA O LA COLONIA,
RECORDED IN BOOK 3, PAGE 14, MISCELLANEOUS RECORDS,
IN THE COUNTY OF VENTURA, STATE OF CALIFORNIA
VT-102-118-05 R.J.M. MAY 1985

BE BOWEN ENGINEERING CORPORATION
9-1032

1-1/2" I.P. TAPPED "L.S. 3320"
AT SW CORNER PARCEL 4.
PER 5 P.W. 80
TRUE POINT OF BEGINNING
FOR LEGAL DESCRIPTION

EXHIBIT A (page 3 of 3)

EXHIBIT B

PROGRAM OF UTILIZATION (POU)

Park Name: College Park

Location: 3250 South Rose Avenue
South of Channel Islands Boulevard and State Highway 1,
and east of Rose Avenue, in the city of Oxnard

Area: Approximately 75 acres

Permitted Use: **Public Park and Recreation Purposes, Including the Following Specified Uses and Services**

1. Amphitheater
2. Athletic fields and areas, i.e., soccer, softball, baseball, volleyball, roller hockey, basketball and related accessory facilities
3. California Strawberry Festival
4. Golf course, driving range
5. Picnic areas
6. Swimming pool
7. Retail commercial activity, i.e., food, beverage, clothing, equipment related to public park and recreation purposes
8. Accessory facilities related to public park and recreation purposes, i.e., restrooms, play equipment, seating, barbeque areas

EXHIBIT

BOARD MINUTES BOARD OF SUPERVISORS, COUNTY OF VENTURA, STATE OF CALIFORNIA

SUPERVISORS SUSAN K. LACEY, FRANK SCHILLO,
KATHY I. LONG, JUDY MIKELS AND JOHN K. FLYNN

April 18, 2000 at 10:00 a.m.

221-College Park/503

Public Hearing regarding the Conveyance of College Park to the City of Oxnard.
REQUIRES 4/5THS VOTE

- (X) All board members are present.
- (X) The following persons are heard: John Johnston, Tom Chu, Mayor Manuel Lopez, Edmund Sotelo, Dr. Steven Arvisu, Guadalupe Villealpando, Larry Stein, Kelly Zubiato, Paul Chatman, Ken High, Jacob Goren, Ray Rangel, Donato Ventura, Roberto Trasa, Barbara Macri-Ortiz, Rueben Munoz, Lois Jones, Jane Tolmach, Martin Jones, Ramon Arao, Steve Sampson, Virginia Baladad, Julian Vergara, and Richard Odekirk.
- (X) The following documents are submitted to the Board for consideration:
(X) 4 statement cards; (X) Letter dated April 13, 2000 from City of Oxnard - City Council; and letter dated April 17, 2000 from Dan Kuntz, Head Men's and Women's Soccer Coach, California Lutheran University.
- (X) The Board holds a public hearing.
- (X) Upon motion of Supervisor Flynn, seconded by Supervisor Lacey, and duly carried, the Board hereby approves the following staff recommendations:
1. Finds that College Park is local in character and not required for County use pursuant to Government Code Section 25365 respectively.
 2. Authorizes the Chair to execute the attached Quitclaim Deed (Attachment 1) conveying the College Park real property to the City of Oxnard to be used and maintained for park and recreational purposes.
 3. Approves and authorizes the Director of the General Services Agency to sign the attached Memorandum of Understanding between the County, the City of Oxnard, and the State Department of Parks and Recreation, which transfers State grant compliance to the City.

By: 
Deputy County Clerk

CLERK'S CERTIFICATE

I hereby certify that the annexed instrument
is a true and correct copy of the document
which is on file in this office.
RICHARD D. DEAN, County Clerk and ex-officio
Clerk of the Board of Supervisors, County of
Ventura, State of California.

Dated: _____

By: _____
Deputy County Clerk

Item 19
4/18/00

DISTRIBUTION: Originating Agency(2), Auditor, File, City of Oxnard

county of ventura

John F. Johnston
Director



GENERAL SERVICES AGENCY
County Government Center
Administration Building, L #1000
800 South Victoria Avenue
Ventura, CA 93009
(805) 654-3800

April 18, 2000

Board of Supervisors
County of Ventura
800 South Victoria Avenue
Ventura, CA 93009

SUBJECT: CONVEYANCE OF COLLEGE PARK TO THE CITY OF OXNARD
REQUIRES UNANIMOUS OR 4/5THS VOTE

RECOMMENDATIONS:

1. That the Board find that College Park is local in character and not required for County use pursuant to Government Code Sections 25550.5 and 25365, respectively.
2. Authorize the Chair to execute the attached Quitclaim Deed (Attachment 1) conveying the College Park real property to the City of Oxnard to be used and maintained for park and recreational purposes.
3. That the Board approve and authorize the Director of the General Services Agency to sign the attached Memorandum of Understanding between the County, the City of Oxnard, and the State Department of Parks and Recreation, which transfers State grant compliance to the City.

FISCAL/MANDATE IMPACTS:

Mandatory:	No
Source of Funding:	N/A
Impact on Other Departments:	none

Summary of costs and revenues eliminated with the transfer of the park:

Annual average costs	\$89,000
Annual average revenue	<u>39,000</u>
Net Cost	\$50,000

The recommended action reduces annual net costs by approximately \$50,000 in the Parks Enterprise Fund.



Board of Supervisors

April 18, 2000

CONVEYANCE OF COLLEGE PARK TO THE CITY OF OXNARD

Page 2

DISCUSSION:

College Park consists of approximately 75 acres of partially developed land located adjacent to the Oxnard Community College in the City of Oxnard. The property and improvements were acquired for recreational purposes through public and private donations, grants and bond money. Fifty acres of the park were donated by the City of Oxnard in 1979 under the agreement that it would be developed for park purposes.

For a variety of reasons, the regional park plan was never realized, while the local recreational needs of the area changed during the intervening years. With this in mind in the spring of 1998, Supervisors Flynn and Schillo began working with the City of Oxnard and the Community College to identify the best uses and most effective method of developing and utilizing College Park.

After eighteen months of discussions, the joint study group unanimously concluded that local recreational needs should be given the highest priority at this site. Since the County Parks Department's primary responsibility is to serve regional recreational needs, staff is recommending that College Park be transferred to the City of Oxnard. The City of Oxnard is willing to assume financial and administrative responsibility for development, operation, and maintenance of the property as a municipal recreation facility.

The recommended transfer is conditioned on the property's future development being in accordance with the program of utilization (POU) (Exhibit B to the attached Quitclaim Deed). The POU is not intended as a specific plan, but rather as a guide to the type of activities contemplated. Less intensive activities than those specified in the POU are permitted; however, activities of greater intensity will require an amendment to the POU by mutual written agreement between the County and the City. This transfer will reduce net operating cost in the Parks Enterprise Fund by approximately \$50,000 and has further potential for annual savings through reorganization and assignment of the workforce.

Pursuant to Government Code section 25550.5, *upon a unanimous vote*, the Board of Supervisors may, *upon a finding that College Park is local in character*, convey the park to the city for "public park, amusement or recreational purposes" in return for *the agreement of the city to maintain the park as a public park and recreational area for the benefit and use of all residents of the county*.

Also, pursuant to Government Code section 25365, "*The board of supervisors may, by a four-fifths vote, grant, convey, quitclaim, assign, or otherwise transfer to ... any city ... any real or personal property, or interest therein belonging to the county upon such terms and conditions as are agreed upon... if the property or interest therein to be granted and conveyed or quitclaimed is not required for county use*" The

Board of Supervisors

April 18, 2000

CONVEYANCE OF COLLEGE PARK TO THE CITY OF OXNARD

Page 3

subject property is restricted to public park and recreational use, and, absent extraordinary actions or developments, could not be used for non-park purposes. Since the park use would be local in nature, in our view the property is not required for County use.

The park is further being conveyed to the City with the restriction that it be used in perpetuity solely and exclusively for public park and recreational purposes in order to ensure compliance with the "County Park Abandonment Law of 1959" (Government Code sections 25580-25588) and the "Public Parks Preservation Act of 1971" (Public Resources Code section 5400 et seq.). Government Code Section 25581 specifies that a transfer is not deemed to be an "abandonment" if the conveyance is "expressly made subject to the condition that the property transferred be used only for park purposes." Public Resources Code section 5401 specifies certain requirements if property in use as a public park is acquired "for the purpose of utilizing [the] property for any non-park purpose."

Because certain grant monies have been utilized in connection with College Park over the years, there are further requirements that the property continue to be used for park purposes consistent with those grants. Certain terms and conditions will continue to apply and will be assumed by the City of Oxnard pursuant to the Memorandum of Understanding (Attachment 2) between the State Department of Parks and Recreation, the City, and the County.

We believe this transfer is in the public interest and will lead to continued and improved operation and expansion of College Park for public park and recreational purposes. Transfer of College Park to the City of Oxnard was recommended by the Chief Administrative Office in the February 22, 2000, FY 1999/00 Budget Report and Workshop letter and approved by your Board. The Parks Advisory Commission is also recommending the park transfer by action taken at their meeting of March 13, 2000. This transfer action is exempt under the California Environmental Quality Act pursuant to CEQA Guidelines sections 15061 (b) (3) and 15301.

This letter has been reviewed by the Chief Administrative Office, County Counsel, and Auditor-Controller's Office. If you have any questions regarding this matter, please call me at 654-3800, or Andy Oshita at 654-3945.



JOHN F. JOHNSTON
Director

Attachments

College Park: Project Location of Future Aquatic Center



2021-22
Procedural Guide for
City of Oxnard
Local Assistance Specified Grant
November 9, 2021



State of California
The Natural Resources Agency
Department of Parks and Recreation
Office of Grants and Local Services (OGALS)

“Creating Community through People, Parks, and Programs”

Send Application and correspondence to your
Administrative Project Officer listed at: www.parks.ca.gov/grants/contacts

Mailing Address:
Calif. Dept. of Parks and Recreation
Office of Grants and Local Services
P.O. Box 942896
Sacramento, CA 94296-0001

www.parks.ca.gov/grants

**2021-2022 California State Budget, SB 129, Chapter 69, Statutes of 2021, as
amended by SB 170, Chapter 240, Statutes of 2021**
Section 174, Item #:

(115) \$5,000,000 to the City of Oxnard for a full-service aquatics center in South
Oxnard.

**STATE OF CALIFORNIA
DEPARTMENT OF PARKS AND RECREATION**



Department Mission

The mission of the California Department of Parks and Recreation is to provide for the health, inspiration, and education of the people of California by helping to preserve the state's extraordinary biological diversity, protecting its most valued natural and cultural resources, and creating opportunities for high-quality outdoor recreation.

Office of Community Engagement Mission

The mission of the Community Engagement Division is to encourage healthy communities by connecting people to parks, supporting innovative recreational opportunities, embracing diversity, fostering inclusivity, and delivering superior customer leadership through quality customer services.

The Office of Grants and Local Services (OGALS) Mission Statement

The mission of the Office of Grants and Local Services is to address California's diverse recreational, cultural and historical resource needs by developing grant programs, administering funds, offering technical assistance, building partnerships and providing leadership through quality customer service.

OGALS VISION GOALS

To Be:

- ❖ A leader among park and recreation professionals.
- ❖ Proactive in anticipating public park and recreation needs and how new legislation and grant programs could best meet these needs.
- ❖ Honest, knowledgeable, and experienced grant administration facilitators.
- ❖ Sensitive to local concerns while mindful of prevailing laws, rules, and regulations.
- ❖ Perceptive to opportunities for partnerships, growth and renewal where few existed before.
- ❖ Committed to providing quality customer service in every interaction and transaction.
- ❖ Responsive to the needs of applicants, GRANTEES, nonprofit organizations, local governments, legislative members, and department employees.

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I. Introduction

This specified grant originated from a line item in the State of California Budget for fiscal year 2021-22. A resolution is required before a CONTRACT will be issued, and an approved APPLICATION PACKET is required before GRANT payments can be approved. The GRANT PERFORMANCE PERIOD is July 1, 2021 – June 30, 2024.

1. Costs incurred before or after the GRANT PERFORMANCE PERIOD are not eligible for reimbursement.
2. Costs incurred after the APPROPRIATION DATE but before OGALS approves the APPLICATION PACKET are eligible if they are consistent with the GRANT SCOPE approved by OGALS and are ELIGIBLE COSTS.

II. Grant Process

Grant Process Key Dates

- Grant Performance Period: July 1, 2021 – June 30, 2024
- Resolution: Submit by December 31, 2021
- Contract: Sign and return by January 31, 2022
- Projects Complete by December 31, 2023
- Project Completion Packets: Submit by: March 31, 2024

Grant Process Detail

1. **Resolution:** APPLICANT sends resolution to OGALS by December 31, 2021 to allow approval within the CONTRACT ENCUMBRANCE PERIOD, which ends June 30, 2022.
2. **CONTRACT:** OGALS sends CONTRACT to APPLICANT. APPLICANT becomes GRANTEE when CONTRACT is fully executed during CONTRACT ENCUMBRANCE PERIOD.
 - a. The CONTRACT section includes a sample contract and the contract provisions.
 - b. The APPLICANT must return the CONTRACT signed by the AUTHORIZED REPRESENTATIVE to OGALS no later than January 31, 2022. The APPLICANT becomes a GRANTEE when the CONTRACT is signed by OGALS.
 - c. OGALS returns a copy of the fully executed CONTRACT to the GRANTEE.
3. **APPLICATION PACKET(s):** The GRANTEE defines the PROJECT SCOPE(s) and amount of grant funds needed for each PROJECT. As PROJECTS are identified, the GRANTEE submits individual APPLICATION PACKET(s) to OGALS. OGALS reviews each APPLICATION PACKET and sends a letter of approval to the GRANTEE or requests additional information.

After each PROJECT is approved by OGALS, OGALS will send a Status Report to the GRANTEE approximately every six months until OGALS receives a PROJECT

COMPLETION PACKET. The GRANTEE must return the Status Report within thirty (30) days from receipt. Payment requests will not be processed if Status Reports are overdue.

4. **Payments and end of GRANT PERFORMANCE PERIOD:** GRANTEE requests payments for ELIGIBLE COSTS. OGALS recommends that GRANTEE provide all PROJECT COMPLETION PACKET(S) no later than **March 31, 2024**. The grant payments section provides payment request instructions and forms.
 - a. The GRANTEE may request payments after each PROJECT is approved by OGALS. GRANT funds may only be expended on ELIGIBLE COSTS incurred within the GRANT PERFORMANCE PERIOD.
 - b. The GRANTEE completes PROJECT SCOPE(s) and sends PROJECT COMPLETION PACKET(s) to OGALS no later than March 31, 2024.
 - c. The State of California receives a high volume of payment requests at the end of the fiscal year. If the PROJECT COMPLETION PACKET is received after March 31, 2024, OGALS cannot guarantee final payment by the State Controller's Office. If the State Controller's Office is unable to process the payment before the end of the GRANT PERFORMANCE PERIOD, the unpaid balance of grant funds will revert to the Legislature.
 - d. OGALS processes the final payment request after each PROJECT is complete as documented by the GRANTEE in the PROJECT COMPLETION PACKET, and as verified by OGALS when conducting a site inspection.
5. **Accounting and Audit:** DPR's Audits Office may conduct an audit. The GRANTEE is required to retain all PROJECT records for five years following receipt of the final GRANT payment. The Accounting and Audit Section provides directions and an Audit Checklist for DPR audit and accounting requirements.

Authorizing Resolution

GRANTEE passes *one* resolution approving the filing of *all* applications associated with the CONTRACT and forwards a copy to OGALS.

The Authorizing Resolution on the following page may be reformatted; however, the *language provided in the resolution must remain unchanged*.

The Authorizing Resolution serves two purposes:

1. It is how the GRANTEE'S Governing Body agrees to the terms of the CONTRACT; it provides confirmation that the GRANTEE has the funding to complete, operate and maintain PROJECTS associated with the CONTRACT.
2. It designates a position title to represent the Governing Body on all matters regarding PROJECTS associated with the CONTRACT. The incumbent in this position is referred to as the AUTHORIZED REPRESENTATIVE.

The AUTHORIZED REPRESENTATIVE can delegate signatory authority to other individuals (by position title) either in entirety or for particular documents. The delegation process requires the AUTHORIZED REPRESENTATIVE to submit a letter (on letterhead) or email to OGALS delegating authority.

Resolution Form

Resolution No: _____

RESOLUTION OF THE _____ (Title of Governing Body/City Council, Board of
Supervisors) OF _____ (City, County, or District) APPROVING
APPLICATION(S) FOR SPECIFIED GRANT FUNDS

WHEREAS, the State Department of Parks and Recreation has been delegated the responsibility by the Legislature of the State of California for the administration of a grant to the [grantee name], setting up necessary procedures governing application(s); and

WHEREAS, said procedures established by the State Department of Parks and Recreation require the applicant's Governing Body to certify by resolution the approval of project application(s) before submission of said applications to the State; and

WHEREAS, the applicant will enter into a contract with the State of California to complete project(s);

NOW, THEREFORE, BE IT RESOLVED that the _____ (grantee's governing body) hereby:

1. Approves the filing of project application(s) for specified grant project(s); and
2. Certifies that said applicant has or will have available, prior to commencement of project work utilizing specified grant funds, sufficient funds, including those provided by this grant, to complete the project; and
3. Certifies that the applicant has or will provide sufficient funds to operate and maintain the project(s); and
4. Certifies that the applicant has reviewed, understands, and agrees to the General Provisions contained in the contract shown in this Procedural Guide; and
5. Delegates the authority to the _____ (designated position, not name of person occupying position), or designee to conduct all negotiations, sign and submit all documents, including, but not limited to applications, agreements, amendments, and payment requests, which may be necessary for the completion of the project scope(s); and
6. Agrees to comply with all applicable federal, state and local laws, ordinances, rules, regulations and guidelines.

Approved and adopted the _____ day of _____, 20_____.

I, the undersigned, hereby certify that the foregoing Resolution Number _____ was duly adopted by the _____ (grantee's governing body) following a roll call vote:

Ayes:

Noes:

Absent:

(Clerk)

III. APPLICATION SECTION

- GRANTEE may submit multiple APPLICATION PACKETS to OGALS.
- Provide the APPLICATION PACKET items in the order shown in the following checklist.
- Please number the pages.
- If a checklist item is not applicable to the PROJECT, provide a brief explanation.
- If an application item is incomplete send a draft with a timeline for completion.

Application packet checklist and directions

GRANTEES must complete the checklist below and submit it with the APPLICATION PACKET. An APPLICATION PACKET is not complete unless all items on the checklist are submitted. Each PROJECT requires its own APPLICATION PACKET.

Check if included	Check if not applicable	Application Item	Procedural Guide Page #	Check when signed by AUTHORIZED REPRESENTATIVE	Application Packet Page #
☐		Application Packet Checklist Digital file name: checklist.pdf	Pg. 8		Pg. _____
☐		Application Digital file name: application.pdf	Pg. 12	☐	Pg. _____
☐	☐	Project Scope/Cost Estimate, <i>or</i> Digital file name: scope.pdf	Pg. 13	☐	Pg. _____
☐		Funding Sources Form Digital file name: fundingsources.pdf	Pg. 14		
☐	☐	CEQA Compliance Certification Digital file name: ceqa.pdf	Pg. 15	☐	Pg. _____
☐	☐	Acquisition Requirements Digital file names: acqscope.pdf & acqdocs.pdf	Pg. 19	☐	Pg. _____
☐	☐	Land Tenure documentation Digital file names: ownership.pdf or nonownership.pdf	Pg. 9		Pg. _____
☐	☐	Sub-Leases or Agreements Digital file name: otheragreements.pdf	Pg. 9		Pg. _____
☐	☐	Site Plan Digital file name: siteplan.pdf	Pg. 9		Pg. _____
☐	☐	PROJECT Location Map Digital file name: map.pdf	Pg. 9		Pg. _____

☐ Site Plan

- Provide a drawing showing where each feature and support amenity listed in the PROJECT SCOPE/Cost Estimate Form will be located.
- Include the function and approximate square footage of each room within buildings that are part of the PROJECT SCOPE, and the approximate total square footage of the buildings.

☐ Land Tenure and Site Control

If the property is owned in fee simple by the APPLICANT, provide a copy of the

- Deed or deed recordation number
- Title report
- Tract map (if owner's name provided)

If the property is not owned in fee simple, provide the lease, easement, joint powers agreement, etc.

☐ Sub-leases or Agreements

- Provide a list of all *other* leases, agreements, memoranda of understanding, etc., affecting PROJECT property or its operation and maintenance, *or*
- If this requirement is not applicable, state, "This item is not applicable because there are no subleases or other agreements."

☐ California Environmental Quality Act (CEQA)

The APPLICANT should check with its local city or county planning agency for CEQA compliance information.

- If CEQA *is* complete: provide the CEQA Compliance Certification Form and its required attachment, filed and stamped by the County Recorder.
- If CEQA is *not* complete: provide a timeline for completion and state "completing CEQA is a Project Scope Item."

☐ PROJECT Location Map

- Provide a map showing highway and street access to the PROJECT site.

Additional Non-Profit Requirements

Fidelity Bond (For Non-profit grantees only)

Non-profit GRANTEES must provide a copy of a current Fidelity Bond policy to their PROJECT OFFICERS before any payment requests can be approved by OGALS. The premium for a Fidelity Bond is an eligible cost.

A Fidelity Bond provides insurance covering fraudulent acts of GRANTEES' employees, volunteers, officers, and directors. The GRANTEE is the insured party. DPR must be named as a Third-Party Loss Payee, i.e., the same as a mortgage company on a home loan. OGALS address is: State of California, Dept. of Parks and Recreation, P.O. Box 942896, Sacramento, CA 94296-0001, Attn: Office of Grants and Local Services.

Coverage must be at least equal to the GRANT amount. Fidelity Bond insurance must be kept current for at least six months after the date of the final GRANT payment.

GRANTEES may obtain the Fidelity Bond through a general liability carrier, a major casualty insurance carrier, or a bonds specialty company. There are [Fidelity Bond frequently asked questions](#) available on the OGALS web site.

Competitive Solicitation Process (For non-profit grantees only)

Non-profit GRANTEES must attempt to obtain bids before awarding a contract on a GRANT-funded PROJECT for services (greater than \$5,000), and for construction work (greater than \$25,000), thus ensuring state funds are spent responsibly.

1. Non-profit GRANTEE attempts to obtain three bids for services (greater than \$5,000) and for construction work (greater than \$25,000).
2. To ensure that bidders understand the required PROJECT elements, the non-profit GRANTEE provides each bidder (potential contractor) the same written invitation for bid describing the PROJECT work to be performed based on "Best Value" factors, and the required PROJECT elements based on the Project Scope/Cost Estimate Form, and concept level site plan.
3. Solicit bids by contacting at least three potential contractors or by invitation for bids advertising, or a combination of both methods.

The non-profit GRANTEE's Board of Directors evaluates the bids to determine which contractor will provide the "best value" and will meet PROJECT requirements. "Best value" should be determined by price, quality of materials, equipment, and workmanship. The evaluation process must ensure no conflict of interest between the contractor and the non-profit GRANTEE's Board of Directors. The non-profit GRANTEE's Board of Directors need not necessarily accept the lowest bid, but a reasonable justification for the decision should be recorded in writing.

4. The Board of Directors selects a contractor and awards a contract.
5. For audit purposes, the GRANTEE keeps records of Steps 1 – 4 above.

Competitive Solicitation Requirement

The non-profit GRANTEE may request a waiver of the competitive solicitation process requirement. To request a waiver, the GRANTEE must send a written request to the PROJECT OFFICER assigned to the GRANT PROJECT and explain why a waiver is required.



State of California – The Resources Agency
DEPARTMENT OF PARKS AND RECREATION

City of Oxnard

Project Application Form

PROJECT NAME	REQUESTED GRANT AMOUNT \$
PROJECT SITE NAME and PHYSICAL ADDRESS where PROJECT is located (including zip code) (Use latitude and longitude if there is no street address)	LAND TENURE (☒ all that apply) ☐ Owned in fee simple by APPLICANT ☐ Available (or will be available) under a _____ year lease or easement
NEAREST CROSS STREET	
COUNTY OF PROJECT LOCATION	
APPLICANT NAME AND MAILING ADDRESS	
AUTHORIZED REPRESENTATIVE AS SHOWN IN RESOLUTION	
Name (<i>typed or printed</i>) and Title Email address Phone	
GRANT CONTACT - For administration of grant (<i>if different from AUTHORIZED REPRESENTATIVE</i>)	
Name (<i>typed or printed</i>) and Title Email address Phone	
GRANT SCOPE: I represent and warrant that this APPLICATION PACKET describes the intended use of the requested GRANT to complete the items listed in the attached Project Scope/Cost Estimate Form. I declare under penalty of perjury, under the laws of the State of California, that the information contained in this APPLICATION PACKET, including required attachments, is accurate.	
Signature of AUTHORIZED REPRESENTATIVE as shown in Resolution Date	
Print Name _____	
Title _____	

Project Scope/Cost Estimate Form

GRANTEE:	PROJECT Name
----------	--------------

Project scope (Describe the project in 30 words or less):

Project Scope Items - ☒ all that apply:

Install new	Renovate existing	Replace existing	Recreation Element
☐	☐	☐	Pool, aquatic center, splash pad
☐	☐	☐	Trails or walking paths
☐	☐	☐	Landscaping or irrigation
☐	☐	☐	Group picnic, outdoor classrooms, other gathering spaces
☐	☐	☐	Play equipment, outdoor fitness equipment
☐	☐	☐	Sports fields, sports courts, court lighting
☐	☐	☐	Community center, gym, other indoor facilities
☐	☐	☐	Restroom, concession stand
☐	☐	☐	Other:
☐	☐	☐	Other:
☐	☐	☐	Minor elements which support one or more of the recreation elements checked above: benches, lighting, parking, signage, etc.
Total estimated cost for construction:			\$
PRE-CONSTRUCTION (costs incurred prior to ground-breaking, such as design, permits, bid packages, CEQA).			\$
Total GRANT amount:			\$
The GRANTEE understands that all elements listed on this form must be complete and open to the public before the final grant payment will be made.			
AUTHORIZED REPRESENTATIVE Signature			Date
Print Name and Title			

The APPLICANT understands that this form will be used to establish ELIGIBLE COSTS, and that all of the recreation features and support amenities listed on this form must be completed and open to the public before the final PROJECT payment is processed as specified in the Final Payments section of this guide.



State of California – The Natural Resources Agency
DEPARTMENT OF PARKS AND RECREATION

Funding Sources

Grantee Name: _____

Project Name: _____

PROJECTS funded by the program are not complete until all PROJECT SCOPE items are complete and open to the public.

If Specified GRANT funds will be used as part of the funding for a larger project, briefly describe the scope of that larger project:

The total cost of the larger project that these GRANT funds will contribute to is
\$ _____

Anticipated completion date: _____

List all funds that will be used:

Funding source	Date Committed	Amount
State of California 2021-22 Budget Act	July 1, 2021	\$

I represent and warrant that I have fully authority to execute this Funding Sources Form on behalf of the GRANTEE. I declare under penalty of perjury, under the laws of the State of California, that this Funding Sources Form, and any accompanying documents, for the above-mentioned grant is true and correct to the best of my knowledge.

AUTHORIZED REPRESENTATIVE Signature

Date

Print Name and Title

NOTE: Submit a revised Funding Sources Form should funding sources be modified.



State of California – The Resources Agency
DEPARTMENT OF PARKS AND RECREATION

CEQA Compliance Certification Form

GRANTEE:

Project Name:

Project Address:

Is CEQA complete? ☐Yes ☐No Is completing CEQA a PROJECT SCOPE item? ☐Yes ☐No

What document was filed, or is expected to be filed for this project's CEQA analysis:

Date complete/expected to be completed: _____

- ☐ Notice of Exemption (attach recorded copy if filed)
☐ Notice of Determination (attach recorded copy if filed)
☐ Other:

If CEQA is complete, and a Notice of Exemption or Notice of Determination was not filed, attach a letter from the Lead Agency explaining why, certifying the project has complied with CEQA and noting the date that the project was approved by the Lead Agency.

Lead Agency Contact Information	
Agency Name:	
Contact Person:	
Mailing Address:	
Phone: ()	Email:

Certification:

I hereby certify that the above referenced Lead Agency has complied or will comply with the California Environmental Quality Act (CEQA) and that the project is described in adequate and sufficient detail to allow the project's construction or acquisition.

I further certify that the CEQA analysis for this project encompasses all aspects of the work to be completed with grant funds.

AUTHORIZED REPRESENTATIVE Signature

Date

Print Name and Title

FOR OGALS USE ONLY

CEQA Document	Date Received	PO Initials
☐ NOE ☐ NOD		

Development Projects

Development Project Rules

1. Contracted work must comply with the provisions of §1771.5 of the State Labor Code.
2. GRANTEE must have adequate liability insurance, performance bond, or other security necessary to protect the State and GRANTEE'S interest against poor workmanship, fraud, or other potential loss associated with the completion of the PROJECT.
3. The primary purpose of any building constructed or improved must be public recreation. For example, renovating a gymnasium that includes office space for staff is eligible; renovating GRANTEE'S office building is not.
4. PROJECTS must be accessible, including an accessible path of travel to the PROJECT.

Eligible Development Costs

All costs must be incurred within the GRANT PERFORMANCE PERIOD. Costs listed below are examples of eligible costs, and not inclusive. Contact OGALS if you have any questions regarding a PROJECT cost.

Eligible Pre-construction Costs – incurred prior to groundbreaking as determined by the GRANTEE

- Public meetings, focus groups, design workshops
- Plans, specifications, construction documents, and cost estimates
- Permits
- CEQA
- Bid preparation and packages
- IN-HOUSE EMPLOYEE SERVICES prior to groundbreaking
- GRANT/PROJECT administration and accounting prior to groundbreaking

Eligible Construction Costs – up to 100% of the PROJECT costs; incurred after groundbreaking

- Construction – necessary labor and construction activities to complete the PROJECT, including site preparation (demolition, clearing and grubbing, excavation, grading), onsite implementation and construction supervision
- Equipment – Equipment use charges (rental and in-house) must be made in accordance with GRANTEE'S normal accounting practices
- Premiums on hazard and liability insurance to cover personnel or property
- Site preparation
- Purchase and installation of equipment: security cameras, lighting, signs, display boards, sound systems, video equipment, etc.
- Construction management: including site inspections and PROJECT administration
- Miscellaneous: other costs incurred during the construction phase, such as transporting materials, equipment, or personnel, and communications
- IN-HOUSE EMPLOYEE SERVICES after groundbreaking
- GRANT/PROJECT administration and accounting after groundbreaking

Ineligible Development Costs – Cannot be charged to the grant

- All non-capital costs, including interpretive and recreational programming, software and software development
- Construction or improvements to facilities that are not primarily designated for recreational purposes, such as park district offices
- Construction outside the boundaries of the recreation facility
- Furniture or equipment not site specific *and* not necessary for the core function of a new facility (non-capital outlay)
- Costs incurred before or after the GRANT PERFORMANCE PERIOD
- Indirect costs – overhead business expenses of the GRANTEE’S fixed or ordinary operating costs (rent, mortgage payments, property taxes, utilities, etc.)
- Food and beverages
- Out-of-state travel
- Fundraising and grant writing
- Repairs – activities performed to a section of a structure that are intended to allow the continued use.
- Maintenance – activities intended to be performed on a regular basis to maintain the expected useful life of a structure.

Distinguishing capital outlay (eligible) from maintenance and repair (not eligible):

- Capital outlay – building something new, or in regards to existing structures, activities intended to boost the condition beyond its original or current state.
- Repairs – activities performed to a section of a structure that are intended to allow the continued use.
- Maintenance – activities intended to be performed on a regular basis to maintain the expected useful life of a structure.

Examples:

Roof – replacing broken shingles is maintenance; fixing a hole is repair; replacing the roof is capital outlay.

Playground – adding additional fall material is maintenance; fixing the chains on a swing set is repair; replacing the play structures is capital outlay.

Windows – repairing the glazing is maintenance; replacing broken panes is repair; replacing the windows is capital outlay.

Accounting Rules for In-House Employee Services

GRANTEES must follow these accounting practices for services performed by its employees to be eligible for reimbursement:

- Maintain time and attendance records as charges are incurred, identifying the employee through a name or other tracking system, and that employee's actual hours worked on the PROJECT.
- Time estimates, including percentages, for work performed on the PROJECT are not acceptable.
- Time sheets that do not identify the specific employee's actual hours worked on the PROJECT are not acceptable.
- Costs of the salaries and wages must be calculated according to the GRANTEE'S wage and salary scales, and may include benefit costs such as vacation, health insurance, pension contributions and workers' compensation.
- Overtime costs may be allowed under the GRANTEE'S established policy, provided that the regular work time was devoted to the same PROJECT.
- May not include overhead or cost allocation. These are the costs generally associated with supporting an employee, such as rent, personnel support, IT, utilities, etc.
- If planning to claim IN-HOUSE EMPLOYEE SERVICES costs, provide a sample timesheet for OGALS review to confirm these accounting practices are being followed.

Acquisition Projects and Rules

1. Purchase price cannot exceed the appraised value, even if the GRANTEE is willing to pay the difference.
2. Land cannot be acquired through eminent domain.
3. Associated acquisition costs, such as appraisals, escrow fees, title insurance, etc., combined must be less than 25% of the PROJECT costs.
4. Land must be open to the public for recreational purposes within three years from the date the final payment is issued by the State Controller's Office (SCO).¹
5. GRANTEE must provide Title Insurance.

Acquisition Grant Scope/Cost Estimate

Provide the following information on a document signed by the AUTHORIZED REPRESENTATIVE:

- A brief description, for example, "Acquisition of approximately (**ENTER TOTAL ACREAGE** to be acquired) for the development of [**NAME**] Park by (**ENTER DATE** no later than three years from the date final payment is issued by the SCO)."
- Estimated total costs for land and relocation
- Estimated total costs other than the purchase price and relocation costs, such as appraisals, escrow fees, title insurance fees, deed restriction recordation costs

Acquisition Documentation

For each parcel to be acquired, submit these documents:

1. An appraisal conducted within the last twelve months
2. A separate letter from an independent third party, AG rated appraiser certified by the California Office of Real Estate Appraisers stating the appraisal was reviewed, and was completed using acceptable methods
3. County Assessor's parcel map, showing parcel number and parcel to be acquired
4. Estimated value of each parcel to be acquired with a description of how that value was determined (such as the listed price on MLS, in-house estimation, website evaluation, assessed value)
5. Acreage of each parcel to be acquired
6. A description of any encumbrances that will remain on the property, such as grazing, timber, mineral rights or easements
7. A brief description of the intended recreational use of the land with the estimated date by which the site will be open to the public for recreational purposes

For easement acquisitions, in addition to the requirements above, provide:

8. A copy of the proposed easement guaranteeing the authority to use the property for the purposes specified in the application.

For relocation costs, in addition to the requirements above, provide: A letter signed by the AUTHORIZED REPRESENTATIVE, listing the relocation costs for each displaced tenant, certifying that the relocation amount does not exceed the maximum allowed pursuant to Government Code §7260-7277.

¹ Grantees will see this date on their project complete letter – "A final payment was issued by the SCO on dd/mm/20yy"

Eligible Acquisition Costs

- IN-HOUSE EMPLOYEE SERVICES – see accounting rules
- GRANT/PROJECT administration and accounting
- Public meetings/focus groups/design workshop
- Appraisals, escrow fees, surveying, other costs associated with acquisition
- Cost of land

Ineligible Acquisition Costs – Cannot be charged to the grant

- Acquisitions where purchase price is greater than appraised value
- Costs for land acquired through eminent domain or condemnation
- Costs incurred outside the GRANT performance period
- Development costs

IV. CONTRACT SECTION

The following section contains a sample CONTRACT, CONTRACT provisions, and a sample status report form.

**State of California – The Resources Agency
DEPARTMENT OF PARKS AND RECREATION**

**Grant Contract
Specified Grants**

GRANTEE: **Grantee**

GRANT PERFORMANCE PERIOD is from July 1, 2021 through June 30, 2024

CONTRACT PERFORMANCE PERIOD is from July 1, 2021 through June 30, 2024

The GRANTEE agrees to the terms and conditions of this Contract, and the State of California, acting through its Director of Parks and Recreation, pursuant to the State of California, agrees to fund the total State grant amount indicated below.

The GRANTEE agrees to complete the PROJECT SCOPE(s) as defined in the PROJECT SCOPE /Cost Estimate Form of the application(s) filed with the State of California.

Total State grant amount not to exceed \$ **Grant amount**

The General and Special Provisions attached are made a part of and incorporated into the Contract.

STATE OF CALIFORNIA
DEPARTMENT OF PARKS AND RECREATION

By _____

Date _____

GRANTEE _____

By _____

(Typed or printed name of Authorized Representative)

(Signature of AUTHORIZED REPRESENTATIVE)

Title _____

Date _____

CERTIFICATION OF FUNDING (FOR STATE USE ONLY)

AMOUNT OF ESTIMATE \$		CONTRACT NUMBER	FUND		
ADJ. INCREASING ENCUMBRANCE \$		APPROPRIATION			
ADJ. DECREASING ENCUMBRANCE \$		ITEM VENDOR NUMBER			
UNENCUMBERED BALANCE \$		LINE ITEM ALLOTMENT	CHAPTER	STATUTE	FISCAL YEAR
T.B.A. NO.	B.R. NO.	INDEX	PCA		OBJ. EXPEND
I hereby certify upon my personal knowledge that budgeted funds are available for this encumbrance.					
SIGNATURE OF ACCOUNTING OFFICER			DATE		

I. RECITALS

This AGREEMENT is entered into between the California Department of Parks and Recreation (hereinafter referred to as “GRANTOR,” “DEPARTMENT” or “STATE”) and [Name of grantee] (hereinafter referred to as “GRANTEE”).

The DEPARTMENT hereby grants to GRANTEE a sum (also referred to as “GRANT MONIES”) not to exceed \$[grant amount], subject to the terms and conditions of this AGREEMENT and the [2021/22 California State Budget, Chapter xx, statutes of 20xx, Item number – 3790-xxx-xxxx] (appropriation chapter and budget item number hereinafter referred to as “SPECIFIED GRANT”). These funds shall be used for completion of the GRANT SCOPE(S).

The Grant Performance Period is from July 1, 2021 to June 30, 2024.

II. GENERAL PROVISIONS

A. Definitions

As used in this CONTRACT, the following words shall have the following meanings:

1. The term “APPLICATION” means the individual project APPLICATION packet for a project pursuant to the enabling legislation and/or grant program PROCEDURAL GUIDE requirements.
2. The term “CONTRACT PERFORMANCE PERIOD” means the duration of time during which this CONTRACT is in effect.
3. The term “DEPARTMENT” or “STATE” means the California Department of Parks and Recreation.
4. The term “DEVELOPMENT” means capital improvements to real property by means of, but not limited to, construction, expansion, and/or renovation, of permanent or fixed features of the property.
5. The term “GRANTEE” means the party described as the GRANTEE in Section I of this AGREEMENT.
6. The term “GRANT PERFORMANCE PERIOD” means the period of time during which eligible costs may be incurred by the GRANTEE and paid for by the DEPARTMENT, as specified in the fully executed CONTRACT.
7. The term “GRANT PROJECT” means all real estate, leases, subleases, buildings, and other property acquired or developed with GRANT monies.
8. The term “PROJECT SCOPE” means the items listed in the PROJECT SCOPE/Cost Estimate Form found in each of the APPLICATIONS submitted pursuant to this grant.
9. The term “PROCEDURAL GUIDE” means the document identified as the “2021-22 Procedural Guide for [Grantee] Specified Grant.” The PROCEDURAL GUIDE provides the procedures and policies controlling the administration of the grant.

B. Project Execution

1. Subject to the availability of GRANT MONIES, the STATE hereby grants to the GRANTEE a sum of money not to exceed the amount stated in Section I of this CONTRACT, in consideration of, and on condition that, the sum be expended in carrying out the purposes as set forth in the scope described in the enabling legislation and referenced in the APPLICATION, Section I of this CONTRACT, and under the terms and conditions set forth in this CONTRACT.

The GRANTEE shall assume any obligation to furnish any additional funds that may be necessary to complete the GRANT SCOPE(S).

During the CONTRACT PERFORMANCE PERIOD, the GRANTEE agrees to submit any proposed change or alteration from the original GRANT SCOPE(S) in writing to the STATE for prior approval. This applies to any and all proposed changes that will occur after STATE has approved the APPLICATION. Changes in the GRANT SCOPE(S) must first be approved in writing by the STATE.

2. The GRANTEE shall complete the GRANT SCOPE(S) in accordance with the time of the Performance Period set forth in Section I of this CONTRACT, and under the terms and conditions of this contract.
3. The GRANTEE shall comply with the California Environmental Quality Act (Public Resources Code, Section 21000, et seq., Title 14, California Code of Regulations, Section 15000 et seq.).
4. The GRANTEE shall comply with all applicable current laws and regulations affecting DEVELOPMENT projects, including, but not limited to, legal requirements for construction contracts, building codes, health and safety codes, and laws and codes pertaining to individuals with disabilities, including but not limited to the Americans With Disabilities Act of 1990 (42 U.S.C. §12101 et seq.) and the California Unruh Act (California Civil Code §51 et seq.)

C. Project Costs

1. GRANTEE agrees to abide by the PROCEDURAL GUIDE.
2. GRANTEE acknowledges that STATE may make reasonable changes to its procedures as set forth in the PROCEDURAL GUIDE. If STATE makes any changes to its procedures and guidelines, STATE agrees to notify GRANTEE within a reasonable time.

D. Project Administration

1. If GRANT MONIES are advanced for DEVELOPMENT projects, the advanced funds shall be placed in an interest-bearing account until expended. Interest earned on the advanced funds shall be used on the project as approved by the STATE. If grant monies are advanced and not expended, the unused portion of the grant and any interest earned shall be returned to the STATE within 60 days after project completion or end of the GRANT PERFORMANCE PERIOD, whichever is earlier.
2. During the GRANT PERFORMANCE PERIOD, the GRANTEE shall submit written project status reports within 30 calendar days after the STATE has made a specific request. All such project status reports shall be signed and certified as complete and accurate by the authorized representative of the GRANTEE. In any event, the GRANTEE shall provide the STATE a report showing total final project expenditures within 60 days of project completion or the end of the

GRANT PERFORMANCE PERIOD, whichever is earlier. The GRANT PERFORMANCE PERIOD is identified in Section I of this CONTRACT.

3. The GRANTEE shall make property or facilities acquired and/or developed pursuant to this contract available for inspection upon request by the STATE.

E. Project Termination

1. Project Termination refers to the non-completion of a GRANT SCOPE. Any grant funds that have not been expended by the GRANTEE shall revert to the STATE.
2. The GRANTEE may unilaterally rescind this contract at any time prior to the commencement of the project. The commencement of the project means the date of the letter notifying GRANTEE of the award or when the funds are appropriated, whichever is later. After project commencement, this contract may be rescinded, modified or amended only by mutual CONTRACT in writing between the GRANTEE and the STATE, unless the provisions of this contract provide that mutual CONTRACT is not required.
3. Failure by the GRANTEE to comply with the terms of the (a) PROCEDURAL GUIDE, (b) any legislation applicable to the ACT, (c) this CONTRACT or any other grant contracts, specified or general, that GRANTEE has entered into with STATE or any other department, agency, commission or other subdivision of California State government, may be cause for suspension of all obligations of the STATE unless the STATE determines that such failure was due to no fault of the GRANTEE. In such case, STATE may reimburse GRANTEE for eligible costs properly incurred in performance of this CONTRACT despite non-performance of the GRANTEE. To qualify for such reimbursement, GRANTEE agrees to mitigate its losses to the best of its ability.
4. Any breach of any term, provision, obligation or requirement of this CONTRACT by the GRANTEE shall be a default of this CONTRACT. In the case of any default by GRANTEE, STATE shall be entitled to all remedies available under law and equity, including but not limited to: a) Specific Performance; b) Return of all GRANT MONIES; c) Payment to the STATE of the fair market value of the project property or the actual sales price, whichever is higher; and d) Payment to the STATE of the costs of enforcement of this CONTRACT, including but not limited to court and arbitration costs, fees, expenses of litigation, and reasonable attorney fees.
5. The GRANTEE and the STATE agree that if the GRANT SCOPE includes DEVELOPMENT, final payment may not be made until the work described in the GRANT SCOPE is complete and the GRANT PROJECT is open to the public.

F. Budget Contingency Clause

If funding for any fiscal year is reduced or deleted by the budget act for purposes of this program, the STATE shall have the option to either cancel this contract with no liability occurring to the STATE, or offer a contract amendment to GRANTEE to reflect the reduced grant amount. This Paragraph shall not require the mutual CONTRACT as addressed in Paragraph E, subsection 2, of this CONTRACT

G. Hold Harmless

1. The GRANTEE shall waive all claims and recourse against the STATE including the right to contribution for loss or damage to persons or property arising from, growing out of or in any way connected with or incident to this CONTRACT except claims arising from the concurrent or sole negligence of the STATE, its officers, agents, and employees.
2. The GRANTEE shall indemnify, hold harmless and defend the STATE, its officers, agents and employees against any and all claims, demands, damages, costs, expenses or liability costs arising out of the ACQUISITION, DEVELOPMENT, construction, operation or maintenance of the property described as the project which claims, demands or causes of action arise under California Government Code Section 895.2 or otherwise except for liability arising out of the concurrent or sole negligence of the STATE, its officers, agents, or employees.
3. The GRANTEE agrees that in the event the STATE is named as codefendant under the provisions of California Government Code Section 895 et seq., the GRANTEE shall notify the STATE of such fact and shall represent the STATE in the legal action unless the STATE undertakes to represent itself as codefendant in such legal action in which event the GRANTEE agrees to pay the STATE's litigation costs, expenses, and reasonable attorney fees.
4. The GRANTEE and the STATE agree that in the event of judgment entered against the STATE and the GRANTEE because of the concurrent negligence of the STATE and the GRANTEE, their officers, agents, or employees, an apportionment of liability to pay such judgment shall be made by a court of competent jurisdiction. Neither party shall request a jury apportionment.
5. The GRANTEE shall indemnify, hold harmless and defend the STATE, its officers, agents and employees against any and all claims, demands, costs, expenses or liability costs arising out of legal actions pursuant to items to which the GRANTEE has certified. The GRANTEE acknowledges that it is solely responsible for compliance with items to which it has certified.

H. Financial Records

1. The GRANTEE shall maintain satisfactory financial accounts, documents, including loan documents, and all other records for the project and shall make them available to the STATE for auditing at reasonable times. The GRANTEE also agrees to retain such financial accounts, documents and records for five years following project termination or final payment.
2. The GRANTEE shall keep such records as the STATE shall prescribe, including records which fully disclose (a) the disposition of the proceeds of STATE funding assistance, (b) the total cost of the project in connection with such assistance that is given or used, (c) the amount, source and nature of that portion of the project cost supplied by other sources, and (d) any other such records that will facilitate an effective audit.
3. The GRANTEE agrees that the STATE shall have the right to inspect and make copies of any books, records or reports pertaining to this contract or matters related thereto during regular office hours. The GRANTEE shall maintain and make available for inspection by the STATE accurate records of all of its costs, disbursements and receipts with respect to its activities under this contract, and shall provide copies of all such records to STATE in its certified status reports

upon request by the STATE. Such accounts, documents, and records shall be retained by the GRANTEE for at least five years following final payment.

4. The GRANTEE shall use a generally accepted accounting system.

I. Use of Facilities

1. The GRANTEE agrees that the GRANTEE shall operate and maintain, and retain full control of the property acquired or developed with the GRANT MONIES, for the duration of the CONTRACT PERFORMANCE PERIOD.
2. The GRANTEE agrees that, during the CONTRACT PERFORMANCE PERIOD, the GRANTEE shall use the property acquired or developed with grant funds under this contract only for the purposes of this grant and no other use, sale, assignment, transfer, mortgage, or other disposition or change of the control or use of the property or of any interest in the property to one not consistent with the grant purpose shall be permitted except as authorized by the DEPARTMENT and the property shall be replaced with property of equivalent value and usefulness as determined by the STATE.
3. The property acquired or developed may be transferred or assigned to another entity only if the successor entity assumes the obligations imposed under this contract and only with the prior approval of STATE.
4. Any real Property (including any portion of it or any interest in it, including any leases) may not be used as security or collateral for any debt, loan or mitigation, without the prior written approval of the STATE, provided that such approval shall not be unreasonably withheld as long as the purposes for which the grant was awarded are maintained. Any such permission that is granted does not make STATE a guarantor or a surety for any debt, loan or mitigation, nor does it waive STATE's rights to enforce performance under the CONTRACT.
5. All real property (including any portion or interest in it, including any leases), or rights thereto, acquired with GRANT MONIES shall be subject to an appropriate form of restrictive title, rights, or covenants approved by the STATE. If the project property is taken by use of eminent domain, GRANTEE shall reimburse STATE an amount at least equal to the amount of grant monies received from STATE or the pro-rated full market value of the real property, including improvements, at the time of sale, whichever is higher.
6. If eminent domain proceedings are initiated against GRANTEE, GRANTEE shall notify STATE within 10 days of receiving the complaint.

J. Nondiscrimination

1. The GRANTEE shall not discriminate against any person on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status in the administration and in the use of any property or facility developed pursuant to this contract.

2. The GRANTEE shall not discriminate against any person on the basis of residence except to the extent that reasonable differences in admission or other fees may be maintained on the basis of residence and pursuant to law.
3. All facilities shall be open to members of the public generally, except as noted under the special provisions of this project contract or under provisions of the enabling legislation and/or grant program.

K. Severability

If any provision of this CONTRACT or the application thereof is held invalid, that invalidity shall not affect other provisions or applications of the CONTRACT which can be given effect without the invalid provision or application, and to this end the provisions of this CONTRACT are severable.

L. Liability

1. STATE assumes no responsibility for assuring the safety or standards of construction, site improvements or programs related to the GRANT SCOPE. The STATE'S rights under this CONTRACT to review, inspect and approve the GRANT SCOPE and any final plans of implementation shall not give rise to any warranty or representation that the GRANT SCOPE and any plans or improvements are free from hazards or defects.
2. GRANTEE shall ensure that any contractor hired has adequate liability insurance, performance bond, or other security necessary to protect the GRANTEE interest and the STATE's interest against poor workmanship, fraud, or other potential loss associated with the completion of the grant project.

M. Assignability

Without the written consent of the STATE, the GRANTEE'S interest in and control of any portion of the GRANT PROJECT and responsibilities under this CONTRACT shall not be assignable or transferable by the GRANTEE either in whole or in part.

N. Use of Grant Monies

GRANTEE shall not use any grant funds (including any portion thereof) for the purpose of making any leverage loan, pledge, promissory note or similar financial device or transaction, without: 1) the prior written approval of the STATE; and 2) any financial or legal interests created by any such leverage loan, pledge, promissory note or similar financial device or transaction in the project property shall be completely subordinated to this CONTRACT through a Subordination Agreement provided and approved by the STATE, signed by all parties involved in the transaction, and recorded in the County Records against the fee title of the project property.

O. Section Headings

The headings and captions of the various sections of this CONTRACT have been inserted only for the purpose of convenience and are not a part of this CONTRACT and shall not be deemed in any manner to modify, explain, or restrict any of the provisions of this CONTRACT

P. Waiver

Any failure by a party to enforce its rights under this CONTRACT, in the event of a breach or default, shall *not* be construed as a waiver of said rights; and the waiver of any breach or default under this CONTRACT shall *not* be construed as a waiver of any subsequent breach.

GRANTEE

By: _____
Signature of Authorized Representative

Title: _____

Date: _____

STATE OF CALIFORNIA
DEPARTMENT OF PARKS AND RECREATION

By: _____

Date: _____

Status Report

To monitor progress, every six months OGALS will send Status Reports to GRANTEE to complete for each PROJECT. GRANTEE must return Status Reports to OGALS within thirty days from receipt. This requirement continues until OGALS receives GRANT COMPLETION PACKETS. Payment requests will not be processed if Status Reports are overdue. See the sample Status Report below, which is subject to change.

Status Report

Grantee:

Project Number:

Project Name:

Advances to date without documentation (attach a Grant Expenditure Form documenting expenditure of the balance, if applicable):

If a portion of the advanced funds have not been spent, and more than six months have passed since the Grantee received the advanced funds, the balance must be spent on eligible costs or returned to OGALS within 60 days from receipt of this form.

Briefly describe completed work funded by the grant since the last Status Report [DATE]:

(Continue on another sheet if needed.)

Pre-Construction/Pre-Acquisition (Planning, CEQA, etc.):

1) _____

Acquisition and/or Construction -- and Provide photos showing work completed since [DATE]

2) _____

Potential Obstacles Affecting Completion

3) _____

4) Total Funds Spent To Date Using This Grant \$ _____

5) Percentage of Project Complete: _____

6) Estimated Date of Project Completion: _____

7) On Time: Yes / No If not, explain:

8) Within Budget: Yes / No If not, explain:

9) Within Scope: Yes / No If not, explain:

I represent and warrant that I have full authority to execute this Grant Progress Status Report on behalf of the Grantee. I declare under penalty of perjury, under the laws of the State of California, that this status report, and any accompanying documents, for the above-mentioned Grant is true and correct to the best of my knowledge.

Authorized Representative*

Title

Date

(*Certification to above information requires a signature by a person authorized in the resolution)

V. GRANT Payment Section

There are three types of payments:

- Pre-construction and Construction Reimbursement payments
- ADVANCE payments for construction and ACQUISITION ADVANCES into escrow
- Final payments

Payment requests are processed through the State Controller's Office and are mailed to the GRANTEE approximately eight weeks from the date the request is approved by OGALS.

OGALS will not approve payment requests that do not meet the requirements described in this GRANT ADMINISTRATION GUIDE.

OGALS may withhold payment if the GRANTEE has outstanding issues, such as:

- Breach of any other contract with OGALS
- An unresolved audit exception
- An outstanding conversion
- Park sites closed or inadequately maintained
- Overdue Project Status Reports

Payment Rules

- GRANT payments before the final payment may not exceed 80% of the PROJECT amount. 20% of the PROJECT amount is retained for the final payment as a REIMBURSEMENT.
- The GRANTEE should group costs together to avoid frequent payment requests. Payment requests greater than \$10,000 are encouraged.
- Complete CEQA prior to requesting any construction reimbursement.
- Provide a sample timesheet to the PROJECT OFFICER prior to incurring any IN-HOUSE EMPLOYEE SERVICES costs, AND if claiming such costs, provide a sample timesheet with each reimbursement payment request.
- Provide (1) a list of the bidders; (2) the recommendation and/or notice of award made by the governing board; and (3) the resulting signed contract agreement to the PROJECT OFFICER PRIOR to requesting reimbursement for costs on contracts requiring a competitive solicitation or bidding process.
- Provide construction progress photos with all construction payment requests.

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PRE-CONSTRUCTION REIMBURSEMENT

Payment Type	When to Request	Document to Send to PROJECT OFFICER
PRE-CONSTRUCTION REIMBURSEMENT(S)	After the CONTRACT has been ENCUMBERED	• Payment Request Form • Grant Expenditure Form • Timesheet sample, if applicable

Payment Type	When to Request	Documents to Send to PROJECT OFFICER	CONSTRUCTION REIMBURSEMENT
REIMBURSEMENT of up to 80% of PROJECT amount before final payment	After the CONTRACT is ENCUMBERED and the GRANTEE incurred costs for work related to the GRANT SCOPE	• Payment Request Form • Grant Expenditure Form • Timesheet sample, if applicable • Construction progress photos • If payment request includes reimbursement to contractor/service providers, Competitive Solicitation documentation	ADVANCE

Payments

ADVANCE payments may be requested for costs the GRANTEE will incur within the next six months. ADVANCE funds, and any interest earned on those funds, must be spent with six months of receipt, or returned to OGALS. ADVANCE payments are made at the discretion of OGALS. OGALS considers ADVANCE payments to be a privilege and reserves the right to disapprove ADVANCE payments.

There are two types of ADVANCE payments: PRE-CONSTRUCTION ADVANCE and CONSTRUCTION ADVANCE:

PRE-CONSTRUCTION ADVANCE

Payment Type	When to Request	Documents to Send to PROJECT OFFICER
PRE-CONSTRUCTION ADVANCE(s)	After the GRANT CONTRACT has been ENCUMBERED	• Payment Request Form • ADVANCE justification (see below)

CONSTRUCTION ADVANCE

Payment Type	When to Request	Documents to Send to PROJECT OFFICER
ADVANCE(s) up to 50% of PROJECT amount	After the GRANT CONTRACT has been ENCUMBERED, and construction will commence during the next six months	• Payment Request Form • ADVANCE justification (see below) • Copy of signed construction contract and a notice to proceed or IN-HOUSE EMPLOYEE SERVICES labor schedule.

Advance Justification

An ADVANCE justification is required for an ADVANCE. It must provide the following information:

- Why an ADVANCE is needed instead of a reimbursement.
- A payment schedule, with a month-by-month estimate, for up to six months, showing the anticipated amount needed, and to whom the funds will be paid (IN-HOUSE EMPLOYEE or name of contractor).
- A funding plan, indicating how the GRANTEE intends to fund the percentage of the PROJECT exceeding the 50% advance limit.
- A statement indicating the GRANTEE will put the funds into a separate, interest bearing account.

OGALS may not approve the total amount of the requested ADVANCE payment if the requested funds will not be spent within six months from the date that the payment request is submitted by the GRANTEE.

Clearing the Advance

ADVANCES must be cleared with six months of receipt. An ADVANCE is cleared by submitting:

1. A Grant Expenditure Form documenting expenditures on eligible costs equal to the ADVANCE amount plus any earned interest.
2. Photos of any construction completed with the ADVANCE funds (for construction ADVANCES).

Acquisition Advance

Payment Type	When to Request	Documents to Send
ADVANCES up to 100% of the acquisition amount.	After the contract is encumbered and escrow is open	See following instructions 1. Escrow letter 2. Title report cover page 3. Payment request form

The following items are required to request an ADVANCE payment into escrow:

1. A letter on the GRANTEE's letterhead, addressing all of the following elements, and signed by the GRANTEE's AUTHORIZED REPRESENTATIVE:
 - a) Name, address and telephone number of the title company or escrow holder, and the escrow account number to which the GRANT funds will be disbursed.
 - b) Copy of the property appraisal and written concurrence.
 - c) GRANT CONTRACT number and amount of GRANT funds requested.
 - d) A statement by the GRANTEE that "the preliminary title report shows that there are no liens, easements, or any other restrictions that would prevent completion of the SCOPE and fulfillment of the CONTRACT provisions."
 - e) A statement by the GRANTEE that "all funds (exclusive of the GRANT funds to be provided under this agreement) needed for the completion of the acquisition of the property or properties have been secured and have been or will be deposited to escrow on or about the same date as the requested GRANT funds." In making this statement, the GRANTEE is entitled to reasonably rely on the representations of the seller.
2. Cover page of the preliminary title report.
3. Payment Request Form: the "Send Warrant To" item 7 on the Payment Request Form must be completed using the title company's or escrow holder's name, mailing address, and contact person.

After approval by OGALS, the payment will be mailed by the State Controller's Office to the designated escrow company within approximately 30 working days.

Returning Unexpended Advanced Funds or Interest

The balance of unspent GRANT funds must be returned to OGALS no later than thirty days after the end of the six-month ADVANCE period. OGALS will then return the GRANT funds to the CONTRACT balance. OGALS cannot return interest to the CONTRACT balance.

If interest was earned on the ADVANCED funds, interest must be spent on ELIGIBLE COSTS, and the unspent GRANT funds returned to OGALS.

Subsequent Payments

Any outstanding ADVANCE payments must be cleared before *any* additional reimbursements or ADVANCE payments will be approved.

This requirement may be waived in cases where a PROJECT requires timely payments to contractors, and the remaining balance of unspent ADVANCED funds cannot cover the next PROJECT payment.

The following items are required to request a waiver:

1. A letter to the PROJECT OFFICER, signed by the AUTHORIZED REPRESENTATIVE explaining why the waiver is needed.
2. The majority of ADVANCED funds has been cleared.
3. A payment schedule with month-by-month estimates detailing the anticipated amount needed including the unspent balance of previously ADVANCED funds, along with the additional requested reimbursement or ADVANCE.

Final Payments / PROJECT COMPLETION PACKETS

OGALS recommends all PROJECT COMPLETION PACKETS be submitted by March 31, 2024.

The final payment (20% of the PROJECT amount) will be processed after PROJECT COMPLETION and the following occurs:

1. Approval of the PROJECT COMPLETION PACKET and additional required documents in the charts below.
2. Site inspection by the PROJECT OFFICER to verify PROJECT COMPLETION.

PROJECT COMPLETION PACKET

To request final payment and complete the PROJECT, the GRANTEE must submit the following documents:

1. Payment Request Form (pg. 35)
2. Grant Expenditure Form (pg. 37)
3. Final Funding Sources Form (pg. 14)
4. Project Completion Certification Form (pg. 38)
5. Completed CEQA, if not already provided (pg. 15)
6. Notice of Completion (optional)²
7. Audit Checklist with items marked that the GRANTEE will retain for five years following receipt of final payment (pg. 40)

For acquisition PROJECTS, the GRANTEE must submit these additional documents:

1. A copy of the recorded deed to the property
2. A map sufficient to verify the description of the property including parcel numbers and acreage
3. Copy of title insurance policy
4. Copy of title report

² OGALS recommends that the GRANTEE file a "Notice of Completion" with the County Recorder pursuant to State of California Civil Code §3093. Filing the "Notice of Completion" is not a PROJECT COMPLETION requirement.

Payment Request Form

State of California - Natural Resources Agency
DEPARTMENT OF PARKS AND RECREATION

PAYMENT REQUEST State Grant Programs

See Instructions on Page 2.

1. PROJECT NUMBER		2. CONTRACT NUMBER	
3. APPLICANT			
4. PROJECT NAME			
5. TYPE OF PAYMENT ☐ Advance ☐ Reimbursement ☐ Final			
6. PAYMENT INFORMATION <i>(Round all figures to the nearest dollar)</i>			
a. Grant Project Amount		\$	
b. Funds Received To Date		\$	
c. Available (a. minus b.)		\$	
d. Amount Of This Request		\$	
e. Remaining Funds After This Payment (c. minus d.)		\$	
7. SEND WARRANT TO:			
AGENCY NAME			
STREET ADDRESS			
CITY/STATE/ZIP CODE			
8. CERTIFICATION AND SIGNATURE OF PERSON AUTHORIZED IN RESOLUTION			
<i>I represent and warrant that I have full authority to execute this payment request on behalf of the Grantee. I declare under penalty of perjury, under the laws of the State of California, that this report, and any accompanying documents, for the above-mentioned Grant is true and correct to the best of my knowledge.</i>			
SIGNATURE OF PERSON AUTHORIZED IN RESOLUTION		TITLE	DATE
▶			
FOR CALIFORNIA DEPARTMENT OF PARKS AND RECREATION USE ONLY			
PAYMENT APPROVAL SIGNATURE		DATE	
▶			

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Payment Request Form Instructions

- Type or print legibly all entries
- Round all amounts to the nearest whole dollar

The following instructions correspond to items on the Payment Request Form:

1. PROJECT Number - The number assigned by OGALS to this project
2. CONTRACT Number - As shown in Certification of Funding section of the CONTRACT
3. GRANTEE - GRANTEE name as shown on the CONTRACT
4. PROJECT Title - Name of the PROJECT as shown in the Application
5. Type of Payment – check appropriate box on form:
6. Payment Information
 - a. GRANT amount
 - b. Funds received to date - amount paid out from this GRANT
 - c. Available - (a. minus b.)
 - d. Amount of this request
 - e. Remaining funds after this payment - (c. minus d.)
7. Send Warrant To - GRANTEE name, address and contact person
8. Signature of AUTHORIZED REPRESENTATIVE according to the Resolution

Grant Expenditure Form

PROJECT Number _____ GRANTEE NAME _____

Warrant/Check # (1)	Date (2)	Recipient (3)	Purpose (4)	Pre-Construction Amount (5)	Construction Amount (6)
---------------------	----------	---------------	-------------	-----------------------------	-------------------------

PRE-CONSTRUCTION Subtotal (5) \$ _____

Construction Subtotal (6) \$ _____

Grand Total (5) + (6) \$ _____

List only ELIGIBLE COSTS charged to the GRANT.

Column (1) Use of electronic payment numbers/electronic funds transfer numbers in the "Warrant/Check Number" column is acceptable. Please include an "EP" next to the electronic payment numbers/electronic funds transfer numbers.

If IN-HOUSE EMPLOYEE SERVICES or GRANTEE'S own equipment was used, a work order or other tracking number can be used instead of a check/warrant number.

Column (2) Date payment was made to recipient. If IN-HOUSE EMPLOYEE SERVICES were used, the date that the work was performed may be used.

Column (3) Name of Contractor, IN-HOUSE EMPLOYEE SERVICES, or other entity performing work.

Column (4) Brief description of cost, such as "design", "permits", "construction." When describing such costs, such as "design", state what the design is for, and who prepared it. For items such as "permits", state what kind of permit(s). For items such as "construction," state what type or portion of construction, or what was constructed. (For instance, "community center", "walkway", etc.)

Column (5) PRE-CONSTRUCTION costs.

Column (6) DEVELOPMENT costs eligible for up to 100% of GRANT amount.

An electronic version of this form is available at www.parks.ca.gov/grants.

GRANTEES may use their own spreadsheet if it contains the required information shown above.

PROJECT COMPLETION Certification Form

GRANTEE: _____ PROJECT Number: _____

GRANTEE contact for audit purposes

Name: _____

Address: _____

Phone: (____) _____ Email: _____

PROJECT COMPLETION – list the features and support amenities (use additional pages, if needed):

List other funds (sources and amounts) used on Project (use additional pages, if needed):

Interest earned on advanced Grant funds: \$ _____

Interest spent on ELIGIBLE COSTS: \$ _____

Did the GRANTEE file a “Notice of Completion” with the County Recorder? Yes ___ No ___

Certification:

I hereby certify that all Grant funds were expended on the above named Project and that the Project is complete and we have made final payment for all work done.

I have read California Penal Code §118 and understand that every person who testifies, declares, deposes, or certifies under penalty of perjury and willfully states as true any material matter which he or she knows to be false, is guilty of perjury, which is a felony punishable by imprisonment in state prison for two, three, or four years.

Furthermore, I have read California Penal Code §72 and understand that every person who, with the intent to defraud, presents for allowance or for payment to any state board or officer, or to any county, city, or District board or officer, authorized to allow or pay the same if genuine, any false or fraudulent claim, bill, account, voucher, or writing, is guilty of a felony-misdemeanor punishable either by imprisonment in county jail for a period of not more than one year, by a fine not exceeding one thousand dollars, or both, or by imprisonment in state prison, by a fine not exceeding ten thousand dollars, or both.

I represent and warrant that I have full authority to execute this Project Completion Certification on behalf of the GRANTEE. I declare under penalty of perjury that the foregoing certification of Project Completion for the above-mentioned Grant is true and correct.

GRANTEE’S AUTHORIZED REPRESENTATIVE
(Printed or Typed name)

Title

GRANTEE’S AUTHORIZED REPRESENTATIVE (Signature)

Date

VI. ACCOUNTING AND AUDIT SECTION

Contact the DPR Audits Office for questions about the following requirements.

Accounting Requirements

GRANTEES must use accounting practices that:

- Provide accounting data that clearly records costs incurred on the PROJECT and accurately reflects fiscal transactions, with the necessary controls and safeguards.
- Provide good audit trails, especially the source documents (purchase orders, receipts, progress payments, invoices, timecards, cancelled warrants, warrant numbers, etc.) specific to the PROJECT.

Accounting Rules for Employee Services (IN-HOUSE EMPLOYEE SERVICES)

GRANTEES must follow these accounting practices for employee services:

- Maintain time and attendance records as charges are incurred, identifying the employee through a name or other tracking system, and that employee's actual time spent on the PROJECT.
- Time estimates for work performed on the PROJECT are not acceptable.
- Time sheets that do not identify the specific employee's time spent on the PROJECT are not acceptable.
- Costs of the salaries and wages must be calculated according to the GRANTEE'S wage and salary scales, and may include benefit costs such as "workers' compensation."
- Overtime costs may be allowed under the GRANTEE'S established policy, provided that the regular work time was devoted to the same PROJECT.

State Audit

Grants are subject to audit by DPR. (see Audit Checklist). All PROJECT records must be retained for five years after final payment was received.

The GRANTEE must provide the following when an audit date and time has been confirmed by DPR:

- All PROJECT records, including the source documents and cancelled warrants, books, papers, accounts, time sheets, or other records listed in the Audit Checklist or requested by the DPR.
- An employee having knowledge of the PROJECT and its records to assist DPR's auditor.

Audit Checklist

An audit of the project may be performed before or following project completion. The GRANTEE must retain and make available all project related records for five years following project termination or final payment of grant funds. Listed below are some of the items the auditor will examine during the review of your records as applicable. It is the responsibility of the GRANTEE to have these records available in a central location ready for review once an audit date and time has been confirmed. If you have any questions regarding these documents, you may contact the State Department of Parks and Recreation Audits Office.

CONTRACTS

- _____ Summary list of bidders (including individual bid packages)
- _____ Recommendation by reviewer of bids
- _____ Awarding by governing body (minutes of the meeting/resolution)
- _____ Construction contract agreement
- _____ CONTRACT bonds (bid, performance, payment)
- _____ CONTRACT change orders
- _____ Contractor's progress billings
- _____ Payments to contractor (cancelled checks/warrants, bank statements and EFT receipts**)
- _____ Stop Notices (filed by sub-contractors and release if applicable)
- _____ Liquidated damages (claimed against the contractor)
- _____ Notice of completion (recorded)

IN-HOUSE EMPLOYEE SERVICES*

- _____ Authorization/work order identifying project
- _____ Daily time sheets signed by employee and supervisor
- _____ Hourly rate (salary schedules/payroll register)
- _____ Fringe benefits (provide breakdown)

IN-HOUSE EQUIPMENT*

- _____ Authorization/work order
- _____ Daily time records identifying the project site
- _____ Hourly rate related backup documents

MINOR CONTRACTS/MATERIALS/SERVICES/EQUIPMENT RENTALS

- _____ Purchase orders/Contracts/Service Agreements
- _____ Invoices
- _____ Payments (actual cancelled checks/warrants, bank statements and EFT receipts **)

ACQUISITION

- _____ Appraisal Report
 - _____ Did the owner accompany the appraiser?
 - _____ 10 year history
- _____ Statement of just compensation (signed by seller)
- _____ Statement of difference (if purchased above appraisal)
- _____ Waiver of just compensation (if purchased below appraisal: signed by seller)
- _____ Final Escrow Closing Statement
- _____ Cancelled checks/warrants, bank statements and EFT receipts, [payment(s) to seller(s)]
- _____ GRANT deed (vested to the participant) or final order of condemnation
- _____ Title insurance policy (issued to participant)
- _____ Relocation documents
- _____ Income (rental, grazing, sale of improvements, etc.)

INTEREST

- _____ Schedule of interest earned on State funds advanced
Note: Interest on grant ADVANCES is accountable, even if commingled in a pooled fund account and/or interest was never allocated back to the grant fund.

AGREEMENT/CONTRACTS

- _____ Leases, agreements, etc., pertaining to developed/acquired property

* Estimated time expended on the projects is not acceptable. Actual time records and all supporting documentation must be maintained as charges are incurred and made available for verification at the time of audit.

** Front and back if copied.

VII. DEFINITIONS

Capitalized words and terms used in this process guide are defined below.

ADVANCE – payment made to the GRANTEE for work that will occur in the future or work that has already occurred during the GRANT PERFORMANCE PERIOD and has not been paid for by the GRANTEE.

APPLICANT – an entity which does not yet have a fully-executed CONTRACT with DPR and is identified as a GRANT recipient through a legislatively specified budget line item.

APPLICATION PACKET – the Application form and its required attachments described in the Application Checklist and Directions.

APPROPRIATION DATE – July 1 of the State of California fiscal year when the funding of State budget line items is approved by the legislature. The APPROPRIATION DATE is the start of the GRANT PERFORMANCE PERIOD.

AUTHORIZED REPRESENTATIVE – the APPLICANT’S/ GRANTEE’S designated position authorized in the Resolution to sign all required GRANT documents.

CEQA – the California Environmental Quality Act as stated in the Public Resources Code §21000 et seq.; Title 14 California Code of Regulations §15000 et seq. CEQA is a law establishing policies and procedures that require entities to identify, disclose to decision makers and the public, and attempt to lessen significant impacts to environmental and historical resources that may occur as a result of the entities’ proposed PROJECT. For more information refer to <https://opr.ca.gov/ceqa/>

CONSTRUCTION COSTS – costs incurred starting with the date when ground-breaking construction activities such as site preparation, grading, or gutting begins, and continuing to the end of the GRANT PERFORMANCE PERIOD.

CONTRACT – an agreement between the DPR and the GRANTEE specifying the performance of the GRANT SCOPE within the GRANT PERFORMANCE PERIOD, payment of funds by DPR, and requirements for maintenance and use of the PROJECT.

CONTRACT ENCUMBRANCE PERIOD – the time starting with the APPROPRIATION DATE, when a CONTRACT must be fully executed between the GRANTEE and DPR to encumber the GRANT funds.

CONTRACT PERFORMANCE PERIOD – the period during which the grantee has obligations under the contract.

DEVELOPMENT – construction, installation, replacement, expansion, or renovation.

DPR – the California Department of Parks and Recreation.

ELIGIBLE COSTS – expenses incurred during the grant performance period to complete the SCOPE approved by OGALS through an encumbered contract.

GRANT – funds made available to a GRANTEE for completion of the PROJECT SCOPE(s) during the GRANT PERFORMANCE PERIOD.

GRANTEE – an entity having a fully executed CONTRACT with DPR.

GRANT PERFORMANCE PERIOD – period of time that ELIGIBLE COSTS may be incurred by the GRANTEE and paid for by DPR, as specified in the fully executed CONTRACT.

IN-HOUSE EMPLOYEE SERVICES – use of the GRANTEE's employees working on the SCOPE.

OGALS – DPR's Office of Grants and Local Services.

PRE-CONSTRUCTION COSTS – costs incurred during the planning, design, and permit phase of the PROJECT before construction can begin.

PROJECT – the recreation features and support amenities listed in the SCOPE/Cost Estimate Form.

PROJECT COMPLETION – when the features and support amenities listed in the SCOPE/Cost Estimate Form are complete and the facilities are open and useable by the public.

PROJECT COMPLETION PACKET – The documents required in order to request final payment following PROJECT COMPLETION

PROJECT OFFICER – an OGALS employee, who acts as a liaison with the applicants and GRANTEES and administers GRANT funds, and facilitates compliance with the Procedural Guide and CONTRACT.

SCOPE – the features and support amenities listed in the SCOPE/Cost Estimate Form that must be completed prior to final GRANT payment.



CITY COUNCIL AGENDA REPORT
INFORMATION/CONSENT AGENDA
AGENDA ITEM NO. L.3

DATE: December 7, 2021

TO: City Council

FROM: Jason Benites, Police Chief, (805) 385-7624, jason.benites@oxnardpd.org

SUBJECT: Resolution Commending John Brisslinger for 21 Years of Exemplary Service to the City of Oxnard.

RECOMMENDATION

That the City Council adopt a resolution commending John Brisslinger for twenty-one years of outstanding service to the City of Oxnard Police Department.

BACKGROUND

After twenty-one years of outstanding service to the City of Oxnard as a member of the Oxnard Police Department, Senior Officer John Brisslinger has retired.

Senior Officer Brisslinger began his law enforcement career in 1989 when he graduated from the Los Angeles Sheriff's Department's police academy where his passion for public service was ignited. Senior Officer Brisslinger began his employment with the City of Oxnard on November 20, 2000. Throughout his career, Senior Officer Brisslinger held a wide variety of assignments within the Oxnard Police Department and has received numerous awards and commendations including: the Medal of Valor from the Ventura County Peace Officers Association, Ventura County Firefighters Association and California State Firefighters Association. Senior Officer Brisslinger also received the Medal of Merit from The Ventura County Peace Officers Association.

STRATEGIC PRIORITIES

This agenda item is a routine operational item or does not relate to the five strategic priorities adopted by City Council on March 16, 2021.

FINANCIAL IMPACT

There is no financial impact.

COMMITTEE OUTCOME

This item did not originate in Committee.

Prepared by: Michael Thomas, Luly Lopez, Executive Assistant I

ATTACHMENTS

1. Brisslinger Resolution

CITY COUNCIL OF THE CITY OF OXNARD

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OXNARD
COMMENDING JOHN BRISSLINGER FOR TWENTY-ONE YEARS OF
OUTSTANDING SERVICE TO THE CITY OF OXNARD

WHEREAS, John Brisslinger has given twenty-one years of outstanding service to the City of Oxnard as a member of the Oxnard Police Department.

WHEREAS, John Brisslinger began his law enforcement career in 1989 when he graduated from the Los Angeles Sheriff's Department's police academy where his passion for public service was ignited. He worked in the L.A.S.D Pitchess Detention Center for 1 year. In 1992, John Brisslinger was hired by the Port Hueneme Police Department, where he served as a Police Officer for 9 years before lateraling to the Oxnard Police Department on November 20, 2000. John Brisslinger has served the community of Oxnard honorably and with distinction in his advancement to Senior Police Officer on March 3, 2012; and

WHEREAS, throughout his career, Senior Officer Brisslinger held a wide variety of assignments within the Police Department including Field Training Officer and member of the Surveillance Team. In 2004, Senior Officer Brisslinger was assigned to the Beat 22 Storefront, in 2006. Senior Officer Brisslinger was selected as a K-9 handler with his partner "Gino" and in 2012 he was assigned to the Violent Crimes Unit, specifically investigating graffiti vandalism. Senior Officer Brisslinger has been a sworn member of the F.B.I task force since 2015; and

WHEREAS, Senior Officer Brisslinger has been a champion for the youth in Oxnard. In 2015, he started a graffiti clean-up mentoring program. This program was designated for graffiti offenders to work off their court-ordered community service hours through the probation department, by cleaning up graffiti vandalism in the City. This program still exists today. In 2018, Senior Officer Brisslinger was recognized by the Ventura County Board of Supervisors for his efforts in combating graffiti vandalism.

WHEREAS, over the course of his career, Senior Officer Brisslinger has received numerous awards and commendations including: the Medal of Valor from the Ventura County Peace Officers Association, Ventura County Firefighters Association and California State Firefighters Association. Senior Officer Brisslinger also received the Medal of Merit from The Ventura County Peace Officers Association. Senior Officer Brisslinger received the M.A.D.D award for his relentless pursuit of impaired drivers and the 10851 award from the C.H.P for his vigilance in recovering stolen vehicles.

WHEREAS, Senior Officer Brisslinger was born and raised in Oxnard. Through Senior Officer Brisslinger's positive interactions, he has earned the respect of his fellow Officers, City employees and the community. He has developed countless friendships and partnerships within our City.

NOW, THEREFORE, the City Council of the City of Oxnard resolves: to commend, recognize, and extend its gratitude to Senior Officer John Brisslinger for his 32 years in law enforcement and 21 years of dedicated service to the City of Oxnard. We extend our best wishes for a fun and fulfilling retirement with family and friends.

PASSED AND ADOPTED THIS 7th day of December, 2021, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

John C. Zaragoza, Mayor
ATTEST:

Rose Chaparro, City Clerk

APPROVED AS TO FORM:

Stephen M. Fischer, City Attorney



CITY COUNCIL AGENDA REPORT
INFORMATION/CONSENT AGENDA
AGENDA ITEM NO. L.4

DATE: December 7, 2021
TO: City Council
FROM: Jason Benites, Police Chief, (805) 385-7624, jason.benites@oxnardpd.org
SUBJECT: Federal and State Asset Forfeiture Funds.

RECOMMENDATION

That City Council approve a budget appropriation in the amount of \$217,000 for the use of Federal (\$60,000) and State (\$157,000) asset forfeiture funds allocated to the City of Oxnard's Police Department.

(The Community Services, Public Safety, Housing and Development Committee approved 2-0 on November 9, 2021.)

BACKGROUND

Asset forfeiture is a tool used by law enforcement agencies against criminal organizations to deprive them of ill-gotten gains through the seizure of related assets. Asset forfeiture is used to disrupt, dismantle, and deter those who prey on the vulnerable for financial gain, including criminal organizations, drug dealers, and white-collar criminals. Forfeited funds are then used to help protect and serve our communities and support law enforcement.

The AFF appropriation will be used for training opportunities that are not reimbursed by California P.O.S.T. (Peace Officers Standards & Training), and various equipment purchases not covered via General Fund expenditures. With this budget appropriation, the Police Department intends to fund the following training and equipment:

- Investigative equipment
- Tactical and safety equipment
- Computer hardware and software (Chromebooks, Ipads, and word processing)
- Investigative training, including the areas involving narcotics, homicide, and sexual assault
- Unmanned aerial system equipment and training
- Mounted unit training

California Health & Safety Code section 11489(a)(2)(A)(i) mandates that 15% of state asset seizure funds "be used for the sole purpose of funding programs designed to combat drug abuse and divert gang activity...for high-risk elementary and secondary school students." The designated portion of these seizure funds will be used to work closely with local community-based organizations to accomplish these goals.

In the past, the Oxnard Police Department conducted an application process for the Asset Forfeiture Community Funds. Applicants were scored on criteria that included: locality, target population, project benefits, evidence of need/prior success, and demonstrated program/applicant need. We were able to provide mini-grants between \$2,500 to \$5,000 to various local community-based organizations. The Police Department plans to conduct a similar process upon the approval of this recommendation.

The funds must be used by law enforcement agencies for law enforcement purposes only and cannot replace or supplant existing resources.

STRATEGIC PRIORITIES

This agenda item supports Public Safety strategy. The purpose of the Public Safety strategy is to restore and modernize the delivery of public safety services to provide for the safety of our neighborhoods and health of our community.

FINANCIAL IMPACT

Of the \$217,000 appropriation requested from fund balances, \$50,000 will be appropriated to Asset Seizure-Vxnet Fed Fund 230 (Project #662158), \$10,000 will be appropriated to Asset Seizure-Federal Fund 231 (Project #662158), and \$157,000 will be appropriated to Asset Seizure-State Fund 191 (Project #662158) for equipment, training, and community programs. The projected undesignated, unreserved fund balance for Fund 230 is approximately \$71,290, Fund 231 is approximately \$12,150, and Fund 191 is approximately \$230,640.

COMMITTEE OUTCOME

The Community Services, Public Safety, Housing and Development Committee approved 2-0 on November 9, 2021 to approve the staff recommendation and to forward the item for Council approval.

Prepared by: Delia Campbell, Police Finance Manager

ATTACHMENTS

1. BA - FY21-22 Federal & State AFF

REQUEST FOR BUDGET APPROPRIATION

Department: Police Department
Project/Program _____
Manager: Delia Campbell

Date: December 7, 2021 ✓
Phone: 805-385-7612

Reason for Appropriation:

To appropriate Federal and State Asset Seizure funds for the FY21-22 operations.

Accounts and Descriptions

AMOUNT

Fund: 191 - ASSET SEIZURE - STATE

Expenditures/Transfers Out

ASSET SEIZURE - STATE (#662158)

191-2103-802-8134 ✓	MINOR EQUIPMENT	35,400 ✓
191-2103-802-8209 ✓	PROFESSIONAL SERVICES	50,000 ✓
191-2103-802-8343 ✓	TRAINING	24,200 ✓
191-2103-802-8606 ✓	MACHINERY AND EQUIPMENT	47,400 ✓

Sub-total Expenditures 157,000 ✓

Net Change to Fund Balance (157,000) ✓

Net Appropriation Change 157,000

Fund: 230 - ASSET SEIZURE - FEDERAL VXNET

Expenditures/Transfers Out

ASSET SEIZURE - FEDERAL VXNET (#662158)

230-2103-802-8134 ✓	MINOR EQUIPMENT	50,000 ✓
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Sub-total Expenditures 50,000

Net Change to Fund Balance (50,000) ✓

Net Appropriation Change 50,000

Fund: 231 - ASSET SEIZURE - FEDERAL

Expenditures/Transfers Out

ASSET SEIZURE - FEDERAL (#662158)

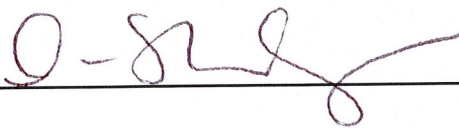
231-2103-802-8132 ✓	MINOR EQUIPMENT	10,000 ✓
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Sub-total Expenditures 10,000

Net Change to Fund Balance (10,000) ✓

Net Appropriation Change 10,000

Approvals

Department Director 

Chief Financial Officer _____

City Manager _____

REQUIRES CITY COUNCIL AUTHORIZATION

BA# (Finance Use Only) _____
BA Doc# (Finance Use Only) _____

Revised : 2/23/2012



CITY COUNCIL AGENDA REPORT
INFORMATION/CONSENT AGENDA
AGENDA ITEM NO. L.5

DATE: December 7, 2021

TO: City Council, Community Development Commission Successor Agency, Financing Authority, and Housing Authority Board

FROM: Alexander Nguyen, City Manager, (805) 385-7430, alexander.nguyen@oxnard.org

SUBJECT: 2022 Meeting Schedule for Legislative Bodies.

RECOMMENDATION

That City Council, Community Development Commission Successor Agency, Financing Authority, and Housing Authority approve the proposed meeting dates for the calendar year 2022.

BACKGROUND

On November 13, 2018, the City Council adopted Ordinance No. 2949 amending Chapter 2, Article 1, Section 2-1 and adding Section 2-1.1 to the City Code regarding the regular City Council meeting schedule and establishing City Council committees, to take effect January 1, 2019.

Per Oxnard City Code section 2-1.1, the City Council will meet the first and third Tuesdays of the month. City Committees will meet the second and fourth Tuesdays of the month. The Council has the ability to schedule additional meetings or cancel meetings as necessary.

Staff proposes the following meeting dates for City Council, Community Development Commission Successor Agency, Financing Authority, and Housing Authority as following for the calendar year 2022.

Regular City Council meetings are on the First and Third Tuesdays. Additional meetings are scheduled for the year's anticipated workload.

January 4 and 18
February 1 and 15
March 1, 15 and 29
April 5 and 19
May 3 and 17
June 7, 21 and 30
July 5, 19 and 28
September 6 and 20
October 4 and 18
November 1 and 15
December 6 and 20

Special City Council Meetings for redistricting as required following the 2020 census.

January 6 and 22
February 16

City Council Committees (Second and Fourth Tuesdays) are as follows:

January 11 and 25
February 8 and 22
March 8 and 22
April 12 and 26
May 10 and 24
June 14 and 28
July 12 and 26
September 13 and 27
October 11 and 25
November 22
December 13 and 27

The Tuesdays on which the Council would not meet, along with the reasons, are listed below:

August 2, 9, 16, and 23 Council recess the month of August.
November 8, 2022 - General Municipal Election

This schedule results in a total of 28 City Council meetings and 21 City Council Committee meetings for the 2022 calendar year. The Council has the ability to schedule additional special meetings as needed. It is further recommended that Council continue the practice previously authorized by Council on June 4, 2013, of commencing the public portion of the meetings at 6:00 p.m. Closed sessions would continue to start as early as 4:30 p.m., as needed. The City Council meetings are televised on Spectrum, Channel 10 and Frontier Communications, Channel 35. Residents also have access to Council meetings via the City's web-page or YouTube, both in real time and archived following the meetings at www.oxnard.org/city-meetings.

STRATEGIC PRIORITIES

This agenda item is a routine operational item or does not relate to the five strategic priorities adopted by City Council on March 16, 2021.

FINANCIAL IMPACT

There is no financial impact.

COMMITTEE OUTCOME

This item did not originate in Committee.

Prepared by: Luly Lopez, Executive Assistant I

ATTACHMENTS

1. 2022 MEETING CALENDAR

2022 OXNARD CITY COUNCIL MEETINGS

City Council (1st & 3rd Tues)

* Redistricting

Holidays

Committee (2nd & 4th Tues)

Closed Friday

Half-Day Holiday

January						
S	M	T	W	Th	F	S
						1
2	3	4	5	6*	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22*
23	24	25	26	27	28	29
30	31					

February						
S	M	T	W	Th	F	S
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16*	17	18	19
20	21	22	23	24	25	26
27	28					

March						
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13	14	15	16	17	18	19
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27	28	29	30			

April						
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24	25	26	27	28	29	30

May						
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15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

June						
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26	27	28	29	30		

July						
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24	25	26	27	28	29	30
31						

August						
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28	29	30	31			

September						
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11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	

October						
Su	M	Tu	W	Th	F	Sa
						1
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9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

November						
Su	M	Tu	W	Th	F	Sa
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13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30			

December						
Su	M	Tu	W	Th	F	Sa
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31



CITY COUNCIL AGENDA REPORT

PUBLIC HEARINGS AGENDA ITEM NO. M.1

DATE: December 7, 2021

TO: City Council

FROM: Vyto Adomaitis, Community Development Director, (805) 385-7882, vyto.adomaitis@oxnard.org

SUBJECT: Project Name: FGH Retail Services, LLC. - Appeal of the Planning Commission's Decision to Approve Planning and Zoning Permit No. 21-516-36 (Special Use Permit- Cannabis Retail) regarding property at 2320 North Rose Avenue (APN: 213-0-011-255). (20/10/10)

RECOMMENDATION

That the City Council:

1. Conduct a public hearing;
2. Find the Project to be Categorically Exempt from environmental review pursuant to the California Environmental Quality Act (CEQA) Guidelines Section 15301 (Existing Facilities); and
3. Adopt a Resolution denying the appeal and upholding the Planning Commission's approval of Planning and Zoning Permit No. 21-516-36 (Special Use Permit- Cannabis Retail), subject to certain conditions and findings.

Please click the following link to view the required Measure M pre-recorded presentation video:

<https://youtu.be/KMtSWbZH4kg>

BACKGROUND

EXECUTIVE SUMMARY

On October 7, 2021, the Planning Commission ("Commission") approved Planning and Zoning Permit No. 21-516-36 (Special Use Permit- Cannabis Retail), a request by the Applicant FGH Retail Services ("FGH") to permit the operation of a commercial cannabis retail facility within an existing 23,275 square-foot commercial suite of a 92,591 square-foot multi-tenant commercial building on a 17.38-acre site within the General Commercial (C-2) zone (Attachments A & B). The facility would be located at 2320 North Rose Avenue.

On October 26, 2021, a timely Appeal application was filed on behalf of Rose II, LLC, Oxnard Place, LLC, and Rose TIC, LLC ("Appellant") with the City (Attachment C). The Appellant seeks City Council review of the Planning Commission's decision.

Staff recommends the City Council adopt a Resolution to deny the Appeal and uphold the Commission's approval as there is no merit to the Appellant's Grounds of Appeal as described below in the Analysis and Discussion section of this staff report. Denial of the Appeal would allow the commercial cannabis retail facility to become operational, subject to project conditions and obtaining the necessary state licenses..

As this is the first Cannabis Appeal the City Council has received, this staff report provides 1) an extensive background on the Cannabis Ordinance creation and associated application selection and permit process, 2) the specific elements that are required to grant the requested Special Use Permit and a summary of the Findings which were made, 3) a summary of

the Appeal, and 4) a discussion of the review and hearing process before the City Council.

BACKGROUND

Cannabis Regulations

In April 2018, the City Council adopted a cannabis delivery ordinance including permit fees (Ord. No. 2937 - Chapter 11, Article XV). In January 2019, the State legalized cannabis delivery by state-licensed firms and eliminated the City's ability to regulate cannabis delivery.

On June 18, 2019, the City Council adopted Ord. No. 2960 establishing regulations pertaining to manufacturing, testing, and distribution of cannabis. On October 1, 2019, the City Council adopted Ord. No. 2965, modifying the discretionary permitting process along with other non-substantive ordinance adjustments pertaining to manufacturing, testing, and distribution of cannabis. On December 17, 2019, the City Council adopted Ord. 2972 establishing regulations for retail cannabis (dispensary) uses. On September 15, 2020, the City Council adopted Ord. No. 2985 to permit cannabis retail dispensaries in the downtown zones ("Downtown-Core" and "Downtown-General"), and updated the cannabis regulations in the City's newly adopted Industrial Code (Chapter 16 of the OCC). On October 20, 2020, the City Council adopted a cannabis local equity program.

On December 1, 2020, the City Council adopted Ord. No. 2994, which repealed and readopted the former City's Commercial Cannabis Regulations pertaining to cannabis manufacturing, distribution, testing, and retail dispensaries contained in Chapter 11, Article XVII ("Code"). The ordinance made modifications to implement the City's Local Equity Cannabis program, updated appeal provisions, and made a number of other nonsubstantive updates to the existing cannabis regulations. The City Council also repealed Chapter 11, Article XV (Medical Cannabis Delivery), and Chapter 7, Article XVI (Cannabis and Medical Cannabis Activities) due to State legalization of state-licensed cannabis delivery operators.

The above regulations are found within the published Oxnard City Code (OCC).

Commercial Cannabis Retail License Selection

On January 7, 2021, FGH Retail Services, LLC. filed for a request to obtain a Commercial Cannabis Business Permit for a cannabis retail facility during the open application period for a competitive selection process. The City received 51 applications for commercial cannabis retail. The applications were reviewed using a competitive scoring process and the processes involved a four phase process: 1. Application Submittal and Determination of Eligibility, 2. Application Evaluation and Initial Ranking, 3. Interviews and Second Ranking, and 4. Authorization to File an Application for a Special Use Permit at Specific Location. All awarded applicants must complete all four phases and secure a Special Use Permit in order to successfully commence and inaugurate the Commercial Cannabis Business Permit.

On March 1, 2021, the City Manager approved a list of 13 retail cannabis applicants and three (3) local equity applicants that were invited to apply for a Special Use Permit at specific locations based on the competitive selection process. FGH Retail Services, LLC was one of the three local applicants invited to apply for a Special Use Permit. In order to successfully commence and inaugurate the Commercial Cannabis Business Permit, FGH Retail Services, LLC. is required to receive approval of a SUP as specified within OCC Section 11-457.

Required Findings to Grant a Special Use Permit

Pursuant to OCC Section 11-485, approval of retail dispensaries shall be through approval of a Special Use Permit to be issued by the Planning Commission. Pursuant to OCC Section 16-531, in order to grant a Special Use Permit the Commission must make the following findings:

(A) The nature, condition and development of adjacent uses, buildings and structures shall be considered, and no proposed special use permit shall be granted if the approval body finds such use will adversely affect or be materially detrimental to such adjacent uses, buildings or structures or to the public health, safety or general welfare.

(B) The site that is subject to the special use permit shall be adequate in size and shape to accommodate the yards, walls,

fences, parking and loading facilities, landscaping and items which may be required by section 16-532.

(C) The site that is subject to the special use permit shall be served by highways adequate in width and improved as necessary to carry the kind and quantity of traffic such use would generate.

(D) The site that is subject to the special use permit shall be provided with adequate sewerage, water, fire protection and storm drainage facilities.

Commercial Cannabis Retail Special Use Permit

On October 7, 2021, the Commission opened the public hearing to consider Planning & Zoning Permit No. 21-516-36 requesting approval of a Special Use Permit. Written public comments were received from FGH (dated October 5, 2021) and the future Appellant (dated October 6, 2021, and also included a prior letter dated June 15, 2021) which were distributed to the Planning Commission and made publicly available. Approximately 30-minutes of public verbal testimony was also provided by twelve individuals on October 7, 2021. Verbal comments received from eight of the twelve individuals can generally be summarized as being supportive of the request, and verbal comments from four of the twelve individuals consisted of the phrase “I will withhold comments until the next meeting.” Supportive comments generally described FGH’s existing cannabis operations in Port Hueneme as being of a high caliber, having a history of revitalizing a commercial development after they opened a store, having strong ties to the community and supportive of nonprofits and community organizations, and the opening of cannabis retail facilities has a history of lowering crime rates due to additional security measures. Following receipt of verbal and written public comments, the public hearing was continued to October 13, 2021.

On October 13, 2021, the Commission held the continued public hearing to consider Planning & Zoning Permit No. 21-516-36. At the public hearing, the Commission received a presentation by FGH, heard public testimony, deliberated, and made a motion to approve the project’s Special Use Permit over an approximately three-hour period. Approximately 75-minutes of public verbal testimony was also provided by twelve individuals on October 13, 2021. Verbal comments received from nine of the twelve individuals can generally be summarized as being supportive of the request, and verbal comments from three of the twelve individuals can generally be summarized as being unsupportive of the request. Supportive comments, again, generally described FGH’s existing operations as being of a high caliber, having a history of revitalizing a commercial development after they opened a store, having strong ties to the community and supportive of nonprofits and community organizations, and the opening of cannabis retail facilities has a history of lowering crime rates due to additional security measures. Of note, Port Hueneme Police Chief Salinas described FGH being a good partner to the City of Port Hueneme, FGH’s Port Hueneme location as being a successful business, neighboring business having benefited due to an increase in visitors to the area, and highlighted that crime rates adjacent to cannabis dispensaries have dropped in Port Hueneme since the cannabis dispensaries opened due to the additional security measures. Comments opposing the project generally described the proposed use as not being compatible with the character of the shopping center’s tenants, incompatible with the shopping center’s CC&Rs, deterring potential tenants from locating in the shopping center, and introducing a detrimental impact due to a loss of financing and insurance.

Following the public testimony and deliberations, the Commission voted 6-0, with one Commissioner abstaining, to adopt a resolution to approve the project. The adopted resolution included all of the required Special Use Permit Findings found in OCC Section 16-531.

On October 26, 2021, the Appellant filed a timely Appeal application with the City (Attachment C).

On November 17, 2021, FGH submitted a letter to the City in response to the Appeal application (Attachment D).

ANALYSIS & DISCUSSION

Summary of the Appeal

The Appellant provided two formal Grounds of Appeal in their Appeal application, and an additional seven were found within attachments to their Appeal application. This report considers the specific grounds raised in the Appeal starting with the two actual grounds raised in the formal Appeal application, then addresses the grounds raised in the attached letter.

The Grounds of Appeal can be summarized to include: 1) No notice was given to the public regarding proposed delivery use, 2) the proposed event space further violate the CC&Rs, 3) Background and correction of the incomplete record, 4) The City cannot make the required findings under Oxnard Zoning Code Section 16-531(A), 5) Approval of the application will be a waste of the City's time and resources, 6) FGH misrepresented facts in the presentation to the City, 7) The Project is subject to CEQA, 8) the Resolution itself is flawed, and it contains many errors that need to be correct, and 9) Request to speak at October 7, 2021 hearing. The Appellant's nine Grounds of Appeal are noted below, verbatim in italicized text, with staff's response following each ground of appeal.

Ground of Appeal 1: *"NO NOTICE WAS GIVEN TO THE PUBLIC REGARDING PROPOSED DELIVERY USE"*

Staff Response 1:

Staff disagrees with Ground of Appeal 1. The Appellant does not provide any evidence in their Appeal application to back up this assertion; however, the record shows an abundance of evidence that delivery services are allowed by the OCC, in the applicant's application, and in the Planning Commission staff report and Resolution.

FGH applied for a retail commercial cannabis license. Both State law and the OCC allow cannabis retailers to deliver cannabis products to customers. Specifically, OCC Section 11-454(III) defines "Retailer" as "A commercial cannabis business facility where cannabis, cannabis products, or devices for the use of cannabis or cannabis products are offered, either individually or in any combination, for retail sale, including an establishment (whether fixed or mobile) that delivers, pursuant to express authorization, cannabis and cannabis products as part of a retail sale, and where the operator holds a valid commercial cannabis business permit from the City of Oxnard authorizing the operation of a retailer, and a valid State license as required by State law to operate a retailer." FGH applied for a Type-10 "Retailer" license that included a delivery component.

The materials presented to the public and Planning Commission included conditions of approval (Nos. 150 a. through f.) which controlled for deliveries.

Ground of Appeal 2: *"THE PROPOSED EVENT SPACE FURTHER VIOLATE THE CC&RS"*

Staff Response 2:

Staff disagrees with the applicability of Ground of Appeal 2, even if the CC&Rs would apply. Simply put, the City does not enforce private Covenants, Conditions and Restrictions (CC&Rs). The City has been consistent with this stance both leading up to and at the Commission's public hearing.

The materials published prior to the Commission's hearing included a condition of approval (No. 5) which states "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)."

At the hearing, staff verbally explained that the City does not enforce private CC&Rs. Because the City does not enforce CC&Rs, this Ground of Appeal does not provide a proper basis for overturning the Planning Commission's approval of the Special Use Permit.

Ground of Appeal 3: *"BACKGROUND AND CORRECTION OF THE INCOMPLETE RECORD"*

The Neighboring Owners submitted a thorough letter to the City on June 15, 2021, addressing several crucial points that they wanted to ensure were brought to the attention of the Planning Commission. However, the letter's main point of contention – that the City is unable to make the findings required under Oxnard Zoning Code Section 16-531(A) – was entirely ignored by the staff report. The letter's purpose was twofold (as stated expressly therein): 1) provide the City with the relevant information needed to properly analyze the "nature, condition and development of adjacent uses, buildings and structures," and to ensure that FGH's proposed use does not "adversely affect or be materially detrimental to such adjacent uses, buildings or structures" as required by Oxnard Zoning Code Section 16-531, and 2) to put the City on notice that even if it approves the Project, FGH will never be able to open, operate, or provide a tax benefit for the City, as the Neighboring Owners will act to enforce the CC&Rs, which expressly prohibit adult uses, including cannabis businesses.

The Neighboring Owners write now to again express their vehement opposition to the Project, and to bring to the Planning Commission's attention several major flaws with the proposed resolution. The Planning Commission should vote to deny the Project."

Staff Response 3:

Staff disagrees with Ground of Appeal 3 as the Commission was notified of the submitted "Neighboring Owners" letters submitted on April 21 and June 15, 2021 within section 8 of the staff report (Attachment A). The staff report outlines the "Neighboring Owners" were against the proposed project due to the following reasons: 1) that FGH Retail Services, LLC. has provided false and misleading information; and 2) the shopping center's CC&Rs prohibit the operation of cannabis businesses. Furthermore as part of the staff report record Attachment K of the Planning Commission staff report included the full "Neighboring Owners" letter for the Commission to review in detail.

Neither staff nor the Commission ignored the claims that the Project did not make the required Findings required to grant a Special Use Permit; however, staff and the Commission did not find the claims had merit.

As described in the Staff Report and discussed at the Commission's public hearing, the Project will allow cannabis retail within an existing building that is located within an existing commercial shopping center. The existing building and shopping center are adequately served by utilities and infrastructure. The proposed changes to the building are not anticipated to result in any significant alterations to the demand or delivery of utilities or infrastructure to serve the proposed use. General retail uses, and other more intense uses such as restaurants and wedding chapels, are allowed permitted uses within the C-2 zone which do not require a Special Use Permit. The proposed retail cannabis use requires a Special Use Permit to ensure operational characteristics of the business will be both compatible with and not adversely affect or be materially detrimental to the other uses, buildings or structures within the shopping center. Furthermore, prior to the Commission's vote, City staff had extensively reviewed the project and had found it in compliance with General Plan, zoning and cannabis regulations.

It was pointed out that as the Project will be located more than 600 feet from established commercial cannabis sensitive uses, the Project is consistent with public health, safety and general welfare by City standards. The approved Resolution includes 189 conditions of approval which were crafted for compliance with the requirements set forth pursuant to OCC Article XVII (Commercial Cannabis Activity) to ensure operational standards were met. After considering extensive testimony about the enhancements the proposal would bring to the vacant tenant space, the increase in customers to the shopping center and the decrease in crime rates experienced at other cannabis facilities with enhanced security, the Commission found the Project will not aggravate policing issues when properly regulated through the imposition of and compliance with the conditions of approval. Based on these factors, the Planning Commission found this business, responsibly managed, would not have an adverse impact on area crime or demand for police services. Conversely, the Commission found the proposed use would be a beneficial addition to the shopping center by bringing in new customers, making enhancements to the building and parking areas, and would introduce a private security component which would benefit all tenants within the shopping center.

As described in Ground of Appeal 2, the City does not enforce CC&Rs.

In conclusion, the Commission made the required Findings necessary to grant a Special Use Permit were made.

Ground of Appeal 4: *"THE CITY CANNOT MAKE THE REQUIRED FINDINGS UNDER OXNARD ZONING CODE SECTION 16-531(A)*

Before it may issue a Special Use Permit, the first finding the City must make is that the proposed use will cause no adverse or detrimental effects to the neighboring uses and businesses. The requirement, in relevant part, is set forth below (emphasis added):

SEC. 16-531. REQUIREMENTS FOR GRANTING. Before a special use permit may be granted, the applicant must show and the commission must find that the proposed use is in conformance with the general plan and other adopted standards and that the following conditions are met:

(A) The nature, condition and development of adjacent uses, buildings and structures shall be considered, and no proposed special use permit shall be granted if the approval body finds such use will adversely affect or be materially detrimental to such adjacent uses, buildings or structures or to the public health, safety or general welfare.

Staff reports, and proposed resolutions for the Planning Commission's consideration, typically contain a list of required findings that are taken verbatim from the relevant municipal codes (in this case, Oxnard Zoning Code Section 16-531), and then explain how the Project satisfies, or fails to satisfy, each of the requirements. The staff report before the Planning Commission for the October 7, 2021 hearing (and the accompanying proposed Planning Commission Resolution) does no such thing.

Rather than listing the requirements from Oxnard Zoning Code Section 16-531, pages 3-5 of the proposed Planning Commission Resolution instead only paraphrases some of the requirements therein, and in so doing, misses some important mandatory requirements, such as those listed Oxnard Zoning Code Section 16-531(A). As such, if the City were to approve the project based on the resolution currently before the Planning Commission, it would constitute an abuse of discretion under California Code of Civil Procedure Sections 1094.5(b)-(c): "Abuse of discretion is established if the respondent has not proceeded in the manner required by law, the order or decision is not supported by the findings, or the findings are not supported by the evidence." (See also, Topanga Association for a Scenic Community v. County of Los Angeles (1974) 11 Cal.3d 506, 515 .)

The Neighboring Owners want to again be very clear regarding the intent of this letter (and the June 15 letter). The purpose is not to ask the City to enforce the CC&Rs governing the Complex. The Neighboring Owners will do so themselves through litigation, if necessary. Rather, the Neighboring Owners simply ask the City to do as Oxnard Zoning Code Section 16-531(A) requires: consider the "nature, condition and development of adjacent uses, buildings and structures"3 and to reject the Project if it "will adversely affect or be materially detrimental to such adjacent uses, buildings or structures." Because the Project will have an adverse effect on the neighboring uses, the Planning Commission should reject the application, as it cannot make this required finding."

Staff Response 4A:

The Project's staff report, associated attachments, and Resolution provided the basis for the Commission to find the intent of the Special Use Permit (SUP) requirements for granting the SUP as specified in the Oxnard City Code (OCC) Section 16-531 (Requirements For Granting) were made within Section 1 of the Resolution (Attachment B).

As described above in the staff response to Ground of Appeal 3, the Commission made the Findings necessary to grant a Special Use Permit were made. The draft Resolution attached to this staff report has been updated to incorporate verbatim Finding language and additional testimony provided to the Planning Commission.

"A. Adverse Impacts on Neighboring Uses

There are several adverse impacts on the adjacent uses that the Planning Commission should be aware of, as it determines whether it can make the required finding under Oxnard Zoning Code Section 16-531(A):

1. Future Tenant Restrictions and Future Tenant Hesitancy: Because cannabis sales are an adult use, and regulations prohibit certain sensitive uses near cannabis operations, the Neighboring Owners will be legally prevented from renting to certain types of businesses in the future, such as youth groups, schools, preschools, day-cares, and the like. Beyond the outright prohibition regarding certain classes of tenants, many family-oriented businesses (including themed restaurants, family restaurants, event spaces, etc.) also will refuse to sign a lease if there is a cannabis operation within the Complex. There are also non-family-oriented commercial businesses that will simply refuse to be located in a complex containing a cannabis dispensary. This means that the pool of potential tenants will be reduced, which in turn, means that vacancies will take longer to fill, which has a negative financial impact on the Neighboring Owners (as well as the City, due to decreased tax revenues).

2. Financing: Many financial institutions have advised that on projects that contain cannabis uses, they would refuse to lend or refinance if there is a tenant within the Complex that is a cannabis use. Due to federal illegality of cannabis, financial institutions tend to take a hard stance on cannabis uses (even when it is an adjacent use), and this issue could put Neighboring Owners in a precarious position when it comes to financing.

3. *Traffic: FGH's operations are expected to bring a significant amount of vehicle traffic, foot-traffic and visitors to the business. The staff report is ambiguous regarding whether FGH's operation also includes delivery beyond storefront retail. To the extent that FGH operates a delivery business from the Property, that will greatly impact the atmosphere of the parking lot, converting it from a space for parking, to a hub for delivery vehicles. The impacts from such a major change would need to be analyzed and potentially mitigated.*

4. *Crime: Because cannabis remains federally illegal in most circumstances, most cannabis operators still deal heavily in cash. Some cannabis operators have established illegal workarounds to this typically cash-only business, only to be criminally prosecuted. The large amounts of cash, often kept in safes onsite, along with the extremely high-valued products, mean that cannabis operations such as that of FGH often have millions of dollars of combined cash and products on site. This leads to higher security threats, and a greater probability of crime and attempted theft. In addition, consumption of cannabis in public is still a crime in all of California, even in local jurisdictions where it has been legalized, including in Oxnard. (California Health and Safety Code Sections 11362.3-11362.4 .) The increased crime risks would also lead to higher security costs for the Neighboring Owners.*

5. *Odors: Cannabis dispensaries are notorious for emitting strong smells which the Neighboring Owners consider to be offensive and a nuisance. Conditions of approval relating to these smells do little to mitigate the impacts. To the extent that patrons of the neighboring businesses are bothered by the smells, they will also avoid shopping in the Complex, and go elsewhere.*

6. *Loitering: Patrons who obtain the cannabis from FGH may loiter and consume the cannabis products in the parking lot, and in and around the businesses of the neighboring properties, which would materially interfere with the operations and success of those businesses.*

7. *Insurance: For many of the same reasons listed above (increased crime risk, loitering, odors, tenant restrictions, etc.), the Neighboring Owners will suffer from an increase in insurance premiums due to the neighboring cannabis use.*

8. *Loss of Business: Cannabis smells, loitering of FGH patrons, and the increased security risks (described above) are a material interference with neighboring businesses. In addition, a cannabis business would materially alter the prestige of the shopping center, and therefore, the neighboring businesses. It is possible, if not likely, that many families with younger children (and those who oppose cannabis for other reasons) would no longer want to take their business to the Complex once a cannabis dispensary opens therein.*

The full extent of the negative impacts from FGH's operations cannot be known, but FGH was put on full notice of the concerns listed above, and despite multiple letters to FGH from counsel for several of the Neighboring Owners, FGH has not responded to these issues. Notably, the staff report also fails to address any of these issues, and despite having received the June 15 letter (with attachments) from this firm, does not even include any analysis or discussion regarding how or why these concerns have been mitigated or otherwise addressed.

In any event, based on the above adverse impacts to the Neighboring Owners, the Planning Commission cannot make the required findings under Oxnard Zoning Code Section 16-531(A), and must reject the application."

Staff's Response 4B. Adverse Impacts on Neighboring Uses - 1, 2, 7, 8:

The claims made by the Appellant lack factual evidence either in writing or provided verbally at the Commission's public hearing that approval of this commercial cannabis retail use will result in future tenant restrictions and future tenant hesitancy, or difficulties in securing financing or insurance. Without the necessary evidence, the claims are speculation and cannot be used to overturn the Appeal.

Major portions of the Shopping at the Rose II commercial center have been underutilized or vacant for years. The shopping center, originally developed in 1996, used to include several successful big-box retailers, but as the retail market has shifted with the advent and advancement of internet sales, the big-box retailers have been negatively impacted. This center had included an Office Max (closed in 2019), and that space is not occasionally rented for a seasonal costume store. The shopping center had included a Babies R Us store (closed in 2018) and has remained vacant aside from becoming a temporary vaccine facility during the COVID-19 pandemic. Other tenants include a single big-box retailer Best Buy, a Goodwill thrift store, a gas station/convenience store, and a Golden Corral restaurant.

The Project includes the revitalization of the shopping center by offering a modernized storefront facade

improvement. Besides offering a facade improvement, the commercial center will also be getting amenities like 24-hour security monitoring, required bicycle and motorcycle parking, improved lighting, and general maintenance improvements. The Project is anticipated to both enhance the appearance of the shopping center by introducing a facade modification with unique architecture and draw customer traffic into the shopping center. As testimony had been provided that retail establishments next to commercial cannabis retail locations have seen an increase in business, this shopping center should also see an increase in business over the current status of the underutilized shopping center and fill vacant spaces.

Staff Response 4B. Adverse Impacts on Neighbouring Uses - 3, 4, 5, 6:

The Project was reviewed for compliance with OCC and other City of Oxnard requirements prior to the Commission considering the project for approval. Traffic generation was considered during the review of the Project and was found not to create traffic volumes in excess of the allowed general commercial uses for the site. Indeed, the shopping center was designed to handle large traffic volumes to serve the big-box retailers. The underutilized shopping center's parking meets City standards based on the uses and square footage of the uses. Delivery services are accessory to the Project's general cannabis retail operation and will not result in an increase of traffic above other uses allowed in the general commercial zone. The Police Department (PD) reviewed and conditionally approved a custom security plan for the Project which included the review of crime statistics, potential loitering, operational plans of the Project, and other unique cannabis use risks. The PD outlines specific conditions of approval to mitigate any risk of crime for the Project as outlined in the draft resolution (Attachment B). Lastly, the project was reviewed and conditionally approved to help mitigate possible odors emitted by the Project. Mitigation measures for odor control include the installation of odor reducing systems, use of prepackaged retail goods, and having a designated community outreach person to report operation issues. Based on the draft resolution helping mitigate potential issues and ensure the Project will be in compliance with cannabis retail operation requirements the Project was deemed allowed.

"B. Direct Violation of the CC&R's Express Terms

In addition to the adverse impacts to the Neighboring Owners, the Planning Commission is also tasked with considering the "nature, condition, and development of adjacent uses, buildings and structures." In this particular case, the "nature, condition, and development of adjacent uses, buildings and structures" which the City must consider under Oxnard Zoning Code Section 16- 531(A), are governed by a written document: the CC&Rs. The CC&Rs expressly prohibit the proposed cannabis use, as thoroughly analyzed in the letters to FGH from the Neighboring Owners (See Exhibit A, Exhibit 1). FGH acquired the Property having been provided with actual and constructive notice of the CC&Rs, and FGH was fully aware of the restrictions and limitations of the Property it purchased.

The City cannot make the required finding regarding adjacent uses in a vacuum. All of the owners in the Complex have agreed to be bound by the CC&Rs; those CC&Rs are therefore relevant to the City's findings concerning the effects on surrounding uses. Here, the CC&Rs expressly prohibit the use that FGH is proposing. While the below list is not exhaustive, here is a representative list of prohibitions that FGH has utterly ignored:

1. Prohibition on "adult uses" (Section 2.b): The CC&Rs broadly prohibit "adult uses" at the Complex. By definition, cannabis retail facilities are adult businesses that can only service adult customers under California law. In fact, the very first slide of FGH's presentation to the City describes a cannabis business as an "adult use." An adult cannabis business is no different than the myriad other types of adult businesses that are also expressly called out in the CC&Rs as prohibited uses in the Complex.

2. Prohibition on illegal uses (Section 2.b.iv): The CC&Rs also prohibit any use that violates "any law, ordinance, rule or regulation of any governmental authority with jurisdiction over any portion of the Shopping Center." Despite changes in State and local law, cannabis remains a Schedule 1 drug under the Controlled Substances Act (21 U.S.C. 802, 812) and the sale of cannabis is illegal under federal law. As a result, cannabis sales are prohibited by the CC&Rs.

3. Prohibition on activities which interferes with the business of any other occupant (Section 2.b.iii): The list of adverse impacts described in Section III.A above show that FGH's operation will interfere with the businesses of the Neighboring Owners.

Thus, beyond the actual adverse impacts listed in Section III.A above, the fact that FGH has decided to attempt to open a cannabis dispensary in a Complex where it is expressly prohibited is telling. The fact that FGH has refused to present any arguments as to how or why it complies with the CC&Rs also speaks volumes. This is not a company that has high regard for the rules or regulations of the Property it has purchased, even when put on notice of those requirements repeatedly. Why would FGH act any differently in connection with the City's rules or regulations? A company that would seek the City's approval of a business that it undeniably knows is prohibited at the Property is not one deserving of the City's consideration for a Special Use Permit."

Staff Response 4C:

As described in Ground of Appeal 3, the City does not enforce CC&Rs. Conversely, the OCC allows for cannabis uses with approval of a Special Use Permit provided Findings can be made.

Ground of Appeal 5: "APPROVAL OF THE APPLICATION WILL BE A WASTE OF THE CITY'S TIME AND RESOURCES

It is abundantly clear from the language of the CC&Rs that FGH's proposed cannabis dispensary use is prohibited, and the Neighboring Owners have already expressed their willingness and desire to enforce the terms of the CC&Rs. There is no doubt that the courts will act to enforce the CC&Rs, and that FGH will not be permitted to open the dispensary at the Property.

As such, the City will never see the tax revenues from this location even if the SUP application is approved. The available dispensary permit should be given to another deserving applicant, so that the City can see the tax revenues that would come from a properly situated cannabis dispensary."

Staff Response 5:

As stated previously, the City of Oxnard does not enforce CC&Rs. Additionally, the City has a responsibility to process permits that have been submitted for consideration that are complete and have paid the application processing fees.

Ground of Appeal 6: "FGH MISREPRESENTED FACTS IN ITS PRESENTATION TO THE CITY

FGH's February 18, 2021 PowerPoint presentation to the City touted purported "Neighborhood Compatibility" as a key reason for why it should be selected to apply for and obtain a Special Use Permit, spending nearly 50% of the slides discussing FGH's efforts at "building trust" and "being a good neighbor." This inaccurate narrative, however, flies in the face of reality. FGH has been acutely aware of, but failed to disclose, the Neighboring Owners' strong opposition to its proposed operations since at least April 2020, when several of the Neighboring Owners put FGH on written notice that its proposed use at the Complex would violate several provisions of the governing CC&Rs, and would create various nuisances and disturbances within the Complex. (See Exhibit A, Exhibit 1 and Exhibit 2.)

FGH's failure to be transparent with the City and disclose the strong opposition of the Neighboring Owners to its proposed use at the Complex is anything but an example of "building trust" and "being a good neighbor." Indeed, its presentation to the City attempted to give the impression that the Neighboring Owners in the Complex would benefit from, and perhaps even support, FGH's application. Nothing could be further from the truth.

It should be noted that the staff report also attaches a "petition" with purported signatures of approval of FGH's business. The Planning Commission should give zero weight to this petition.

The staff report notes that "the City received a petition in support of the proposed Project." (Staff report p. 7.) However, the staff report does not say who provided that petition, or when, or how the petition was conducted. There is no declaration or affidavit from the person (or persons) who purportedly collected the signatures. There is no real evidence before the Planning Commission that these signatures are legitimate, and they should be disregarded entirely.

It should be noted that although FGH's representatives met with the Neighboring Owners regarding their operations in advance of the hearing, FGH's precondition to such a meeting was that there would be no discussion of the CC&Rs. In other words, FGH understands that its proposed use violates the CC&Rs, has no arguments to rebut this violation, and has stubbornly proceeded with its application despite this context."

Staff Response 6:

FGH's presentation provided at the Commission's hearing allows the Commissioners to view the presentation, and make their own independent assessment of all of the materials presented and written and verbal testimony provided. Additionally, the Commission was given the petition in full so the Commissioners could review the material and make an independent assessment ahead of the hearing date. Staff aided in making sure all public materials were presented at the Commission hearing to ensure the Commission had all the information prior to taking a vote. City staff were fully aware of Appellant's opposition to the project based upon the multiple letters and emails sent to City staff by Appellant's attorney. These include, but are not limited to, letters from Appellant's counsel dated April 24, 2020, June 14, 2021 and October 6, 2021. Finally, legal counsel for FGH had multiple communications with the City Attorney's office in which FGH's legal counsel disclosed Appellant's opposition to the project.

Ground of Appeal 7: "THE PROJECT IS SUBJECT TO CEQA"

The staff report and Planning Commission Resolution state that the Project is exempt from CEQA because it is an Existing Facility. To support this conclusion, the staff report goes on to state that 1) the Project request will not increase the square footage of the existing building and 2) no exceptions to the exemptions (Section 15300.2) apply to defeat the exemption. (Staff report p. 4.) Both of these contentions are wrong.

A. The Project Increases the Square Footage of the Building

Although the staff report claims that there will be no increase in square footage, that is false. FGH requested a permit "for a 23,000 square-foot cannabis retail facility." (Staff report p. 4.) Yet, the current application is a "request to permit the operation of a commercial cannabis retail facility within an existing 23,275 square-foot commercial suite." (Staff report p. 1.) Thus, there is an increase of 275 square feet. The staff report is internally contradictory on this issue, but there is evidence in the record that the applicant is requesting a square footage increase, and has even suggested a Community Development Director approval for such an increase. (Staff report p. 5.) As such, there is indeed an increase in square footage, and the existing facilities exemption cannot apply.

B. Several Unusual Circumstances Apply, Rendering the Categorical Exemption Inapplicable in Any Event

Categorical exemptions are narrowly construed (Dehne v County of Santa Clara (1981) 115 Cal.App.3d 827, 842) and the scope of the exemptions should not be unreasonably expanded (Wildlife Alive v Chickering (1976) 18 Cal.3d 190, 205; McQueen v Board of Dirs. (1988) 202 Cal.App.3d 1136.) Strict construction ensures that categorical exemptions are interpreted in a manner affording the greatest environmental protection within the reasonable scope of their language. (Save Our Schools v Barstow Unified Sch. Dist. Bd. of Educ. (2015) 240 Cal.App.4th 128, 140.) Furthermore, for all types of exemptions "a project is only exempt from CEQA where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment." (Dunn-Edwards Corp. v. Bay Area Air Quality Management Dist. (1992) 9 Cal.App.4th 644, 656, disapproved on other grounds by Western States Petroleum Assn. v. Superior Court (1995) 9 Cal.4th 559, 576, fn. 6.)

To establish unusual circumstances and defeat the use of a categorical exemption pursuant to CEQA Guidelines § 15300.2(c), a petitioner must establish that 1) unusual circumstances are present, and 2) there is a reasonable possibility of a significant environmental impact due to those circumstances. (Berkeley Hillside Preservation v. City of Berkeley (2015) 60 Cal.4th 1086, 1109-1117.) Alternatively, a petitioner "may establish an unusual circumstance with evidence that the project will have a significant environmental effect." (Id. at p. 1105.) Here, there are several unusual circumstances at play, any of which render the categorical exemption inapplicable.

Unusually Large Size: First, the size of FGH's proposed operation is much, much, larger than your typical cannabis dispensary. The average dispensary consists of about 2,000 square feet or less. FGH's cannabis dispensary is over ten times larger, and it is unknown to the Neighboring Owners (and even perhaps the City) what that additional space will be used for. To the extent that the additional space will be used for cultivation or manufacturing, that would not be permitted by FGH's license, and would be a violation of the law. Furthermore, cultivation activities bring additional burdens such as additional odors and noises, hazardous materials and runoffs, etc.

Crime/Loitering: The increased potential for crime and loitering is something that should be analyzed under CEQA.

Odor/Noise/Traffic: As discussed in Section III.A above, there are several collateral effects of a cannabis dispensary, such as odor, noise, and traffic, that should be analyzed under CEQA.”

Staff Response 7:

The Project was provisionally approved with a cannabis retail gross floor area of 23,000 square feet; however, once the SUP application was submitted it was discovered the original gross floor area was miscalculated by 275 square feet. City cannabis uses must comply with the original provision of gross floor area approved. In accordance with the City of Oxnard's Planning Divisions established Policies & Procedures Item 2.7 - Minor Modifications the Community Development Director may approve increases or decreases of no more than 10% for use of an area for projects approved by the Planning Commission. As a result, the staff report highlighted the less than 1.2% increase in allowable retail gross floor area from 23,000 square feet to 23,275 square feet. The actual gross floor area of the building will not be changed and the proposed Project does not include the construction of an addition to the multi-tenant commercial building.

The CEQA Categorical Exemption Section 15301 (Existing Facilities) and Section 15300.2 (Exception to the Exemptions) apply to this project. As described in the staff report and Resolution (Attachments A & B), the Project results in “negligible or no expansion of use beyond that existing at the time of the lead agency’s determination” as the Project involves a request to sell retail cannabis products within an existing commercial building previously used to sell retail goods. The project request will not increase the square footage of the existing building. None of the exceptions defeat the exemption. While odor, noise, and traffic are elements which are evaluated as part of CEQA reviews, crime and loitering are not impact evaluated as part of CEQA reviews. The odor, noise, and traffic of the proposed use are not anticipated to be materially different from other uses allowed in the General Commercial zone. Therefore the City can properly conclude that the Project results in “negligible or no expansion of use beyond that existing at the time of the lead agency’s determination.”

Ground of Appeal 8: *“THE RESOLUTION ITSELF IS FLAWED, AND CONTAINS MANY ERRORS THAT MUST BE CORRECTED*

Assuming the Planning Commission approves the Project despite the myriad problems identified above (it should not), the Planning Commission cannot approve the Planning Commission Resolution that is before it without making several changes and clarifications:

1. Community Relations Contact (Oxnard Zoning Code Section 11-489; Planning Commission Resolution p. 13, Condition of Approval Nos. 48-49.): Both the Oxnard Zoning Code Section 11-489 and the Conditions of Approval 48-49 require that FGH provide to the City, and to the businesses located within 600 feet of the business, the contact information of a "community relations officer." This has not been done, and there is no timeframe associated with this requirement. (Compare that to the other conditions of approval, such as #50, which have express timeframes).

a. Impose timing requirement: This requirement should be immediate, and definitely prior to any construction or tenant improvements taking place, as the contact information will be necessary to address any issues at all stages. Given FGH's track record of ignoring and misrepresenting concerns from its neighbors, this requirement is all the more important.”

Staff Response 8A:

FGH has requested to modify Condition of Approval Nos. 48 and 49 to address the concerns raised by the Appellant. The Project’s draft City Council Resolution has been revised to include a time requirement as proposed below (the underlined text is the new text):

Condition of Approval 48: The Applicant shall provide to the City, the name, telephone number, and email address of a community relations contact (community relations officer) designated by Applicant. The community relations officer’s information shall be provided to the City prior to issuance of a building permit. The community relations contact shall be responsible for responding to complaints, should they arise between the hours of 10:00 p.m. and 7:01 a.m. Complaints shall be addressed within fifteen minutes of receiving the initial complaint

Condition of Approval 49: The Applicant shall provide the name/phone number/email address for the business community relations officer to all businesses and residences located within six hundred (600) feet of the commercial

cannabis business before operation of the business before issuance of a building permit. The contact name and number shall be prominently posted outside of the facility.

"2. General Plan Consistency (Staff Report Attachment G): The chart states that "The Project proposes to locate within an established commercial shopping center which allows for retailing of cannabis products. The proposed site would operate with other businesses that engage in similar retail business practices therefore the Project would be compatible. Furthermore, the Project was reviewed for neighborhood compatibility, architectural design compatibility, security, and overall community benefits." Every single sentence in the above statement is categorically false. Each sentence will be taken in turn.

a. The Project proposes to locate within an established commercial shopping center which dispensaries, so it is unknown how the staff report came to this conclusion. There is no citation provided for this claim. Section III.B above provides citations to the CC&Rs showing that the use is expressly prohibited.

b. The proposed site would operate with other businesses that engage in similar retail business practices therefore the Project would be compatible: False. There are no other businesses in the Complex that engage in similar retail business practices, because adult uses are expressly prohibited. The staff report does not specifically mention any similar businesses either (it cannot, because they do not exist).

c. Project was reviewed for neighborhood compatibility, architectural design compatibility, security, and overall community benefits: This simply cannot be true. The staff report failed to attach the full set of letters that was provided to the City in advance of the hearing, and did no analysis regarding neighborhood compatibility, because all of the points above were raised with the City prior to the issuance of the staff report (see Exhibit A, June 15, 2020 letter, and attachments), and not a single one of the points raised herein was analyzed or discussed – the most important of which, being the required finding regarding neighborhood compatibility. (Oxnard Zoning Code Section 16-531(A).)"

Staff Response 8B:

At such time that a Special Use Permit is obtained, cannabis retail is allowed to operate at Shopping at the Rose II within the Commercial General 2030 General Plan designation pursuant to OCC Section 11-473 Location and Design of Cannabis Businesses. Additionally, cannabis retail uses may operate within the General Commercial (C-2) zone with approval of a Special Use Permit. The C-2 zone allows, by right, businesses which engage in general retail sales, department stores, pharmacies, restaurants, and many other uses. The project was reviewed for neighborhood compatibility based on the uses allowed within the C-2 zone. The site architectural improvements were also reviewed and accepted for compatibility with the shopping center by use of a third party city contracted licensed architect. The Security Plan was reviewed and accepted by the Police Department. The Project is subject to the cannabis Community Benefits Agreement and there are specific conditions of approval to ensure compliance. The letter submitted on June 15, 2021 was made available to the general public and the Commission for consideration ahead of the hearing.

"3. Cultivation Exception Should be Stricken (Planning Commission Resolution p. 19, Condition of Approval No. 85; Planning Commission Resolution p. 24, Condition of Approval No. 121): There is no cultivation allowed on site. All cultivation exceptions should be stricken.

a. Condition of Approval nos. 85 and 121 read: "Except for live growing plants which are being cultivated at a cultivation facility, all cannabis and cannabis products shall be stored in a secured and locked vault or vault equivalent. All safes and vaults shall be compliant with Underwriter Laboratories burglary-resistant and fire-resistant standards. All cannabis and cannabis products, including live plants that are being cultivated, shall be kept in a manner as to prevent diversion, theft, and loss."

b. FGH does not have the authority to cultivate cannabis on the premises. The exception for cultivation should be stricken entirely. Condition of Approval nos. 85 and 121 should read as follows: "~~Except for live growing plants which are being cultivated at a cultivation facility, a~~ All cannabis and cannabis products shall be stored in a secured and locked vault or vault equivalent. All safes and vaults shall be compliant with Underwriter Laboratories burglary-resistant and fire-resistant standards. All cannabis and cannabis products, ~~including live plants that are being cultivated,~~ shall be kept in a manner as to prevent diversion, theft, and loss."

Staff Response 8C:

The Project's request is solely to allow cannabis retail; the draft resolution conditions of approval number 85 and 121 are standard conditions for all cannabis uses. The existing language does not need to be rewritten as the uses are well defined with the allowable cannabis product types allowed to be located depending on the cannabis use awarded.

"4. Loitering Prohibition Within 50 Feet Must be Expanded to Cover the Entire Complex (Planning Commission Resolution p. 22, Condition of Approval Nos. 102-103; Planning Commission Resolution p. 26, Condition of Approval No. 131): The current conditions of approval only prohibit loitering within 50 feet of the business. That does not cover nearly enough space. The neighboring businesses cannot have FGH's patrons loitering in front of their businesses, or in the parking lot of the Complex, as long as they are over 50 feet away from FGH's Property.

a. This can be accomplished either by ensuring that the radius covers the entire Complex, or expressly stating that loitering is prohibited in the entire Complex, including the parking lot, and other neighboring businesses."

Staff Response 8D:

Cannabis retail uses have a standard condition drafted by the Police Department to limit the security perimeter to 50 feet. However, the Project applicant has agreed to help mitigate possible loitering in the shopping center by extending the parameter of security to include the whole shopping center subject to the Neighboring Owner's approving an agreement between both parties. Because expanding the patrol area would be a voluntary agreement between two private properties and not required by the OCC, the City would not be a party to this agreement.

"5. Cannabis Deliveries Should be Prohibited (Planning Commission Resolution p. 30, Condition of Approval No. 150): Condition of Approval no. 150 presumes that cannabis deliveries will take place, using the FGH storefront dispensary as their home base. This appears to be a mistake, and it should be stricken. Aside from appearing in this condition of approval, nothing about delivery is mentioned in the staff report, or in the FGH PowerPoint presentation, or elsewhere in the Planning Commission Resolution. If delivery is being contemplated, the public, and the Neighboring Owners, have not gotten any facts about it, and have not had an opportunity to hear the facts and respond accordingly. There there has been no public notice of a delivery operation – only storefront retail.

a. Either this Condition of Approval should be stricken entirely, and replaced with an outright prohibition on delivery, or the hearing should be postponed, and the delivery should be addressed in the staff report, so that the Neighboring Owners and the public can respond accordingly."

Staff Response 8E:

In January 2019, the State legalized cannabis delivery by state-licensed firms and eliminated the City's ability to regulate cannabis delivery. In addition, cannabis delivery is considered to be an accessory use to the cannabis retail facility. No changes to the project conditions are proposed.

Ground of Appeal 9: "REQUEST TO SPEAK AT OCTOBER 7, 2021 HEARING

Counsel and its clients have been unable to successfully sign up online to be a speaker at the October 7, 2021 public hearing. As such, please confirm that the following speakers (all of whom are Neighboring Owners or their representatives) will be given an opportunity to be heard at the Planning Commission hearing: Seena Max Samimi, Stan Rothbart, Laura McAvoy, Steven Weiss. Condition"

Staff Response 9:

The "Neighboring Owners and their representatives" were able to join and provided verbal comments at both the October 7 and October 13, 2021 hearings.

Appeal Review and Hearing Process Before the City Council

Pursuant to OCC Section 16-548, the City Council is provided with Review and Hearing Procedures and Quorum standards.

(A) A review of an Appeal from a decision of the Commission may be heard de novo.

- (B) On hearing the review or Appeal, the City Council shall primarily consider the issues raised by the grounds specified in the notice of review or Appeal, but shall not be restricted thereto.
- (C) The City Council may promulgate additional rules of procedure for review or Appeal hearings.
- (D) Rules governing evidence and procedure relating to review and Appeal hearings shall be liberally construed to effect enlightened consideration and determination by the City Council.

Staff highlights that per the above procedures, the City Council is primarily to consider the issues raised by the grounds specified in the notice of review or Appeal, but the City Council is not restricted to those issues.

Conclusion:

Based on the above Analysis/Discussion Section, staff has provided a robust analysis of both the two appeal points identified in the formal Appeal application. Additionally, staff provided an analysis of each of the additional seven items the Appellant raised in their letter submitted to the Planning Commission. Staff's responses collectively demonstrate the Appeal lacks merit, and the Appeal should not overturn the Commission's approval. Furthermore, the City Council staff report, attachments, and Resolution provide substantial evidence in the record for the City Council to conclude that all of the required Special Use Permit Findings found in OCC Section 16-531 have been made. Staff believes the required Findings are well documented and the City Council is in a position to approve the requested Special Use Permit.

Thus, staff recommends that City Council Find there is no merit to the Appellant's Grounds of Appeal, deny the Appeal and uphold the decision of the Planning Commission to Approve the project with the specific Findings outlined in Resolution 2021-XX (Attachment E). Pursuant to OCC Section 16-551, the decision of the City Council is final.

STRATEGIC PRIORITIES

This agenda item supports Economic Development strategy. The purpose of Economic Development strategy is to focus on the retention and expansion of Oxnard businesses by increasing the skills and employability of our local workforce, invite new business investments, and target site-based redevelopment opportunities.

FINANCIAL IMPACT

Denial of this request would permit the operation of a commercial cannabis retail facility at 2320 North Rose Avenue. The commercial cannabis retail facility would generate sales tax revenue for the City, and, as conditioned, would require a one-time payment of \$250,000 and a donation of 1% of gross revenues to the City of Oxnard.

COMMITTEE OUTCOME

This item is a public hearing and was heard by the Planning Commission; therefore, this item did not originate in Committee.

Prepared by: Jose Coyotl, Associate Planner

ATTACHMENTS

1. Attachment A - Planning Commission Staff Report dated October 7, 2021 (with Attachments), Transmittal Memos Nos. 1 & 2, and Approved Minutes
2. Attachment B - Planning Commission Resolution No. 2021-31 dated October 13, 2021
3. Attachment C - Appeal Applicant date October 26, 2021
4. Attachment D - FGH Letter dated November 17, 2021
5. Attachment E - City Council Resolution
6. Presentation

Attachment A

Planning Commission Staff Report dated October 7, 2021 (with Attachments), Transmittal Memos Nos. 1 & 2, and Approved Minutes of October 7, 2021.

To view the full attachment, please click here:

 [Attachment A - Planning Commission Staff Report dated October 7, 2021](#)

RESOLUTION NO. 31

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF OXNARD APPROVING PLANNING AND ZONING PERMIT NO. 21-516-36 (COMMERCIAL CANNABIS RETAIL) TO ALLOW A REQUEST TO PERMIT THE OPERATION OF A COMMERCIAL CANNABIS RETAIL FACILITY WITHIN AN EXISTING 23,275 SQUARE-FOOT COMMERCIAL SUITE OF A 92,591 SQUARE-FOOT MULTI-TENANT COMMERCIAL BUILDING ON A 17.38-ACRE SITE LOCATED AT 2320 NORTH ROSE AVENUE (APN: 213-0-011-175, 213-0-011-255, 213-0-011-265, 213-0-011-275, 213-0-011-195, 213-0-011-205, 213-0-011-215, AND 213-0-011-225) LOCATED AT 2320 NORTH ROSE AVENUE, SUBJECT TO CERTAIN FINDINGS AND CONDITIONS.

WHEREAS, on October 13, 2021, the Planning Commission of the City of Oxnard (“**Planning Commission**”) has conducted a duly noticed public hearing and considered an application for Planning and Zoning Permit No. 21-516-36 filed by Jeff Zook on behalf of FGH Retail Services, LLC. in accordance with Section 16-530 of the Oxnard City Code; and

WHEREAS, the Planning and Environmental Services Division has completed a preliminary environmental assessment of the Project in accordance with the California Environmental Quality Act (CEQA) and determined that the Project is subject to a Section 15301 (Existing Facilities) Categorical Exemption. Further, the project does not trigger any of the Exceptions to the Exemptions (Section 15300.2) to defeat the Exemption:

- (a) **Location. Classes 3, 4, 5, 6, and 11 are qualified by consideration of where the project is to be located -- a project that is ordinarily insignificant in its impact on the environment may in a particularly sensitive environment be significant. Therefore, these classes are considered to apply to all instances, except where the project may impact on an environmental resource of hazardous or critical concern where designated, precisely mapped, and officially adopted pursuant to law by federal, state, or local agencies.**

The project site is located within the 2030 General Plan land use designation of Commercial General and the zoning is General Commercial (C-2). The Project is surrounded by commercial buildings. The project site and adjacent sites do not contain any known environmental resource of hazardous or critical concern. Therefore, the project will have no impact on an environmental resource of hazardous or critical concern.

- (b) Cumulative Impact. All exemptions for these classes are inapplicable when the cumulative impact of successive projects of the same type in the same place, over time is significant.**

The proposed cannabis retail facility is consistent with the 2030 General Plan, and the Oxnard City Code and is compatible with the scale and character of other commercial development in the project area. Any projects requiring discretionary approval would be analyzed with the 2030 General Plan and the Oxnard City Code for consistency and CEQA for any potential impacts. Therefore the project will have no significant cumulative impact.

- (c) Significant Effect. A categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances.**

The proposed cannabis retail facility will not result in an unusual circumstance that would cause the project to have a significant effect on the environment. The project will not alter the commercial uses of the surrounding development and the property does not contain any unusual environmental characteristics as the property is surrounded on all sides by an established commercial development. Therefore, the project will not have a significant effect on the environment due to unusual circumstances.

- (d) Scenic Highways. A categorical exemption shall not be used for a project which may result in damage to scenic resources, including but not limited to, trees, historic buildings, rock outcroppings, or similar resources, within a highway officially designated as a state scenic highway. This does not apply to improvements, which are required as mitigation by an adopted negative declaration or certified EIR.**

The project is not located in or adjacent to a State designated scenic highway.

- (e) Hazardous Waste Sites. A categorical exemption shall not be used for a project located on a site, which is included on any list compiled pursuant to Section 65962.5 of the Government Code.**

The proposed project site is not included on any list compiled pursuant to Section 65962.5 of the Government Code as confirmed by staff on September 20, 2021.

- (f) Historical Resources. A categorical exemption shall not be used for a project, which may cause a substantial adverse change in the significance of a historical resource.**

The project site does not contain an existing or potential landmark, point of interest, or historic resource, and it is not located within an existing, proposed, or

potential Historic District. Therefore, the proposed project will not cause a substantial adverse change in the significance of a historical resource.

WHEREAS, the proposed project is consistent with the following:

NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF OXNARD:

SECTION 1. Based on the entire record before the Planning Commission and all written and oral evidence presented, including the Special Use Permit Staff Report and all attachments thereto, the Planning Commission finds:

1. **The proposed use is in conformance with the General Plan and other adopted policies of the City of Oxnard.**

As described in the Staff Report, the proposed cannabis retail facility is an allowable use within the General Commercial (C-2) zone, subject to approval of a Special Use Permit. Therefore, the proposed cannabis retail use is in conformance with the 2030 General Plan, Oxnard City Code, and the elements thereof and other adopted standards. Therefore, this Project meets this finding.

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.**

As described in the Staff Report, the Project will allow cannabis retail within an existing commercial multi tenant building. As the Project will be located more than 600 feet from established commercial cannabis sensitive uses, the Project is consistent with public health, safety and general welfare by City standards. As conditioned, the Project will not aggravate policing issues when properly regulated through the imposition of and compliance with the conditions of approval. Based on these factors, this business, responsibly managed, would not have an adverse impact on area crime or demand for police services. As such, this Project meets this finding.

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.**

As described in the Staff Report, the Project will be located within an existing development within the Commercial Planned Development (C-2) zone which has previously been reviewed and approved to ensure the development is adequately proportional to the size of the property and served by public infrastructure. The existing project site is a developed 17.38-acre lot. Pursuant to the C-2 zone, the Project will be located within an existing building designed to be consistent with the development and design standards included within the C-2 zone, including, but not

limited to, maximum building height, front, side and rear setbacks, lot coverage, landscaping, and equipment screening standards. The existing development is not consistent with the City's parking standards for motorcycles (17 required) or bicycle parking (20 required). The parking lot will provide parking for a minimum of 665 vehicles, including 12 accessible parking spaces, 622 standard parking spaces, and 39 compact parking spaces, and the project has been conditioned to provide a total of 17 motorcycle parking spaces and 20 bicycle spaces within the whole of the shopping center's shared parking lot. The project site has a frontage and vehicular access on Rose Avenue and Lockwood Street. Proposed interior tenant improvements to the site will be reviewed for compliance with C-2 zoning requirements. Given these circumstances, the site for the proposed use is adequate in size and shape to accommodate the setbacks, parking, landscaping, and other City standards. Therefore, this Project meets this finding.

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.

As described in the Staff Report, the project is currently served by existing infrastructure and will continue to be accessed directly from Rose Avenue and Lockwood Street, which indirectly connects to Highway 101. The proposed cannabis retailer is not anticipated to generate significant traffic that would require improvements to infrastructure. Therefore, the site for the proposed retail of cannabis products will be served by highways adequate in width and improved as necessary to carry project-generated traffic.

The existing development is not consistent with the City's parking standards for motorcycles (17 required) or bicycle parking (20 required). The parking lot as designed will provide parking for a minimum of 665 vehicles, including 12 accessible parking spaces, 622 standard parking spaces, and 39 compact parking spaces, and 16 motorcycle parking spaces. Based on the configuration of the proposed cannabis retail facility the entire project site requires 2 loading spaces. The project will utilize an existing customer parking loading zone along the northwest side of the buildings accessed by the main storefront entrance to the tenant space. The project is consistent with City parking requirements. The project has been conditioned to include a total of 17 motorcycle and 20 bicycle parking spaces within the whole of the shopping center's shared parking lot, to design motorcycle and bicycle space during the building permit process, and provide these spaces prior to a Certificate of Occupancy being issued. The project also includes short and long term parking to support bicycle use. Therefore, the site will be served by streets, highways, transit and bike facilities adequate to provide access to the proposed building and its anticipated uses. As such, this Project meets this finding.

5. **The site for the proposed use will be provided with adequate sewerage, water, fire protection and storm drainage facilities.**

As described in the Staff Report, the proposed Project will operate within an existing development with minor tenant improvements proposed. The Project has been reviewed by City Departments and divisions who have determined that the project is currently served by adequate electricity, sewerage, disposal, and water. The proposed use is not anticipated to generate utility demands in quantities that are different from other commercial uses which have previously occupied the building. Therefore, the site for the proposed use will be provided with adequate sewerage, water, fire protection and storm drainage facilities. As such, this Project meets this finding.

SECTION 2. The Planning Commission, in accordance with the California Environmental Quality Act (CEQA), determined that the Project will not have a significant impact on the environment and is categorically exempt from CEQA pursuant to Article 19, Section 15301 (Existing Facilities) of the State CEQA Guidelines pertaining to projects involving “negligible or no expansion of use beyond that existing at the time of the lead agency’s determination” may be found to be exempt from the requirements of CEQA. The Project involves a request to retail cannabis products within an existing commercial building, the project request will not increase the square footage of the existing building. No Exceptions to the Exemptions (Section 15300.2) apply to defeat the Exemption. Therefore, the Planning Commission has determined that there is no substantial evidence that the Project will have a significant effect on the environment. The Planning and Environmental Services Manager is hereby authorized and directed to file a Notice of Exemption with the Ventura County Clerk pursuant to Section 15602 of the State CEQA Guidelines within five (5) working days of passage, approval and adoption of this Resolution.

SECTION 3. Based on the findings set forth herein and the Staff Report and all attachments thereto, the Planning Commission hereby approves Planning and Zoning Permit No. 21-516-36 (Commercial Cannabis Business Retail Special Use Permit), subject to the attached conditions of approval.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Oxnard hereby approves Planning and Zoning Permit No. 21-516-36 (Commercial Cannabis Business Retail Special Use Permit), subject to the following conditions. The decision of the Planning Commission is final unless appealed in accordance with the provisions of §16-545 of the Oxnard City Code.

CONDITIONS OF APPROVAL FOR LAND USE PERMITS

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	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 October 7, 2021 (“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. All required off-site and on-site improvements for the project, including structures, paving, and landscaping, shall be completed prior to occupancy unless the Planning Manager allows the Applicant to provide security or an executed agreement approved by the City Attorney to ensure completion of such improvements. (DS, *G-4*)
4. By commencing any activity related to the project or using any structure authorized by this permit, the Applicant 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*)

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. Applicant 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, Applicant shall submit the original completed, signed and notarized document, together with the required fees to the Planning Manager. (PL, G-8)
7. Applicant 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, Applicant shall obtain a sign permit from the City. Except as provided in the sign permit, Applicant may not change any signs on the project property. (PL/B, G-10)
9. Applicant shall obtain a building permit for any new construction or modifications to structures, including interior modifications, authorized by this permit. (B, G-11)
10. Applicant shall not permit any combustible refuse or other flammable materials to be burned on the project property, except as provided in a permit issued by the Fire Chief.
11. Applicant 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 Applicant, owner or tenant fails to comply with any of the conditions of this permit, the Applicant, 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, Applicant shall correct all violations of the City Code existing on the project property for which the Code Compliance Division has open cases. (PL, G-15).

State Law and Regulations Compliance

14. The permittee shall comply with all relevant law, ordinance, or regulation of the State of California, City of Oxnard, and any other governmental entity Laws and Regulations at all times during the life of the permit.

15. Wherever a condition requires that something be initially “built,” “constructed,” “equipped,” “installed,” “provided” or the like in a certain fashion or per certain requirements or approvals, it also requires that the same shall at all times be “maintained” in accordance with the condition, requirement or approval.

PLANNING DIVISION STANDARD CONDITIONS

16. 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*)
17. Before the City issues building permits, the Applicant shall include a reproduction of all conditions of this permit as adopted by Resolution of the Community Development Director / Planning Commission in all sets of construction documents and specifications for the project. (PL, *PL-3*)
18. Before the City issues building permits, the Applicant shall provide to the Planning Manager color photographic reductions (8 1/2” by 11”) of full-size colored elevations and any other colored exhibit approved by the Community Development Director / Planning Commission. The Applicant may retain the full-size colored elevations after the reductions are so provided. (PL, *PL-4*)
19. The Applicant may not modify any use approved by this permit unless the Planning Manager determines that the Applicant has provided the parking required by the City Code for the modified use. (PL, *PL-7*)
20. During the plan check review process, the Applicant shall provide a lighting plan that provides design details (light standards, bollards, wall mounted packs, etc.) and illumination site information within alleyways, pathways, streetscapes, and open spaces proposed throughout the development. An electrical engineer shall prepare the site lighting plan demonstrating that adequate lighting ranges will be provided throughout the development without creating light spillover, light pollution, or conflicts with surrounding factors such as tree locations, off-site or adjacent lighting. (PL)
21. Prior to issuance of building permits, the Applicant shall demonstrate that light standards illustrated on conceptual lighting plan do not conflict with tree locations. The Applicant shall submit a plan showing both the lighting and landscape on the same sheet.
22. Project on-site lighting shall be of a type and in a location that does not constitute a hazard to vehicular traffic, either on private property or on adjoining streets. To prevent damage from vehicles, standards in parking areas shall be mounted on reinforced concrete pedestals or otherwise protected. The Applicant shall recess or conceal under-canopy lighting elements so as not to be directly visible from a public street. The applicant shall submit a lighting plan showing standard heights and light materials for design review and approval of the Planning Division Manager. (PL/B, *PL-8*)

23. In order to minimize light and glare on the project property, all parking lot and exterior structure light fixtures shall be high cut-off type that divert lighting downward onto the property and shall not cast light on any adjacent property or roadway. (PL, *PL-9*)
24. Applicant agrees to participate in a water conservation program that includes refitting water fixtures existing on the project property with water conserving devices within residences or businesses in the City's water service area, if such a program is in effect when building permits are issued for this project. Among the requirements of such a program might be refitting existing toilets, faucets, shower heads, landscaping irrigation or other fixtures and items that consume water within the structure. (PL, *PL-14*)
25. Because of water limitations placed upon the City by its water providers, approval of this permit does not guarantee that the City will issue building permits. Issuance of building permits may be delayed as a result of implementation of a water conservation or allocation plan. (PL, *PL-15*)
26. Prior to issuance of building permits, Applicant 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*).
27. Applicant shall participate in the City's Public Art Program by paying the Public Art fee prior to issuance of building permits, in accordance with City Council Resolution No. 14,124. (PL, *PL-50*)

COMMERCIAL

28. Applicant shall recess or screen roof heating and cooling systems and other exterior mechanical equipment from adjoining property and public streets, as required by this permit. Plumbing vents, ducts and other appurtenances protruding from the roof of structures shall be placed so that they will not be visible from the front of the property or other major public vantage points. Applicant shall include a note on the construction plumbing drawings of exterior elevations to indicate to contractors that roof features shall be grouped and located in the described manner. Roof vents shall be shown on construction drawings and painted to match roof material color. (PL/B, *PL-41*)
29. Applicant shall install all roof and building drainpipes and downspouts inside building elements. These items shall not be visible on any exterior building elevations. (PL, *PL-42*)
30. For any exterior utility meter panels, Applicant shall paint such panels to match the structure upon which it is located. Such panels shall be located to take advantage of screening (e.g. landscaping or other building elements) from public right-of-ways, to the maximum extent feasible. (PL, *PL-43*)

31. Prior to issuance of a certificate of occupancy, Applicant shall remove all construction materials and vehicles from the subject property. (PL/B, PL-47)
32. Applicant shall restripe loading zones placed partly or wholly within a structure for loading and unloading activities only and post to prohibit storage or other non-loading activity within the loading zone. (PL/B, PL-49)

Special Conditions of Approval

33. Prior to occupancy, faded striping in parking areas directly in front of the building shall be repainted per City standards.
34. In accordance with Oxnard City Code Section 16-624, parking facilities for 17 motorcycles shall be provided in the shopping center's shared parking lot, the configuration and location of which shall be as reviewed and approved by the City Planning Division. Motorcycle parking area dimensions and location shall be a paved area at least 4'6" x 7' for each required parking space. Staff shall review all construction documents prior to building permit issuance to assure that the motorcycle spaces have been provided and are not in conflict with the applicable development standards for building in the General Commercial (C-2) zone district.
35. In accordance with Oxnard City Code Section 16-637, parking facilities for 20 bicycles shall be provided, the configuration and location of which shall be as reviewed and approved by the City Planning Division. The project plans shall be revised to identify bicycle racks, with a minimum of 3 bicycle spaces, to be provided on site near the front entrance of the building located at 2320 North Rose Avenue and the remaining required spaces equally distributed in the shopping center near front entrances. Bicycle parking area dimensions and location shall be a paved area at least 6' x 1'6" for each required parking space. Staff shall review all construction documents prior to building permit issuance to assure that the bicycle rack has been provided and is not in conflict with the applicable development standards for building in the General Commercial (C-2) zone district.

The applicant shall submit a bicycle parking plan to be reviewed and approved by the Community Development Director or his/her designee(s). All bicycle parking shall comply with AASHTO, NACTO, or APBP standards, as permitted by the California Building Code. The bicycle parking shall be designed to provide two (2) points of contact on the bicycle, be supported upright, and cause no stress onto tires. All provided bicycle parking shall be able to accommodate a standard U-lock. Bicycle parking area dimensions and location shall be a paved area at least 6' x 1'6" for each required parking space and shall be located outside of pedestrian walkways, loading areas, landscape planters, etc. Where feasible, bicycle-parking areas should be covered.

36. No final inspection or occupancy permit shall be granted until all construction and landscaping is complete in accordance with the plans approved and the conditions required herein.

37. All landscape materials shall be as represented to or as specified by the Planning Commission, and any deviation will require the express approval of the Chief of Police. Once constructed or installed, all improvements shall be maintained in accordance with the approved plans and in a manner acceptable to the Chief of Police. This includes landscape materials being maintained in a healthy and weed-free manner at all times.

PLANNING DIVISION CANNABIS CONDITIONS

Automatic Expiration

38. The Commercial Cannabis Business Permits shall expire, and be subject to the renewable process in Chapter 11 of the Oxnard City Code twelve (12) months after the date of issuance of the Special Use Permit (SUP) pursuant to the Oxnard City Code Section 11-459.

Renewal

39. All Commercial Cannabis Business Permits shall be renewed in accordance with Chapter 11, Article XVII of the Oxnard City Code.

Appeals

40. The permittee shall within ten (10) calendar days after the date of a decision of the City Manager or his/her designee(s) to revoke, suspend or deny a permit, or to add conditions to a permit, an aggravated party may appeal such action by filing a written appeal with the City Clerk setting forth the reasons why the decision was not proper. At the time of filing, the permittee shall pay the designated appeal fee, established by Resolution of the City Council from time to time.

Revocations of Commercial Cannabis Business Permits

41. Commercial Cannabis Business Permits may be revoked for any violation of any law and/or any rule, regulation and/or standard adopted pursuant to Sections 11-461, 11-462, 11-468, or 11-477 pursuant to any policy, procedure or regulation adopted by the City. The City Manager or his/her designee may immediately suspend operation of the uses approved by this permit pending a hearing on the revocation of this permit's conditions and/or a license issued by the State of California, or by any of its departments or divisions, or if there is a single serious violent crime or single significant incident to which multiple police units or multiple police jurisdictions respond associated with the operations of this use, which is detrimental to the public safety or health. The City Manager or his/her designee shall immediately inform the Community Development Director and Planning Manager of the suspension and the Planning Manager shall schedule a hearing on the revocation of the permit by the

Community Development Director or other competent hearing officer to be held no more than 30-days after the beginning of the suspension. In the hearing, notice will be provided establishing the causal factors that caused the suspension and determination shall be made with the below options:

- a. End the suspension of the permit;
- b. Continue the suspension of the permit pending other legal action;
- c. Amend the permit conditions;
- d. Direct the permittee to change operations or business practices that precipitated the suspension of the permit;
- e. Or, any combination of the above;
- f. And, provide benchmarks and timeline for corrective action to take place.

42. The Applicant agrees suspension of a license issued by the State of California, or by any of its departments or divisions, shall immediately suspend the ability of a commercial cannabis business to operate within the City, until the State of California, or its respective department or division, reinstates or reissues the State license. Should the State of California, or any of its departments or divisions, revoke or terminate the license of a commercial cannabis business, such revocation or termination shall also revoke or terminate the ability of a commercial cannabis business to operate within the City of Oxnard.

Enforcement and Compliance

43. For the life of the permit, the Applicant shall be responsible for all violations of the laws of the State of California or of the regulations and/or the ordinances of the City of Oxnard, whether committed by the Applicant or any employee or agent of the Applicant, which violations occur in or about the premises of the commercial cannabis business whether or not said violations occur within the permit holder's presence.
44. Applicant agrees to pay enforcement, compliance, and inspection fees set by the City's Fee Schedule. Applicant shall deposit the equivalent of 30 hours of the Planning Hourly Fee (currently \$134.27 per hour) during plan check review to cover staff time, billed at an hourly rate, for conditions compliance, required inspection, and reporting associated with commercial cannabis project, PZ 21-516-36. Additional funds will be required as deposits are depleted to less than the equivalent of 10 hours of the Planning Hourly Fee or as additional funds are needed as determined by the Community Development Director.
45. All operators are subject to all penalties as outlined in Oxnard City Code.

Property Owner Authorization

46. Prior to the issuance of a zone clearance or business license, whichever comes first, the Applicant shall be required to provide a signed and notarized statement from the owner of the property acknowledging that the property owner agrees to use of the property for

a Commercial Cannabis Business Permits subject to Chapter 11, Article XVI, Section 11-475 of the Oxnard City Code.

Business Location Transfers

47. Commercial Cannabis Business Permits represent a land use entitlement and cannot be transferred from one location to another unless they comply with the transfer provisions outlined in Chapter 11, Article XVII of the Oxnard City Code.

Business Notification

48. The Applicant shall provide to the City, the name, telephone number, and email address of a community relations contact (community relations officer) designated by Applicant. The community relations contact shall be responsible for responding to complaints, should they arise between the hours of 10:00 p.m. and 7:01 a.m. Complaints shall be addressed within fifteen minutes of receiving the initial complaint
49. The Applicant shall provide the name/phone number/email address for the business community relations officer to all businesses and residences located within six hundred (600) feet of the commercial cannabis business before operation of the business. The contact name and number shall be prominently posted outside of the facility
50. During the first year of operation, the owner, manager, and community relations officer shall attend quarterly meetings with the City Manager or his/her designee(s), and other interested parties as deemed appropriate by the City Manager or his/her designee(s), to discuss conditions of approval, operations, and overall cannabis activities in the subject location.
51. After the first year of operation should no permit condition(s) violations be identified, the owner, manager, and community relations officer shall meet with the City Manager or his/her designee(s) when and as requested by the City Manager or his/her designee(s).

Inventory Tracking

52. Prior to issuance of a certificate of occupancy, the Applicant shall have in place a State of California approved point-of-sale or management inventory tracking system to track and report on all aspects of the commercial cannabis business including, but not limited to, such matters as cannabis tracking, inventory data, gross sales (by weight and by sale) and other information which may be deemed necessary by the City. The commercial cannabis business shall ensure that such information is compatible with the City's record-keeping systems. In addition, the system must have the capability to produce historical transactional data for review at the request of the City. Furthermore, any system selected must be approved and authorized by the City Manager or his/her designee(s) prior to being used by the permittee.

53. All cannabis and cannabis products sold, distributed or manufactured shall be cultivated, manufactured, and transported by licensed facilities that maintain operations in full conformance with the State and local regulations.

Onsite Restrictions

54. Sales of cannabis may only occur between the hours of 9:00 A.M. and 9:00 P.M. daily.
55. The Applicant shall conform with the following requirements to prevent minors from having access to cannabis products:
- a. Persons under the age of twenty-one (21) years, or eighteen (18) years with a medical marijuana card, shall not be allowed on the premises of a commercial cannabis business and shall not be allowed to serve as a driver for a mobile delivery service. It shall be unlawful and a violation of this Article for any person to employ any person at a commercial cannabis business who is not at least twenty-one (21) years of age.
 - b. The entrance to the commercial cannabis business shall be clearly and legibly posted with a notice that no person under the age of twenty-one (21) years of age is permitted to enter upon the premises of the commercial cannabis business.
56. Cannabis shall not be consumed by any employee or patron on the premises of any commercial cannabis business.
57. No outdoor storage of cannabis or cannabis products is permitted at any time.

Operational Requirements for Retailers

58. Sales and service of cannabis or cannabis products is limited to only the customer service area, which consists of approximately 23,275 square feet inside the building as identified on PZ No. 21-516-36 floor plans presented at the Planning Commission public hearing on October 13, 2021 and incorporated herein.
59. Access to the customer service area is to be controlled by an access door from a common lobby. A maximum of two (2) patrons may be served by one (1) budtender at any time. The budtenders and security personnel shall be readily identifiable personnel and are to monitor and control the behavior of customers in and around the premises.
60. There shall not be any amplified music or live bands unless the licensee has a valid Entertainment Permit issued by the City of Oxnard, pursuant to Oxnard City Code Section 11-187.

Odor Control

61. Odor control devices and techniques shall be incorporated in all commercial cannabis businesses to ensure that odors from cannabis are not detectable off-site. Commercial cannabis businesses shall provide a sufficient odor absorbing ventilation and exhaust

system so that odor generated inside the commercial cannabis business that is distinctive to its operation is not detected outside of the facility, anywhere on adjacent property or public rights-of-way, on or about the exterior or interior common area walkways, hallways, breezeways, foyers, lobby areas, or any other areas available for use by common tenants or the visiting public, or within any other unit located inside the same building as the commercial cannabis business. As such, commercial cannabis businesses must install and maintain the following equipment, or any other equipment which the Community Development Director or his/her designee(s) determine is a more effective method or technology:

- a. An exhaust air filtration system with odor control that prevents internal odors from being emitted externally; and
- b. An air system that creates negative air pressure between the commercial cannabis businesses interior and exterior, so that the odors generated inside the commercial cannabis business are not detectable on the outside of the commercial cannabis business.

Signage and Notices

62. The permittee shall conform with the following Signage Specifications:
 - a. In addition to the requirements otherwise set forth in this section, business identification signage for a commercial cannabis business shall conform to the requirements of the City of Oxnard regulations, including, but not limited to, seeking the issuance of a City sign permit.
 - b. No signs placed on the premises of a commercial cannabis business shall obstruct any entrance or exit to the building or any window.
 - c. Each entrance to a commercial cannabis business shall be visibly posted with a clear and legible notice indicating that smoking, ingesting, or otherwise consuming cannabis on the premises or in the areas adjacent to the commercial cannabis business is prohibited.
 - d. Business identification signage shall be limited to that needed for identification only and shall not contain any logos or information that identifies, advertises, or lists the services or the products offered. No commercial cannabis business shall advertise by having a person holding a sign and advertising the business to passersby, whether such person is on the premises of the commercial cannabis business or elsewhere including, but not limited to, the public right-of-way.
 - e. Signage shall not be directly illuminated, internally or externally. No banners, flags, billboards or other prohibited signs may be used at any time.
 - f. No cannabis or cannabis products or graphics depicting cannabis or cannabis products shall be visible from the exterior of any property issued a commercial cannabis business permit, or on any of the vehicles owned or used as part of the commercial cannabis business.

Community Benefits Agreement

63. Prior to issuance of a certification of occupancy, Applicant shall enter into a signed and recorded Community Benefits Agreement with the City. Said agreement shall include the following:
64. Retail
 - a. One time payment of \$250,000
 - b. Donation of 1% of gross revenues to the City of Oxnard required to be paid with the associated yearly business license fee. This amount is in addition to the license fee and the City cannabis taxes.
 - c. Requirement to hire 75% of the businesses employees from the City of Oxnard, as defined in Chapter 11 of the Oxnard City Code.

BILLING AND LICENSING CONDITIONS

Cannabis Business Tax Certificate

65. Prior to commencing operations, any business engaged in a Commercial Cannabis Business shall obtain a Commercial Cannabis Business tax certificate, pursuant to Article I. The Commercial Cannabis Business taxes imposed by Chapter 11, Article XVI of the Oxnard City Code shall be paid, in arrears, on a quarterly basis to the City Licensing Department.
66. The Applicant for a Commercial Cannabis Business shall secure from the Department of Billing and Licensing a commercial cannabis business tax certificate.
67. On applying for a Commercial Cannabis Business tax certificate, the applicant shall furnish to the tax administrator a sworn statement, on a form provided by the tax administrator setting forth the following:
 - a. The exact nature of the Commercial Cannabis Business for which the Commercial Cannabis Business tax certificate is applied;
 - b. The street address where such business is to be conducted, the street addresses of the residences of the owners of the business or names and street addresses of the officers or partners if a corporation or partnership;
 - c. If the amount of the Commercial Cannabis business tax is measured by gross receipts, the applicant shall estimate the gross receipts for a period of one full calendar quarter. Such an estimate, if accepted by the tax administrator as reasonable, shall be used in determining the amount of the Commercial Cannabis Business tax. However, the amount is only provisional.
 - d. At the end of the tax period, the tax administrator may request the certificate to verify gross receipts. Within 30 days of the request, the certificate shall report to the tax administrator the gross receipts during the Commercial Cannabis Business tax period, and the Commercial Cannabis Business tax will be

redetermined. If the certificant underpaid the redetermined Commercial Cannabis Business tax, the certificant shall immediately pay the amount due.

Reporting and remittance of quarterly tax payments

68. The Commercial Cannabis Business tax shall be paid in arrears on a quarterly basis.
69. Each person owing Commercial Cannabis Business tax for a calendar quarter shall, no later than the last day of the month following the close of the calendar quarter, file with the tax administrator a statement of the tax owed for that calendar quarter and the basis for calculating the tax.
70. For the purpose of ascertaining the amount of Commercial Cannabis Business tax owed or verify any representations made by any taxpayer to the city in support of his or her calculation, proof of gross revenues (including but not limited to bookkeeping records, State and Federal income tax returns, and other records relating to the gross receipts of the business) must be provided prior to obtaining or renewing a Commercial Cannabis Business tax certificate.
71. Quarterly after commencing operations, Applicant shall allow the City of Oxnard officials or their designees to have access to the business's books, records, accounts, together with any other data or documents relevant to its permitted commercial cannabis activities, for the purpose of conducting an audit or examination. Books, records, accounts, and any and all relevant data or documents will be produced no later than twenty-four (24) hours after receipt of the City's request, unless otherwise stipulated by the City. The City may require the materials to be submitted in an electronic format that is compatible with the City's software and hardware.
72. At all times during the life of the permit, Applicant shall pay all sales, use, business and other applicable taxes, and all license, registration, and other fees required under federal, state and local law. Each commercial cannabis business shall cooperate with the City with respect to any reasonable request to audit the Commercial Cannabis Business' books and records for the purpose of verifying compliance with this section, including but not limited to a verification of the amount of taxes required to be paid during any period.
73. The Applicant shall maintain accurate books and records in an electronic format, detailing all of the revenues and expenses of the business, and all of its assets and liabilities. On no less than an annual basis (at or before the time of the renewal of a Commercial Cannabis Business permit issued pursuant to Chapter 11, Article XVI, Section 11-476 of the Oxnard City Code), or at any time upon reasonable request of the City, each Commercial Cannabis Business shall file a sworn statement detailing the fiscal value of sales by the Commercial Cannabis Business during the previous twelve-month period (or shorter period based upon the timing of the request), provided on a per-month basis. The statement shall also include gross sales for each month, and all applicable taxes paid or due to be paid. On an annual basis, each owner and operator

shall submit to the City a financial audit of the business's operations conducted by an independent certified public accountant. Each permittee shall be subject to a regulatory compliance review and financial audit as determined by the City Manager or his/her designee(s)

Employee Work Permit

74. Prior to issuance of a certificate of occupancy for the Commercial Cannabis Business, all employees are required to comply with Chapter 11, Article XVI, Section 11-455 of the Oxnard City Code which specifies the requirements for employees of cannabis operators; the Cannabis Employee Work Permit is required to be obtained from the City Licensing Department.
75. Cannabis Employee Permit Requirements shall comply with Chapter 11:
 - a. Cannabis Employee Work Permit Application;
 - b. Cannabis Employee Work Permit Fee \$125.00, or as update by the City;
 - c. Age and verification of applicant, copy of government ID required (must be at least 21 years of age);
 - d. Investigation Questionnaire;
 - e. Live Scan (fingerprinting and a recent photograph of the applicant); and
 - f. A statement signed under penalty of perjury that the information is true and correct.
76. A Cannabis Employee Work Permit shall be valid for up to twelve (12) months from the date of certificate of occupancy and shall be renewed on an annual basis by the permittee/employer and all applicable employees. If a permit is issued for less than a 12-month basis, then the cost of such permit shall be adjusted on a pro-rata basis.
77. The Applicant and Commercial Cannabis Business employees will be issued a permit in the form of a personal identification card that shall be worn in a prominent and visible location. The identification card shall be maintained in good and readable condition at all times.

Employment Transfers

78. In the event a person changes employment from one Commercial Cannabis Business in the City to another, the work permit holder shall notify the applicable Department Head or his/her designee(s) in writing of the change within ten (10) days, or the work permit shall be suspended or revoked, and such person shall not be permitted to work at any Commercial Cannabis Business within the City.

Revocation of Employee Work Permit

79. The City may immediately revoke the commercial cannabis employee permit should the permit holder be convicted of a crime listed in Chapter 11, Article XVI, Section 11-455 of the Oxnard City Code or if facts become known to the City that the permit holder has engaged in activities showing that he or she has been convicted of a crime involving dishonesty.

Appeal of Employee Work Permit Revocation

80. The Applicant may appeal the denial or revocation of a commercial cannabis employee permit by filing a notice of appeal with the City Clerk within ten (10) days of the date the applicant received the notice of denial/ revocation. Revocation shall follow the provisions contained in Oxnard City Code Chapter 11.

POLICE CONDITIONS

Security Measures

81. The Applicant shall implement sufficient security measures to deter and prevent the unauthorized entrance into areas containing cannabis or cannabis products, and to deter and prevent the theft of cannabis or cannabis products at the Commercial Cannabis Business. Except as may otherwise be determined by the City Manager or his/her designee(s), these security measures shall include, but shall not be limited to, all of the following and are considered in addition to the Best Practices identified in the guidelines for issuance of a Cannabis Business Permit and/or conditions imposed as part of the land use permit approval.
82. An alarm system shall include intrusion, fire, and panic button components. The system shall be remotely monitored by a licensed alarm service provider.
83. An access control system and security personnel shall restrict access to the site to persons engaged directly with the permitted operations of the Commercial Cannabis Business.
84. Security personnel shall remove any person on or about the Commercial Cannabis Business who is not engaged directly with the permitted operations of the business.
85. Except for live growing plants which are being cultivated at a cultivation facility, all cannabis and cannabis products shall be stored in a secured and locked vault or vault equivalent. All safes and vaults shall be compliant with Underwriter Laboratories burglary-resistant and fire-resistant standards. All cannabis and cannabis products, including live plants that are being cultivated, shall be kept in a manner as to prevent diversion, theft, and loss.

86. A security camera system shall monitor activity inside and around the Commercial Cannabis Business. The system shall provide secure real-time access to the City Manager or his/her designee(s) of any and all cameras at the site. The system shall meet or exceed current industry standards. The system shall be reevaluated every five years on the anniversary of the issuance of the permit to ensure the system, software and equipment meets current industry standards. The Commercial Cannabis Business shall upgrade equipment within six-months of the reevaluation when findings have identified needed improvements or upgrades.
87. A security plan shall be approved by the Police Chief or his/her designee(s). The security plan shall include all elements of the alarm system, security camera system, and access control system. The plan shall also include security policies, cash handling policies, security personnel post orders, and requirements for security patrols during hours the business is closed. The security plan is subject to review on the annual anniversary of the issuance of the permit. Should a deficiency in the plan be discovered through findings during an inspection, a theft event, an audit or other significant event where a flaw in the security plan failed to sufficiently capture or deter a theft, loss of product, or an injury the plan may be amended by the Police Chief or his/her designee(s).
88. Any bars installed on the windows or the doors of the Commercial Cannabis Business shall be installed only on the interior of the building.
89. Security personnel shall monitor premises in accordance with a security plan as authorized by the City Manager or his/her designee(s), and must have a verified response security patrol when closed. Security personnel must be licensed by the State of California Bureau of Security and Investigative Services personnel and shall be subject to the prior review and approval of the City Manager or his/her designee(s), with such approval not to be unreasonably withheld. Firearms may be carried by security personnel while they are on duty if authorized by the Police Chief.
90. Each Commercial Cannabis Business shall have the capability to remain secure during a power outage and shall ensure that all access doors are not solely controlled by an electronic access panel to ensure that locks are not released during a power outage.
91. Entrance areas are to be locked at all times and under the control of a designated responsible party that is either:
 - a. An employee of the Commercial Cannabis Business; or
 - b. A licensed security professional
92. Each Commercial Cannabis Business shall have an accounting software system in place to provide point of sale data as well as audit trails or both product and cash, where applicable.

93. Each Commercial Cannabis Business shall demonstrate to the Police Chief, City Manager or their designee(s) compliance with the state's track and trace system for cannabis and cannabis products, as soon as it is operational.
94. Each Commercial Cannabis Business shall have state of the art network security protocols in place to protect computer information and all digital data.
95. Exterior vegetation shall be planted, altered and maintained in a fashion that precludes its use as a hiding place for persons on the premises.
96. The Applicant shall identify a designated security representative/liaison to the City of Oxnard, who shall be reasonably available to meet with the City Manager or his/her designee(s) regarding any security related measures or and operational issues. The designated security representative/liaison shall, on behalf of the Commercial Cannabis Business, annually maintain a copy of the current security plan on the premises of the business, to present to the City Manager or his/her designee(s) upon request that meets the following requirements:
 - a. Confirms that a designated Manager will be on duty during business hours and will be responsible for monitoring the behavior of employees.
 - b. Identifies all Managers of the Commercial Cannabis Business and their contact phone numbers.
 - c. Confirms that first aid supplies and operational fire extinguishers are located in the service areas and the Manager's office.
 - d. Confirms that burglar, fire, and panic alarms are operational and monitored by a licensed security company 24 hours a day, seven days a week, and provides contact information for each licensed security company.
 - e. Identify a sufficient number of licensed, interior and exterior security personnel who will monitor individuals inside and outside the Commercial Cannabis Business, the parking lot, and any adjacent property under the business' control.
 - f. Confirm that the licensed security personnel shall regularly monitor the parking lot and any adjacent property to ensure that these areas are: (i) free of individuals loitering or causing a disturbance; (ii) are cleared of employees and their vehicles one-half hour after closing.
97. The Applicant shall have a storage and transportation plan, which describes in detail the procedures for safely and securely storing and transporting all cannabis, cannabis products, and any currency. The storage and transportation plan shall be a confidential document that is intended to be reviewed and approved by the City Manager and his/her designee(s) and not available for public consumption.
98. The Applicant shall cooperate with the City whenever the City Manager or his/her designee(s) makes a request, without prior notice, to inspect or audit the effectiveness of any security plan or of any other requirement of this Article. Prevention Fire Inspectors shall be allowed access to audit buildings for Fire Life Safety concerns on a yearly basis or as determined necessary per the Fire Marshal.

99. The Applicant shall notify the Police Chief within twenty-four (24) hours after discovering any of the following:(Section 11.437 (E))
- a. Significant discrepancies identified during inventory. The level of significance shall be determined by the regulations promulgated by the City Manager or his/her designee(s).
 - b. Diversion, theft, loss, or any criminal activity involving the Commercial Cannabis Business or any agent or employee of the Commercial Cannabis Business.
 - c. The loss or unauthorized alteration of records related to cannabis, customers or employees or agents of the Commercial Cannabis Business.
 - d. Any other breach of security.
100. The Applicant acknowledges compliance with the foregoing requirements shall be verified by the City Manager or his/her designee(s) prior to commencing business operations. The City Manager or his/her may supplement these security requirements once operations begin, subject to review by the City Manager if requested by the business owner.
101. The Applicant shall post in a location readily-visible to the public location the original copy of the Commercial Cannabis Business permit conditions of approval and the City issued business license.
102. The Applicant shall prohibit loitering by persons outside the facility both on the premises and within fifty (50) feet of the premises.
103. Security personnel shall remove any person on or about the Commercial Cannabis Business who is not engaged directly with the permitted operations of the business.
104. Prior to the establishment of any Commercial Cannabis Business or the operation of any such business, the employer intending to establish a Commercial Cannabis Business must first obtain all applicable planning, zoning, building, and other applicable permits from the relevant governmental agency which may be applicable to the zoning district in which such Commercial Cannabis Business intends to establish and to operate.
105. The Applicant acknowledges no person shall cause or permit the sale, dispensing, or consumption of alcoholic beverages on or about the premises of the Commercial Cannabis Business.
106. The Applicant acknowledges no person shall cause or permit the sale or tobacco products on or about the premises of the Commercial Cannabis Business.
107. Prior to beginning employment all employees are required to secure and have issued a background check and passed a live scan through the Police Department as specified in Chapter 11, Article XVII of the Oxnard City Code. Results of the background check/live scan shall be provided to the employee and employer(s).

108. Inbound and outbound shipping of product and/or cash shall only occur during daylight hours. Deliveries and departure times of product and/or cash shall be irregular and maintained as a confidential matter known only to those persons who have a need to know.
109. No signage, graphic or symbol displayed visible outside the building shall show that the site is a cannabis business unless the specific sign, graphic or symbol is jointly approved by the Planning Manager and the Chief of Police or their designees.

Exterior Lighting

110. A condition of approval requires compliance with the Outdoor Lighting Code & Guideline Outdoor lighting shall comply with Title 24, Part 6, of the California Code of Regulations: California's Energy Efficiency Standards for Residential and Nonresidential Buildings.
 - a. Unless approved as a specific exception to this guideline, all outdoor lighting shall be flat lens, full cut-off fixtures with the light source fully shielded with the exceptions:
 - b. Luminaires with a maximum output of 260 lumens per fixture, regardless of number of bulbs (equal to one 20-watt incandescent light), may be left unshielded provided the fixture has an opaque top to keep light from shining directly up.
 - c. Luminaires that have a maximum output of 1,000 lumens per fixture, regardless of number of bulbs (equal to one 60-watt incandescent light) may be partially shielded provided the bulb is not visible, and the fixture has an opaque to keep light from shining directly up.
 - d. Oxnard City Code 16-320: Lighting within physical limits of the area required to be lighted shall not exceed seven foot-candles, nor be less than one foot-candle at any point. A light source shall not shine upon, or illuminate directly any surface other than the area required to be lighted. No lighting shall be of a type or in a location that constitutes a hazard to vehicular traffic, either on private property or on the abutting streets. The height of light standards shall not exceed 26 feet. To prevent damage from automobiles, standards shall be mounted on reinforced concrete pedestals or otherwise protected.
111. Exterior lighting of the site including parking areas shall be between 1 and 7-foot candles and shall be in harmony with existing adjacent lighting schemes.
112. All exterior lighting shall operate from dusk to dawn.
113. LED or similar in nature and spectrum (3,000K to 20,000K Correlated Color Temperature).

114. Lighting instruments shall be full cut-off and installed so that light does not directly illuminate property outside the project site. Instruments shall not create glare for motorists or pedestrians.
115. Outdoor lighting instruments shall not be placed in close proximity of parking lot trees. In the event outdoor lighting instruments and trees are in close proximity an additional sheet will be required illustrating light and tree placement showing trees with a 20-year maturity.
116. Integrated landscape/lighting/photometric plan shall be submitted illustrating a 20-year tree maturity. This plan shall include all outdoor areas as well as the parking facility. This is to ensure that tree growth will not adversely impact future lighting and therefore site safety as the project matures. Luminaires used in the photometric calculations shall only include those instruments mounted 8-feet or more above any walking/driving surface. This plan shall be submitted to specialprojects@oxnardpd.org and approved prior to the issuance of building permits.
117. Safe Room construction shall consist of the below minimum features:
 - a. Concrete or CMU wall or walls and/or
 - b. Wood or steel stud constructed walls and ceiling wrapped with a metal mesh enveloped under drywall surfacing. Metal mesh shall have a minimum weight of .45 lbs. per sq. ft. and be opened spaced no more than 76%.
 - c. Other than doors, openings in the metal mesh walls shall not be larger than 12-inches square to provide HVAC ventilation and similar mechanical access.
 - d. Each door and window shall have callouts on plans identifying their size and design features.
 - e. Any service windows shall be constructed with a securable metal door or plate and have a vertical opening no taller than 12-inches.
118. Retail sites shall install security glass or interior mounted roll-up security screens for each window.. Design, placement and exceptions shall be approved by Planning and Police prior to the issuance of Building Permits.

Operations and Inspections

119. The permittee is authorized to operate the commercial cannabis retail business license between the hours of 9:00 a.m. to 9:00 p.m, subject to lighting requirements of Conditions 20-23.
120. Cash handling procedures shall be approved by the police chief or his/her designee.
121. Except for live growing plants which are being cultivated at a cultivation facility, all cannabis and cannabis products shall be stored in a secured and locked vault or vault equivalent. All safes and vaults shall be compliant with Underwriter Laboratories burglary-resistant and fire-resistant standards. All cannabis and cannabis products,

including live plants that are being cultivated, shall be kept in a manner as to prevent diversion, theft, and loss.

122. A security camera system shall monitor activity inside and around the Commercial Cannabis Business. The system shall provide secure real-time access to the City Manager or his/her designee(s) of any and all cameras at the site. The system shall meet or exceed current industry standards. The system shall be reevaluated every five years on the anniversary of the issuance of the permit to ensure the system, software and equipment meets current industry standards. The Commercial Cannabis Business shall upgrade equipment within six-months of the reevaluation when findings have identified needed improvements or upgrades.
123. The business shall have the capability to remain secure during a power outage and shall ensure that all access doors are not solely controlled by an electronic access panel to ensure that locks are not released during a power outage.
124. Each Commercial Cannabis Business shall have an accounting software system in place to provide point of sale data as well as audit trails or both product and cash, where applicable.
125. Each Commercial Cannabis Business shall demonstrate to the Police Chief, City Manager or their designee(s) compliance with the state's track and trace system for cannabis and cannabis products, as soon as it is operational.
126. Each Commercial Cannabis Business shall have state of the art network security protocols in place to protect computer information and all digital data.
127. Exterior vegetation shall be planted, altered and maintained in a fashion that precludes its use as a hiding place for persons on the premises.
128. Scheduled and unscheduled inspections of the site may occur during the business' authorized hours of operation, or under the below listed circumstances:
 - a. At a time while the business is closed that is mutually agreed to by the business' management and the Police Department
 - b. During any criminal investigation at the business.
129. The Applicant acknowledges compliance with the foregoing requirements shall be verified by the City Manager or his/her designee(s) prior to commencing business operations. The City Manager or his/her may supplement these security requirements once operations begin, subject to review by the City Manager if requested by the business owner.
130. The Applicant shall post in a location readily-visible to the public location the original copy of the Commercial Cannabis Business permit conditions of approval and the City issued business license.

131. The Applicant shall prohibit loitering by persons outside the facility both on the premises and within fifty (50) feet of the premises.
132. Prior to the establishment of any Commercial Cannabis Business or the operation of any such business, the employer intending to establish a Commercial Cannabis Business must first obtain all applicable planning, zoning, building, and other applicable permits from the relevant governmental agency which may be applicable to the zoning district in which such Commercial Cannabis Business intends to establish and to operate.
133. Prior to beginning employment all employees are required to secure and have issued a background check and passed a live scan through the Police Department as specified in Chapter 11, Article XVII of the Oxnard City Code. Results of the background check/live scan shall be provided to the employee and employer(s).

Retail Cannabis Conditions

134. Each customer entering the business shall present a valid form of government issued photo identification. A staff member or licensed security professional shall use an approved “identification card scanner” which verifies the age of the customer. The security officer will also visually confirm that the person presenting the identification card by matching the person with the card’s photo and confirming other data on the card.
135. The permittee shall acquire an “identification card scanner” for use by security officers to screen all customers as they enter the business. These scanners shall have these features:
 - a. Determine that the person is legal age to enter the premises.
 - b. Records the data from the presented identification including name, address, and date of birth and the time and date of the scan.

Security Camera System

136. A security camera system shall be installed and operated 24-hours a day to monitor the activity at the site. The system shall be designed to capture images of all persons and all vehicles that enter the site. Cameras shall also be distributed throughout the site to capture general activities. The camera system shall comply with these minimum standards:
 - a. Cameras and supporting equipment shall supply digital color images under normal lighting conditions. Grayscale images are expected for infra-red lighting.
 - b. Cameras shall be made by a reputable manufacturer and maintained to current industry standards.
 - c. Cameras shall have low light capability to facilitate the later identify persons involved in criminal or problem activities.
 - d. The video system shall utilize a Digital Video Recorder (DVR). VHS and other formats are prohibited.
 - e. The video system shall allow recording, live viewing and playback of recorded video for a period of a period of at least 30 days.

- f. Recorded images shall bear a date and time stamp that cannot be altered.
- g. All entry doorways to the premises shall be monitored by a camera or cameras that are strategically mounted to capture quality images of the heads and shoulders of persons who enter. Such cameras shall be mounted no higher than 7-feet above the floor/ground.
- h. At least one camera shall be dedicated to the point of sale, or equivalent as determined by the Police Chief, to monitor the exchange of money and identification checks for age.
- i. A monitor shall be placed near the primary entrance to the business to show patrons their image has been captured.
- j. Cameras in domed casings are highly encouraged as their area of focus is not easily determined by a casual observer.
- k. Site management shall provide in a timely manner any digital records of security camera or access control systems requested pursuant to a police investigation or for the periodic inspection of equipment required under these conditions.
- l. The video system shall be made available to the Chief of Police or his/her designee at all times by means of a secure Internet connection.
- m. Height gauges are required on the interior frame of each exterior door.
- n. A high-definition cloud based-video security system shall be used with a required 90 day tamper proof hard drive or software system pursuant to BCC 5044. System will be remotely accessible by the Chief of Police or his designee at all times. Prior to 90 days, no video will be erased without prior approval from the Chief of Police. At no time shall the business be open if the security system is down regardless of the presence of armed security guards.
- o. Cameras shall be mounted outside the business to monitor pedestrian and vehicular traffic around the business. Where possible and practical, cameras will be positioned to capture the faces of persons approaching the business and the license plates of vehicles driving on parking area drive aisles.

Access Control Systems

137. The site shall be equipped with an access control system that shall restrict access throughout the site.
- a. The access control system shall have the capability to add, subtract or modify a cardholder's access.
 - b. Access to various areas or rooms within the site will be restricted based on the cardholder's need for access according to the business plan and the security plan.
 - c. The primary entry to the site shall be controlled by a card or similar instrument coupled with a keypad to provide entry. A keypad entry will be required for the first access of each business day. Each employee authorized for "opening" entry shall have their own access and their own emergency code.
 - d. Access to interior "safe rooms" where product and cash are stored shall require keypad and pass card to enter.
 - e. Those persons authorized to utilize keypad entry locations will have two passcodes unique for their use. One passcode for normal entry and one for "distress" entry. The "distress" entry shall be used if the cardholder is entering

under distress such as a robbery, kidnap or threat of harm. Permittee shall coordinate with the alarm service provider for this function.

- f. An access card providing universal access to the site shall be provided to the Oxnard Fire Department for placement in the site Knox Box.

Alarm Systems

138. Intrusion/burglar alarms shall be “dual” technology and have the capability to differentiate between human and non-human motion. The burglar alarm sensors shall be mounted throughout the premises and shall specifically include: Receiving Area, Safe Room, Security Room, Holding Area, All Areas Noted Corridors, Processing, Receiving, Retail Area “Safe Room”, Delivery, On-Line Storage “Safe Room”, Education Room, Waiting Room, Grand Lobby, Retail (non-cannabis) and the Roof.
139. Panic alarms shall be installed at various sites within the business to be used in the event of a robbery.

Security Site Plan

140. A Security Site Plan in a pdf format shall be submitted to the Chief of Police or his or her designee and approved prior to the issuance of building permits. The plan shall include:
 - a. The plan shall identify the location of each security camera, camera recording/support equipment, all elements of an access control system, and any safe or secure room or rooms designed to maintain valuable assets or records.
 - b. The plan shall include a chart shall identify each camera by an alpha-numeric, the scope of their capture area, placement of the camera above the floor/ground, make and model of the instrument, type of camera (dome, PTZ, etc.).
 - c. The plan shall identify any area which is served by an intrusion/burglary alarm system.
 - d. The plan shall identify the location of each panic alarm installation.
 - e. The Security Site Plan shall identify all the components of the access control system, their location and a chart that identifies each instrument with an alpha-numeric with the device name, make and model.
141. The Security Plan includes all matters relating to the security camera system, access control system, alarm system, security officer post orders, security site plan and other documents related to the safe and secure operation regulated under this permit. An updated Security Plan in a pdf format shall be submitted to the Police Department to specialprojects@oxnardpd.org under any of the below circumstances:
 - a. Any modification to the site that changes the location of walls, doors or windows.
 - b. Any system upgrades or significant changes to the security camera or access control systems.

- c. Or, when deemed appropriate by the Chief of Police or his or her designee based on security deficiencies discovered during any inspection of the site or any violation of the conditions of this permit.
- 142. Any component of the security system including all elements of the alarm, camera and access control systems are subject to replacement, upgrades, adjustments or additions should any of these circumstances occur:
 - a. Equipment is outdated and not up to current industry standards or formats.
 - b. Or, through the oversight process exercised by the City of Oxnard or the State of California, deficiencies are discovered in the security and monitoring equipment which can be addressed through the adjustment or addition of security equipment.
- 143. The permittee shall create and maintain Post Orders for security officers working at the site. Post Orders shall be a “living document” and shall be subject to change based on operational experiences, noted deficiencies, and recommendations by the Oxnard Police Department. These orders shall outline the following:
 - a. Specific duties and responsibilities for each security officer.
 - b. Procedures security officers shall follow during normal operations, emergency circumstances and when a crime is discovered.
 - c. Post orders shall delineate activities that security officers shall not perform as they distract or interfere from their security role.
 - d. Post Orders shall be identified by the last approved revision date and shall include the approval of the permittee and a designee from the Oxnard Police Department. Each updated revision shall be reviewed and acknowledged by each security officer working the site.
 - e. The Post Orders shall be reviewed and approved by the Oxnard Police Department prior to the issuance of the permit and shall be subject to revision as part of any inspection.
 - f. A copy of the current approved version of the Post Orders shall be available on-site for review by any security officer assigned at the site or any representative of the City of Oxnard visiting the site.

Notifications

- 144. The permittee shall establish and maintain the following to facilitate communication and notifications between the permittee and the Oxnard Police Department:
 - a. Identify two management level employees as points of contact 24-hours a day, 7-days a week available to respond to the site in the event of an emergency or unlawful entry at the site.
 - b. A designated email address for the Oxnard Police Department to use for notifications pertaining to the business.
 - c. The management “points of contact” and the email address for notifications shall be provided by an email to: specialprojects@oxnardpd.org and shall include the names of the point of contact managers, their positions within the business and their phone numbers.

- d. The Oxnard Police Department may establish additional staff members as points of contact for the permittee.
145. The Police Chief may temporarily suspend this permit pending a hearing as outlined in Article V of the Oxnard City Ordinance under any of the below circumstances:
- a. Discovery of any controlled substance or product classified in Schedules I, II, III and IV of the Uniform Controlled Substances Act of the Health and Safety Code and not identified as being permitted at the site within the scope of this permit or an authorizing permit issued by the State of California.
 - b. Failure to maintain security features at or above industry standards, failure to correct security deficiencies required in these conditions in a timely manner, and/or failure to accurately or timely report a loss or theft of product as required under this permit.
 - c. Any sales or transfer of cannabis products outside the restrictions, regulations and tracking mechanisms established through this permit or related cannabis permits issued by the State of California.
146. Bollards or similar barriers shall be placed in front of all windows that the bottom sill is lower than 30-inches above grade and the windows are in close proximity to a vehicle driving surface. Gaps between barriers or other structural features shall be no wider than 5-feet. These barriers shall be identified on the Security Site Plan.
147. All applications of window tinting shall be identified on submitted security site plans. “Black-out” tinting will not be allowed. Tinting that provides for clear outward viewing but blocks viewing from the outside is allowable.
148. Windows shall be protected by either of the following technologies:
- a. Interior mounted security screens that are 50% see through which allows the interior of the business to be seen during hours where the screen is secured.
 - b. A transparent material that can withstand the impact of a sledge hammer or similar impact tool without breaching the window sufficiently to create a puncture hole of any size.
149. All signage for the site shall require joint approval from authorized designees of the Planning Division and the Police Department.

Cannabis Deliveries

150. All deliveries of cannabis shall require the following:
- a. The persons making the delivery shall be a minimum of 21-years of age.
 - b. Cannabis products for delivery shall be locked in the truck of the vehicle or secured in a non-portable box or storage unit in the passenger compartment during transport.
 - c. Each driver making a cannabis delivery shall check the identification of the person depicted on the identification is of age and is the person receiving the delivery. The driver shall ensure the recipient of the cannabis product is 21-years of age, or 18 years of age and possess a cannabis medical card. The driver shall photograph or scan the

- identification using an identification scanner to record and verify the age of the person taking record of the delivery.
- d. The permittee shall provide information on any website menu that clearly states that all deliveries that include cannabis will require the recipient of the cannabis products to present their government photo identification as proof of age. Recommended language for on-line menus: “ The City of Oxnard required the delivery driver to photograph and scan a government issued photo identification of the recipient of all deliveries of cannabis products.
 - e. The permittee shall require that staff members taking phone orders for delivery of cannabis products shall advise customers of the requirements under subsection “(c)” of this condition.
 - f. On-line orders for delivery which include cannabis products shall have a check box where the customer acknowledges that the recipient of the order must show a government issued photo identification at the time of delivery.

Police Special Conditions

- 151. The unit’s address “2320” shall be painted on the exterior of the rear door in numerals that are 3-inches in height.
- 152. The unit’s address “2320” shall be painted on the roof of the building above the unit in numerals that are 3-feet in height.
- 153. Bollards and enhanced security features are required for the storefront windows pursuant to general Police Conditions.
- 154. The property shall have and maintain at each vehicle entrance signs posted pursuant to 22658(a) CVC to prohibit unauthorized parking on private property.
- 155. One parking stall at the rear of the business shall be dedicated to applicant’s use for delivery vehicle parking only. The stall shall be in close proximity to the rear door of the business and shall be clearly marked with a sign posted on the wall. The sign shall be no less than 17-inches by 22-inches and the lettering shall be not less than one inch in height. The sign shall state: “Authorized Delivery Vehicle Parking Only All Others Subject To Tow Away. 22658(a) CVC.

FIRE DEPARTMENT STANDARD CONDITIONS

- 156. Applicant shall construct all vehicle access driveways on the project property to be at least 26 feet wide. The Applicant shall mark curbs adjacent to designated fire lanes in parking lots to prohibit stopping and parking in the fire lanes. The Applicant shall mark all designated fire lanes in accordance with the California Vehicle Code. (FD/B, F-1)
- 157. All roof covering materials on the project property shall be of non-combustible or fire retardant materials approved by the Fire Chief and in compliance with the City Code. (FD, F-2)

158. Before the City issues building permits, the Applicant shall obtain the Fire Chief's approval of a plan to ensure fire equipment access and the availability of water for fire combat operations to all areas of the project property. The Fire Chief shall determine whether or not the plan provides adequate fire protection. (FD/DS, F-3)
159. At the Applicant's expense, Applicant shall obtain two certified fire flow tests for the project property. The first test shall be completed before City approval of building plans and the second shall be completed after construction and prior to the issuance of a certificate of occupancy. A mechanical, civil, or fire protection engineer must certify the tests. The Applicant shall obtain permits for the tests from the Engineering Division. Applicant shall send the results of the tests to the Fire Chief and the City Engineer. (FD/DS, F-4)
160. All structures on the project property shall conform to the minimum standards prescribed in Title 19 of the California Code of Regulations. (FD, F-5)
161. The project shall meet the minimum requirements of the "Fire Protection Planning Guide" published by the Fire Department. (FD, F-6)
162. At all times during construction, the Applicant shall maintain paved surfaces capable of handling loads of 76,000 pounds which will provide access for fire fighting apparatus to all parts of the project property. (FD/DS, F-7)
163. The Applicant shall identify all hydrants, standpipes and other fire protection equipment on the project property as required by the Fire Chief. (FD, F-8)
164. The Applicant shall install security devices and measures, including walkway and vehicle control gates, entrance telephones, intercoms and similar features, subject to approval of the Police Chief and the Fire Chief. Vehicle control gates shall be operable by City approved radio equipment. (FD/PD, F-9)
165. The applicant shall provide central station monitoring of the fire sprinkler system and all control valves. (FD, F-10)
166. The turning radius of all project property driveways and turnaround areas used for emergency access shall be a minimum of 48 feet outside diameter for a semi-trailer. (FD, F-11)
167. The Applicant shall provide automatic fire sprinklers as required by the City Code and shall contact the Fire Chief to ascertain the location of all connections. (FD, F-12)
168. The Applicant shall install in each structure in the project a detection/alarm system with a central station monitor that will automatically notify the Fire Department in the event of a fire in the structure. The alarm system shall include a UL or State Fire Marshal approved device, which shall not exceed design specifications, that reports the location

of the fire and allows the central station monitor to inform the Fire Department of the point of entry into the structure that is nearest the fire. (FD, F-13)

169. The Applicant shall install in each structure in the project where automatic fire sprinklers are installed a system that automatically opens the skylights in areas affected by fire before the fire sprinklers are activated. (FD, F-14)
170. All signalized intersections shall be equipped with pre-emption equipment. (FD/TR, F-15)
171. The Applicant shall comply with Certified Unified Program Agency (CUPA) requirements regarding the storage, handling and generation of hazardous materials or waste. Prior to the issuance of building permits, Applicant shall contact the CUPA division of the Fire Department to ensure that such requirements are followed. (FD, F-16)
172. Fire sprinkler coverage is required for:
 - a. Patios, overhangs or any other projections that are 48” or more from the structure.
 - b. Open areas beneath stairs that serve a habitable space or when that area is accessible for storage or has mechanical equipment.
 - c. The protection of the forced air unit when located in the attic or other areas that are normally inaccessible.
173. Before the city issues a certificate of occupancy, the Applicant shall install a Knox key vault at a location to be determined by the Fire Department.
174. The Applicant shall allow installation of public safety radio equipment in the tower, steeple, roof or other elevated portion of the building. Such equipment shall not conflict with the architectural design of the building and shall comply with zoning and planning requirements and conditions.
175. The Applicant shall provide the City Manager or his/her designee(s) with the name, telephone number (both landline and mobile, if available) of an on-site employee or owner to whom emergency notice can be provided at any hour of the day. Each commercial cannabis business must have a fire evacuation plan, and plan to address robberies and other emergencies. Said plan shall be reviewed and approved annually by the Fire Department.

ENVIRONMENTAL RESOURCES DIVISION

176. Applicant shall arrange for materials collection during construction, demolition, and occupancy with the City's Environmental Resources Division or Applicant shall arrange for self-hauling.

177. FOR COMMERCIAL/INDUSTRIAL PROJECTS: To be in compliance with state law, Applicant shall make provisions to divert a minimum of 50%, with an aim of diverting 75% to achieve the new state diversion goal, of the waste material generated during occupancy through source reduction, recycling, reuse, and organics collection programs. Applicant shall submit an “ Environmental Resources Division Occupancy Plan” (“Occupancy Plan”) to the City’s Environmental Resources Division. The Occupancy Plan must clearly state how recyclable and organic material will be managed on site to be in compliance with applicable state law, including what service provider(s) will manage/transport materials to appropriate facilities. An Occupancy Plan must be submitted and approved prior to issuance of a certificate of occupancy.

DEVELOPMENT SERVICES DIVISION STANDARD CONDITIONS

178. Applicant shall pay plan check and processing fees in effect at the time of construction plan submittal and shall pay development fees, encroachment permit fees, and other applicable fees in effect at permit issuance. (DS-1)
179. Applicant shall remove graffiti from the project, including graffiti on offsite public infrastructure under construction by Applicant, within 24 hours of its appearance. If Applicant fails to remove graffiti in accordance with this condition, the City may at the discretion of the Development Services Manager issue a stop work order until such time as the graffiti is removed. (DS-20)
180. The conditions of this Resolution shall prevail over all omissions, conflicting notations, specifications, dimensions, typical sections, and the like, that may or may not be shown on the improvement plans. (DS-21)
181. Applicant shall pay the cost of all inspections of onsite and offsite improvements. (DS-22)
182. Applicant shall be responsible for all project related actions of Applicant's employees, contractors, subcontractors, and agents until City accepts the improvements. (DS-23)
183. Applicant shall install City approved backflow prevention devices for water connections if so ordered by the City Engineer. (DS-45)
184. Developer shall install bike racks in accordance with City standards at locations approved by City Traffic Engineer. (TR-73)

DEVELOPMENT SERVICES DIVISION SPECIAL CONDITIONS

185. Developer shall verify that the existing sanitary sewer and water services are adequately sized to serve the proposed improvements and provide the information on the improvement plans. (DS)
186. Existing water services and meters serving the project not meeting City standards shall be upgraded. (DS)

187. Show all applicable existing and proposed utilities (sewer, water, storm, gas, elect.) affected by the proposed improvement on the site engineering plan. (DS)
188. The project shall comply with the latest California Building Code disabled access requirements. (DS)
189. The existing trash enclosure shall be retrofitted with a roof and shall include architectural screen mesh between the top of wall and roof to prevent unauthorized access and be sprinklered if required by the Fire Department. (DS)

PASSED, APPROVED, AND ADOPTED by the Planning Commission of the City of Oxnard on this 13th day of October 2021.

Daniel Chavez, Jr., Chair

I hereby certify that the foregoing is a true copy of a Resolution adopted by the Planning Commission of the City of Oxnard at a meeting held this 13th day of October 2021, and carried by the following vote:

AYES: Commissioner(s): Chair Chavez, Connelly, Lopez, Meyer, Nash, and Sanchez

NOES: Commissioner(s):

ABSENT: Commissioner(s):

ABSTAIN: Commissioner(s):

RECUSED: Commissioner(s): Vice Chair Arruejo

Scott Kolwitz, Secretary



REQUEST FOR APPEAL

Community Development Department

Use this form to request an appeal of a decision rendered on one of the following type of permits: Administrative Wireless Permit; Discretionary Development Permit decision rendered by the Community Development Director; or a Discretionary Development Permit decision rendered by the Planning Commission.

After paying the required appeal fee to the Planning Division, submit the original request for appeal and two (2) copies along with verification that the appropriate appeal fee has been paid to the City Clerk's Office. To determine your appeal fee go to: oxnard.org/planning and click on planning handouts and applications or contact the Planning Division at (805) 385-7858.

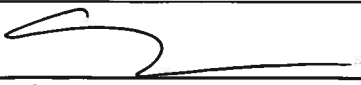
I, Stan Rothbart, am requesting an appeal of a decision made by
Print name
Planning Commission that was made on 10.13.21 regarding
State decision making body Date
Planning Commission 10.13.21 meeting, Agenda Item #E.1, - PLANNING AND ZONING PERMIT No. 21-516-36 (Retail).
Specify PZ No.

Check one of the following:

- ☐ **Appeal of a Decision Rendered on a Wireless Permit.** Pursuant to Section No. 16-488 (C) of the Oxnard City Code, I am submitting an appeal to the Secretary of the Planning Commission and I am paying the necessary fees to the Planning Division. I am filing this appeal within 10 days of the Planning Manager's decision on a wireless communications facility permit. I am requesting that this appeal be considered by the Planning Commission.
- ☐ **Appeal of a Decision Rendered on a Discretionary Permit - Community Development Director.** Pursuant to Section No. 16-525 (B) of the Oxnard City Code, I am submitting an appeal to the City Clerk and I am paying the necessary fees to the Planning Division. I am filing this appeal within 10 days of the Community Development Director's decision on a discretionary permit. I am requesting that this appeal be considered by the Planning Commission.
- ☒ **Appeal of a Decision Rendered on a Discretionary Permit - Planning Commission.** Pursuant to Section 16-545/17-58(J) of the Oxnard City Code, I am submitting an appeal to the City Clerk and I am paying the necessary fees to the Planning Division. I am filing this appeal within 18 days / 10 working days of the Planning Commission's decision on a discretionary permit. I am requesting that this appeal be considered by the City Council.

State the grounds, facts, and if known the code sections supporting your request: (Provide additional sheets if necessary)

For the reasons stated in the attached letter dated 10.6.21 (with exhibits), appellant seeks City Council review of the above decision. In addition, the Planning Commission erred for the additional reasons that 1) no notice was given to the public regarding the proposed delivery use, and 2) the proposed event space further violates the CC&Rs. Appellant will submit a further letter in advance of the City Council appeal hearing.

X 
Appellant Signature

10/26/21
Date

cc: City Attorney
Community Development Director
Project Planner
Applicant

OFFICE USE ONLY	
Date Received:	
Received By:	
Contacted Dept/Division Rep:	

Community Development Department
Planning Division
 214 South C Street, Oxnard, CA 93030
 Main (805) 385-7858
 Fax (805) 385-7417



CREDIT CARD AUTHORIZATION FORM

CARDHOLDER INFORMATION		
Name On Credit Card Stanley G Rothbart		
Card Holder Billing Address 10990 Wilshire Blvd Suite 1000		
City Los Angeles	State CA	Zip Code 90024
Contact Person Stanley Rothbart	Title President	Phone No. 3102776288
Credit Card Number 4259865003855133	CVV2 or CID No. (3 digit No.)*** 707	Expiration Date 10/25
Card Type ☒ Visa ☐ Mastercard	Amount 1,921.50	
PLANNING INFORMATION		
☐ Zone Clearance ☐ Home Occupation Permit ☐ TUP ☐ Other:		PZ No.: 21-00-19 for PZ No. 21-516-36
☐ Business ☐ Residence ☐ Other Address:		

*** Card Identification Number (CID No.) is the last three (3) digits located on the back of the credit card.

By signing below I, being the cardholder or authorized user, agree to pay the amount of **\$1,921.50** (Initial SR) and specifically authorize the City of Oxnard to charge my credit card in that amount.

Please be sure to initial the amount authorized and sign below.

Stanley G Rothbart		10/26/21
Printed Name	Signature of Card Holder	Date

Received By	Department	Ext	Date
-------------	------------	-----	------

Date:	# Pages:
To:	From:
Co./Dept.: Planning	Co.
Phone #:	Phone #:
Fax #: (805) 385-7417	Fax #:

FOR OFFICE USE ONLY	
Form of Acceptance:	EM ZM AM NM
Approval #:	_____
Receipt#	_____
(GIVE TO CUSTOMER)	
Clerk Initial:	Date: _____

PZ821U01

Planning Division
Payment Due Selection10/26/21
16:08:41

Project nbr/desc . : 21 00000019 APPEAL/PZ NO. 21-516-36/2320 N ROSE AVE
Project type . . . : MISCELLANEOUS CHARGES

Select fees due, press Enter.

1=Select entire amount

Opt	Amount to apply	Bal Due	Fee Description	Trans amt
—	<u>91.50</u>	91.50	5% PERMIT SURCHARGE FEE	91.50
—	<u>1830.00</u>	1830.00	APPEAL-ALL OTHERS	1830.00

Total 1921.50

F3=Exit F5=Select all fees F12=Cancel

Seena M. Samimi
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Los Angeles, California 90067-4308
(310) 203-8080 (310) 203-0567 Fax
www.jmbm.com

October 6, 2021

VIA EMAIL ONLY

City of Oxnard Planning Commission
300 West Third Street
Oxnard, CA 93030
Planning@oxnard.org
Jose.Coyotl@oxnard.org

**Re: FGH LLC – PROPOSED LOCAL EQUITY CANNABIS FACILITY
APPLICANT FOR 2320 N. ROSE AVE., OXNARD, CA
Planning Commission Oct. 7, 2021 Hearing – Agenda Item #3**

Dear Honorable Planning Commissioners,

This letter of opposition is written on behalf of Rose II LLC (owner of 2200 N. Rose Avenue and 1901 Lockwood St.), Oxnard Place, LLC (owner of 2340 N. Rose Avenue), and Rose TIC, LLC (owner of 2330 N. Rose Avenue and Lot 4), all of which are owners and operators of businesses (the "Neighboring Owners") in the commercial complex (the "Complex") where FGH Retail Services LLC ("FGH") intends to open its cannabis retail dispensary business ("Project"), at 2320 N. Rose Avenue, Oxnard, CA (the "Property").

[CONTINUED ON NEXT PAGE]

I. EXECUTIVE SUMMARY

1. **The City is unable to make the findings required under Oxnard Zoning Code Section 16-531(A).** This provision requires that the Planning Commission analyze the "nature, condition and development of [FGH's] adjacent uses, buildings and structures," and to ensure that FGH's proposed use does not "adversely affect or be materially detrimental to such adjacent uses, buildings or structures." The adverse effects on adjacent uses include, but are not limited to (see Section III for additional details):
 - a. **Loss of Business/Tenants:** Due to proximity to an adult use, there are now restrictions on entire classes of tenants within the Complex (schools/childcare or family-oriented businesses). Also, the presence of the dispensary will also discourage certain types of patrons from shopping at the Complex.
 - b. **Financing:** Many financial institutions have advised that on projects that contain cannabis uses, they would refuse to lend or refinance if there is a tenant within the Complex that is a cannabis use.
 - c. **Crime/Loitering:** Due to the high volume of cash and high-priced products on site, the dispensary will increase crime risks. Also, loitering in front of surrounding businesses, and cannabis consumption in the parking lot will be disruptive.
 - d. **Insurance:** Insurers have indicated that there will be premium increases due to the risks associated with a neighboring cannabis use.
 - e. **Odors:** The notorious odors emanating from dispensaries will be disruptive to neighboring businesses.
2. **FGH's business can never open within the Complex anyway:** The CC&Rs expressly prohibit 1) adult uses and 2) federally illegal uses, such as a cannabis dispensary. Because the Neighboring Owners will sue to enforce the CC&Rs (which are clear on this point) the City will be wasting its time and resources, and will be depriving itself of the tax revenues from a more deserving (and properly located) cannabis business. (See Section IV.)
3. **FGH misrepresented facts in its presentation to the City:** FGH touts "neighborhood compatibility" as a key reason for why its application should be granted, and repeatedly implied that the Neighboring Owners would support the use. This is utterly false. FGH was put on notice of the Neighboring Owners' vehement opposition to the Project since at least April 2020, and made no mention of this fact to the City. (See Section V.)
4. **The Project is subject to CEQA:** The exemption claimed by the City is inapplicable, and even if it was applicable, exceptions apply, due to unusual circumstances. (See Section VI.)
5. **The Planning Commission Resolution is rife with errors that need correction:** Even if the Planning Commission decides to approve the Project (it should not), it cannot approve the Resolution that is before it without making several changes and clarifications, discussed in Section VII. For example, even though the Project is presented as a storefront retail operation only, the Conditions of Approval also purport to regulate delivery of cannabis to end-consumers, as well as cultivation.

II. BACKGROUND AND CORRECTION OF THE INCOMPLETE RECORD

The Neighboring Owners submitted a thorough letter to the City on June 15, 2021¹, addressing several crucial points that they wanted to ensure were brought to the attention of the Planning Commission. However, the letter's main point of contention – **that the City is unable to make the findings required under Oxnard Zoning Code Section 16-531(A)** – was entirely ignored by the staff report. The letter's purpose was twofold (as stated expressly therein): 1) provide the City with the relevant information needed to properly analyze the "nature, condition and development of [FGH's] adjacent uses, buildings and structures," and to ensure that FGH's proposed use does not "adversely affect or be materially detrimental to such adjacent uses, buildings or structures" as required by Oxnard Zoning Code Section 16-531, and 2) to put the City on notice that even if it approves the Project, FGH will never be able to open, operate, or provide a tax benefit for the City, as the Neighboring Owners will act to enforce the CC&Rs, which expressly prohibit adult uses, including cannabis businesses.

The Neighboring Owners write now to again express their vehement opposition to the Project, and to bring to the Planning Commission's attention several major flaws with the proposed resolution. The Planning Commission should vote to deny the Project.

III. THE CITY CANNOT MAKE THE REQUIRED FINDINGS UNDER OXNARD ZONING CODE SECTION 16-531(A)

Before it may issue a Special Use Permit, the first finding the City must make is that the proposed use will cause no adverse or detrimental effects to the neighboring uses and businesses. The requirement, in relevant part, is set forth below (emphasis added):

SEC. 16-531. REQUIREMENTS FOR GRANTING.

Before a special use permit may be granted, the applicant must show and the commission must find that the proposed use is in conformance with the general plan and other adopted standards and that the following conditions are met:

(A) The nature, condition and development of adjacent uses, buildings and structures shall be considered, and no proposed special use permit shall be granted if the approval body finds such use will adversely affect or be materially detrimental to such adjacent uses, buildings or structures or to the public health, safety or general welfare.

...

¹ A portion of this letter (which was mischaracterized by the staff report) is attached as "Attachment K" to the staff report, but the accompanying exhibits to the letter were omitted. As such, for the sake of a complete record, attached hereto as **Exhibit A** is the complete version of the June 15, 2021 letter, including the omitted Exhibits 1-2 thereto (April 24, 2020 and May 27, 2020 letters sent from Neighboring Owners to FGH). Note that the CC&Rs are also attached as an internal exhibit to the April 24, 2020 letter.

Staff reports, and proposed resolutions for the Planning Commission's consideration, typically contain a list of required findings that are taken verbatim from the relevant municipal codes (in this case, Oxnard Zoning Code Section 16-531), and then explain how the Project satisfies, or fails to satisfy, each of the requirements. The staff report before the Planning Commission for the October 7, 2021 hearing (and the accompanying proposed Planning Commission Resolution) does no such thing.

Rather than listing the requirements from Oxnard Zoning Code Section 16-531, pages 3-5 of the proposed Planning Commission Resolution instead only paraphrases some of the requirements therein, and in so doing, misses some important mandatory requirements, such as those listed Oxnard Zoning Code Section 16-531(A).² As such, if the City were to approve the project based on the resolution currently before the Planning Commission, it would constitute an abuse of discretion under California Code of Civil Procedure Sections 1094.5(b)-(c): "Abuse of discretion is established if the respondent has not proceeded in the manner required by law, **the order or decision is not supported by the findings, or the findings are not supported by the evidence.**" (See also, *Topanga Association for a Scenic Community v. County of Los Angeles* (1974) 11 Cal.3d 506, 515 [an agency must set forth findings to "bridge the analytic gap between the raw evidence and the ultimate decision or order."].)

The Neighboring Owners want to again be very clear regarding the intent of this letter (and the June 15 letter). **The purpose is not to ask the City to enforce the CC&Rs governing the Complex.** The Neighboring Owners will do so themselves through litigation, if necessary. Rather, the Neighboring Owners **simply ask the City to do as Oxnard Zoning Code Section 16-531(A) requires:** consider the "nature, condition and development of adjacent uses, buildings and structures"³ and to reject the Project if it "will adversely affect or be materially detrimental to such adjacent uses, buildings or structures." Because the Project will have an adverse effect on the neighboring uses, the Planning Commission should reject the application, as it cannot make this required finding.

A. Adverse Impacts on Neighboring Uses

There are several adverse impacts on the adjacent uses that the Planning Commission should be aware of, as it determines whether it can make the required finding under Oxnard Zoning Code Section 16-531(A):

1. **Future Tenant Restrictions and Future Tenant Hesitancy:** Because cannabis sales are an adult use, and regulations prohibit certain sensitive uses near cannabis operations, the Neighboring Owners will be legally prevented from renting to certain types of businesses

² Surprisingly, the staff report makes no mention of Oxnard Zoning Code Section 16-531 (aside from attaching a portion of the letter submitted by Neighboring Owners to this effect).

³ This is the requirement of Oxnard Zoning Code Section 16-531(A) that the staff report fails to cite, and fails to address. That is because neither the staff report, nor the Planning Commission Resolution, take this requirement into consideration.

in the future, such as youth groups, schools, preschools, day-cares, and the like. Beyond the outright prohibition regarding certain classes of tenants, many family-oriented businesses (including themed restaurants, family restaurants, event spaces, etc.) also will refuse to sign a lease if there is a cannabis operation within the Complex. There are also non-family-oriented commercial businesses that will simply refuse to be located in a complex containing a cannabis dispensary.⁴ This means that the pool of potential tenants will be reduced, which in turn, means that vacancies will take longer to fill, which has a negative financial impact on the Neighboring Owners (as well as the City, due to decreased tax revenues).

2. **Financing:** Many financial institutions have advised that on projects that contain cannabis uses, they would refuse to lend or refinance if there is a tenant within the Complex that is a cannabis use. Due to federal illegality of cannabis, financial institutions tend to take a hard stance on cannabis uses (even when it is an adjacent use), and this issue could put Neighboring Owners in a precarious position when it comes to financing.
3. **Traffic:** FGH's operations are expected to bring a significant amount of vehicle traffic, foot-traffic and visitors to the business. The staff report is ambiguous regarding whether FGH's operation also includes delivery beyond storefront retail.⁵ To the extent that FGH operates a delivery business from the Property, that will greatly impact the atmosphere of the parking lot, converting it from a space for parking, to a hub for delivery vehicles. The impacts from such a major change would need to be analyzed and potentially mitigated.
4. **Crime:** Because cannabis remains federally illegal in most circumstances, most cannabis operators still deal heavily in cash. Some cannabis operators have established illegal workarounds⁶ to this typically cash-only business, only to be criminally prosecuted. The large amounts of cash, often kept in safes onsite, along with the extremely high-valued products, mean that cannabis operations such as that of FGH often have millions of dollars of combined cash and products on site. This leads to higher security threats, and a greater probability of crime and attempted theft. In addition, consumption of cannabis in public is still a crime in all of California, even in local jurisdictions where it has been legalized, including in Oxnard. (California Health and Safety Code Sections 11362.3-11362.4 .) The increased crime risks would also lead to higher security costs for the Neighboring Owners.
5. **Odors:** Cannabis dispensaries are notorious for emitting strong smells which the Neighboring Owners consider to be offensive and a nuisance. Conditions of approval relating to these smells do little to mitigate the impacts. To the extent that patrons of the

⁴ This is not mere conjecture. One of the Neighboring Owners was told by a large national retailer that it would not enter into negotiations for a lease if there was a possibility of a cannabis-related use being permitted within the Complex.

⁵ See full discussion in Section VII below. However, if delivery is included in the Project proposal, the Neighboring Owners hereby request a continuance of the hearing, so that facts can be gathered, and a proper response can be made as to the impacts that would have on the Complex.

⁶ https://www.americanbar.org/groups/business_law/publications/blt/2020/02/cannabis-banking/;
<https://arstechnica.com/tech-policy/2020/07/feds-indict-men-for-disguising-pot-payments-as-orders-for-dog-toys-and-soda/>

neighboring businesses are bothered by the smells, they will also avoid shopping in the Complex, and go elsewhere.

6. **Loitering:** Patrons who obtain the cannabis from FGH may loiter and consume the cannabis products in the parking lot, and in and around the businesses of the neighboring properties, which would materially interfere with the operations and success of those businesses.
7. **Insurance:** For many of the same reasons listed above (increased crime risk, loitering, odors, tenant restrictions, etc.), the Neighboring Owners will suffer from an increase in insurance premiums due to the neighboring cannabis use.
8. **Loss of Business:** Cannabis smells, loitering of FGH patrons, and the increased security risks (described above) are a material interference with neighboring businesses. In addition, a cannabis business would materially alter the prestige of the shopping center, and therefore, the neighboring businesses. It is possible, if not likely, that many families with younger children (and those who oppose cannabis for other reasons) would no longer want to take their business to the Complex once a cannabis dispensary opens therein.

The full extent of the negative impacts from FGH's operations cannot be known, but FGH was put on full notice of the concerns listed above, and despite multiple letters to FGH from counsel for several of the Neighboring Owners, FGH has not responded to these issues. Notably, the staff report also fails to address any of these issues, and despite having received the June 15 letter (with attachments) from this firm, does not even include any analysis or discussion regarding how or why these concerns have been mitigated or otherwise addressed.

In any event, based on the above adverse impacts to the Neighboring Owners, the Planning Commission cannot make the required findings under Oxnard Zoning Code Section 16-531(A), and must reject the application.

B. Direct Violation of the CC&R's Express Terms

In addition to the adverse impacts to the Neighboring Owners, the Planning Commission is also tasked with considering the "nature, condition, and development of adjacent uses, buildings and structures." In this particular case, the "nature, condition, and development of adjacent uses, buildings and structures" which the City **must consider** under Oxnard Zoning Code Section 16-531(A), are governed by a **written document**: the CC&Rs.⁷ The CC&Rs expressly prohibit the proposed cannabis use, as thoroughly analyzed in the letters to FGH from the Neighboring Owners (See Exhibit A, Exhibit 1 [April 24, 2020 letter]). FGH acquired the Property having been provided with actual and constructive notice of the CC&Rs, and FGH was fully aware of the restrictions and limitations of the Property it purchased.

⁷ The CC&R's formal name is the "Amendment and Restatement of Easements with Covenants and Restrictions Affecting Land", recorded on August 15, 1996. (See Exhibit A, internal Exhibit 1 [April 24, 2020 letter], Exhibit 1 thereto [CC&Rs].)

The City cannot make the required finding regarding adjacent uses in a vacuum. All of the owners in the Complex have agreed to be bound by the CC&Rs; those CC&Rs are therefore relevant to the City's findings concerning the effects on surrounding uses. Here, the CC&Rs expressly prohibit the use that FGH is proposing. While the below list is not exhaustive, here is a representative list of prohibitions that FGH has utterly ignored:

1. **Prohibition on "adult uses" (Section 2.b):** The CC&Rs broadly prohibit "adult uses" at the Complex. By definition, cannabis retail facilities are adult businesses that can only service adult customers under California law. In fact, the very first slide of FGH's presentation to the City describes a cannabis business as an "adult use." An adult cannabis business is no different than the myriad other types of adult businesses that are also expressly called out in the CC&Rs as prohibited uses in the Complex.
2. **Prohibition on illegal uses (Section 2.b.iv):** The CC&Rs also prohibit any use that violates "**any** law, ordinance, rule or regulation of **any** governmental authority with jurisdiction over any portion of the Shopping Center." Despite changes in State and local law, cannabis remains a Schedule 1 drug under the Controlled Substances Act (21 U.S.C. 802, 812) and the sale of cannabis is illegal under federal law. As a result, cannabis sales are prohibited by the CC&Rs.
3. **Prohibition on activities which interferes with the business of any other occupant (Section 2.b.iii):** The list of adverse impacts described in Section III.A above show that FGH's operation will interfere with the businesses of the Neighboring Owners.

Thus, beyond the actual adverse impacts listed in Section III.A above, the fact that FGH has decided to attempt to open a cannabis dispensary in a Complex where it is expressly prohibited is telling. The fact that FGH has refused to present any arguments as to how or why it complies with the CC&Rs also speaks volumes. This is not a company that has high regard for the rules or regulations of the Property it has purchased, even when put on notice of those requirements repeatedly. Why would FGH act any differently in connection with the City's rules or regulations? A company that would seek the City's approval of a business that it undeniably knows is prohibited at the Property is not one deserving of the City's consideration for a Special Use Permit.

IV. APPROVAL OF THE APPLICATION WILL BE A WASTE OF THE CITY'S TIME AND RESOURCES

It is abundantly clear from the language of the CC&Rs that FGH's proposed cannabis dispensary use is prohibited, and the Neighboring Owners have already expressed their willingness and desire to enforce the terms of the CC&Rs. There is no doubt that the courts will act to enforce the CC&Rs, and that FGH will not be permitted to open the dispensary at the Property.

As such, the City will never see the tax revenues from this location even if the SUP application is approved. The available dispensary permit should be given to another deserving applicant, so that the City can see the tax revenues that would come from a properly situated cannabis dispensary.⁸

V. FGH MISREPRESENTED FACTS IN ITS PRESENTATION TO THE CITY

FGH's February 18, 2021 PowerPoint presentation to the City⁹ touted purported "Neighborhood Compatibility" as a key reason for why it should be selected to apply for and obtain a Special Use Permit, spending nearly 50% of the slides discussing FGH's efforts at "building trust" and "being a good neighbor." This inaccurate narrative, however, flies in the face of reality. FGH has been acutely aware of, but failed to disclose, the Neighboring Owners' strong opposition to its proposed operations since at least April 2020, when several of the Neighboring Owners put FGH on written notice that its proposed use at the Complex would violate several provisions of the governing CC&Rs, and would create various nuisances and disturbances within the Complex. (See Exhibit A, Exhibit 1 [April 24, 2020 letter] and Exhibit 2 [May 27, 2020 letter].)

FGH's failure to be transparent with the City and disclose the strong opposition of the Neighboring Owners to its proposed use at the Complex is anything but an example of "building trust" and "being a good neighbor." Indeed, its presentation to the City attempted to give the impression that the Neighboring Owners in the Complex would benefit from, and perhaps even support, FGH's application. Nothing could be further from the truth.

It should be noted that the staff report also attaches a "petition" with purported signatures of approval of FGH's business. The Planning Commission should give zero weight to this petition. The staff report notes that "the City received a petition in support of the proposed Project." (Staff report p. 7.) However, the staff report does not say who provided that petition, or when, or how the petition was conducted. There is no declaration or affidavit from the person (or persons) who purportedly collected the signatures. There is no real evidence before the Planning Commission that these signatures are legitimate,¹⁰ and they should be disregarded entirely.

⁸ It should be noted that although FGH's representatives met with the Neighboring Owners regarding their operations in advance of the hearing, FGH's precondition to such a meeting was that there would be no discussion of the CC&Rs. In other words, FGH understands that its proposed use violates the CC&Rs, has no arguments to rebut this violation, and has stubbornly proceeded with its application despite this context.

⁹ Available at: https://www.oxnard.org/wp-content/uploads/2021/03/CCB-21-38-3.-FGH_Phase-3-Presentation_02.18.21_redacted.pdf

¹⁰ Without going into detail (because it is not particularly relevant for the purposes of this Planning Commission hearing), it is obvious that some of the signatures are fraudulent, as different names often appear with the same handwriting throughout the petition.

VI. THE PROJECT IS SUBJECT TO CEQA

The staff report and Planning Commission Resolution state that the Project is exempt from CEQA because it is an Existing Facility. To support this conclusion, the staff report goes on to state that 1) the Project request will not increase the square footage of the existing building and 2) no exceptions to the exemptions (Section 15300.2) apply to defeat the exemption. (Staff report p. 4.) Both of these contentions are wrong.

A. The Project Increases the Square Footage of the Building

Although the staff report claims that there will be no increase in square footage, that is false. FGH requested a permit "for a 23,000 square-foot cannabis retail facility." (Staff report p. 4.) Yet, the current application is a "request to permit the operation of a commercial cannabis retail facility within an existing 23,275 square-foot commercial suite." (Staff report p. 1.) Thus, there is an increase of 275 square feet. The staff report is internally contradictory on this issue, but there is evidence in the record that the applicant is requesting a square footage increase, and has even suggested a Community Development Director approval for such an increase. (Staff report p. 5.) As such, there is indeed an increase in square footage, and the existing facilities exemption cannot apply.

B. Several Unusual Circumstances Apply, Rendering the Categorical Exemption Inapplicable in Any Event

Categorical exemptions are narrowly construed (*Dehne v County of Santa Clara* (1981) 115 Cal.App.3d 827, 842) and the scope of the exemptions should not be unreasonably expanded (*Wildlife Alive v Chickering* (1976) 18 Cal.3d 190, 205; *McQueen v Board of Dirs.* (1988) 202 Cal.App.3d 1136.) Strict construction ensures that categorical exemptions are interpreted in a manner affording the greatest environmental protection within the reasonable scope of their language. (*Save Our Schools v Barstow Unified Sch. Dist. Bd. of Educ.* (2015) 240 Cal.App.4th 128, 140.) Furthermore, for all types of exemptions "a project is only exempt from CEQA where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment." (*Dunn-Edwards Corp. v. Bay Area Air Quality Management Dist.* (1992) 9 Cal.App.4th 644, 656 [internal quotes and marks removed], disapproved on other grounds by *Western States Petroleum Assn. v. Superior Court* (1995) 9 Cal.4th 559, 576, fn. 6.)

To establish unusual circumstances and defeat the use of a categorical exemption pursuant to CEQA Guidelines § 15300.2(c), a petitioner must establish that 1) unusual circumstances are present, and 2) there is a reasonable possibility of a significant environmental impact due to those circumstances. (*Berkeley Hillside Preservation v. City of Berkeley* (2015) 60 Cal.4th 1086, 1109-1117.) Alternatively, a petitioner "may establish an unusual circumstance with evidence that the project will have a significant environmental effect." (*Id.* at p. 1105.) Here, there are several unusual circumstances at play, any of which render the categorical exemption inapplicable.

Unusually Large Size: First, the size of FGH's proposed operation is much, much, larger than your typical cannabis dispensary. The average dispensary consists of about 2,000 square feet or less.¹¹ FGH's cannabis dispensary is over ten times larger, and it is unknown to the Neighboring Owners (and even perhaps the City) what that additional space will be used for. To the extent that the additional space will be used for cultivation or manufacturing, that would not be permitted by FGH's license, and would be a violation of the law. Furthermore, cultivation activities bring additional burdens such as additional odors and noises, hazardous materials and runoffs, etc.

Crime/Loitering: The increased potential for crime and loitering is something that should be analyzed under CEQA.

Odor/Noise/Traffic: As discussed in Section III.A above, there are several collateral effects of a cannabis dispensary, such as odor, noise, and traffic, that should be analyzed under CEQA.

VII. THE RESOLUTION ITSELF IS FLAWED, AND CONTAINS MANY ERRORS THAT MUST BE CORRECTED

Assuming the Planning Commission approves the Project despite the myriad problems identified above (it should not), the Planning Commission cannot approve the Planning Commission Resolution that is before it without making several changes and clarifications:

1. **Community Relations Contact (Oxnard Zoning Code Section 11-489; Planning Commission Resolution p. 13, Condition of Approval Nos. 48-49):** Both the Oxnard Zoning Code Section 11-489 and the Conditions of Approval 48-49 require that FGH provide to the City, and to the businesses located within 600 feet of the business, the contact information of a "community relations officer." This has not been done, and there is no timeframe associated with this requirement. (Compare that to the other conditions of approval, such as #50, which have express timeframes).
 - a. **Impose timing requirement:** This requirement should be immediate, and definitely prior to any construction or tenant improvements taking place, as the contact information will be necessary to address any issues at all stages. Given FGH's track record of ignoring and misrepresenting concerns from its neighbors, this requirement is all the more important.
2. **General Plan Consistency (Staff Report Attachment G):** The chart states that "The Project proposes to locate within an established commercial shopping center which allows for retailing of cannabis products. The proposed site would operate with other businesses that engage in similar retail business practices therefore the Project would be compatible. Furthermore, the Project was reviewed for neighborhood compatibility, architectural design compatibility, security, and overall community benefits." **Every single sentence in the above statement is categorically false. Each sentence will be taken in turn.**
 - a. *The Project proposes to locate within an established commercial shopping center which allows for retailing of cannabis products:* False. As noted above, the

¹¹ <https://mjbizdaily.com/landing-right-retail-location/>

commercial shopping center expressly prohibits adult uses such as cannabis dispensaries, so it is unknown how the staff report came to this conclusion. There is no citation provided for this claim. Section III.B above provides citations to the CC&Rs showing that the use is expressly prohibited.

- b. *The proposed site would operate with other businesses that engage in similar retail business practices therefore the Project would be compatible:* False. There are no other businesses in the Complex that engage in similar retail business practices, because adult uses are expressly prohibited. The staff report does not specifically mention any similar businesses either (it cannot, because they do not exist).
 - c. *Project was reviewed for neighborhood compatibility, architectural design compatibility, security, and overall community benefits:* This simply cannot be true. The staff report failed to attach the full set of letters that was provided to the City in advance of the hearing, and did no analysis regarding neighborhood compatibility, because all of the points above were raised with the City prior to the issuance of the staff report (see Exhibit A, June 15, 2020 letter, and attachments), and not a single one of the points raised herein was analyzed or discussed – the most important of which, being the required finding regarding neighborhood compatibility. (Oxnard Zoning Code Section 16-531(A).)
3. **Cultivation Exception Should be Stricken (Planning Commission Resolution p. 19, Condition of Approval No. 85; Planning Commission Resolution p. 24, Condition of Approval No. 121):** There is no cultivation allowed on site. All cultivation exceptions should be stricken.
 - a. Condition of Approval nos. 85 and 121 read: "Except for live growing plants which are being cultivated at a cultivation facility, all cannabis and cannabis products shall be stored in a secured and locked vault or vault equivalent. All safes and vaults shall be compliant with Underwriter Laboratories burglary-resistant and fire-resistant standards. All cannabis and cannabis products, including live plants that are being cultivated, shall be kept in a manner as to prevent diversion, theft, and loss."
 - b. FGH does not have the authority to cultivate cannabis on the premises. The exception for cultivation should be stricken entirely. Condition of Approval nos. 85 and 121 should read as follows: "~~Except for live growing plants which are being cultivated at a cultivation facility, a~~ All cannabis and cannabis products shall be stored in a secured and locked vault or vault equivalent. All safes and vaults shall be compliant with Underwriter Laboratories burglary-resistant and fire-resistant standards. All cannabis and cannabis products, ~~including live plants that are being cultivated,~~ shall be kept in a manner as to prevent diversion, theft, and loss."
4. **Loitering Prohibition Within 50 Feet Must be Expanded to Cover the Entire Complex (Planning Commission Resolution p. 22, Condition of Approval Nos. 102-103; Planning Commission Resolution p. 26, Condition of Approval No. 131):** The current conditions of approval only prohibit loitering within 50 feet of the business. That does not cover nearly enough space. The neighboring businesses cannot have FGH's patrons

loitering in front of their businesses, or in the parking lot of the Complex, as long as they are over 50 feet away from FGH's Property.¹²

- a. This can be accomplished either by ensuring that the radius covers the entire Complex, or expressly stating that loitering is prohibited in the entire Complex, including the parking lot, and other neighboring businesses.
5. **Cannabis Deliveries Should be Prohibited (Planning Commission Resolution p. 30, Condition of Approval No. 150):** Condition of Approval no. 150 presumes that cannabis deliveries will take place, using the FGH storefront dispensary as their home base. This appears to be a mistake, and it should be stricken. Aside from appearing in this condition of approval, nothing about delivery is mentioned in the staff report, or in the FGH PowerPoint presentation, or elsewhere in the Planning Commission Resolution. If delivery is being contemplated, the public, and the Neighboring Owners, have not gotten any facts about it, and have not had an opportunity to hear the facts and respond accordingly. There has been no public notice of a delivery operation – only storefront retail.
- a. Either this Condition of Approval should be stricken entirely, and replaced with an outright prohibition on delivery, or the hearing should be postponed, and the delivery should be addressed in the staff report, so that the Neighboring Owners and the public can respond accordingly.

VIII. REQUEST TO SPEAK AT OCTOBER 7, 2021 HEARING

Counsel and its clients have been unable to successfully sign up online to be a speaker at the October 7, 2021 public hearing. As such, please confirm that the following speakers (all of whom are Neighboring Owners or their representatives) will be given an opportunity to be heard at the Planning Commission hearing: Seena Max Samimi, Stan Rothbart, Laura McAvoy, Steven Weiss.

¹² Condition of Approval no. 56 (p. 14) also prohibits consumption of cannabis on the premises by any employee or patron. That prohibition should also extend to the entire Complex.

IX. CONCLUSION

Based on the foregoing, the Planning Commission should reject the application and vote to deny the Project.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Seena M. Samimi', with a stylized flourish at the end.

SEENA M. SAMIMI for
Jeffer Mangels Butler & Mitchell LLP

CC:

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sweiss@naicapital.com (Oxnard Place, LLC, 2340 N. Rose Avenue)

l.mcavoy@musickpeeler.com (Rose TIC, LLC, 2330 N. Rose Avenue and Lot 4)

bevg@hvwnonline.com (Rose TIC, LLC, 2330 N. Rose Avenue and Lot 4)

EXHIBIT A

- June 15, 2021 Letter to City
 - Ex. 1: April 24, 2020 Letter to FGH
 - Ex. 1: CC&Rs
 - Ex. 2: May 27, 2020 Letter to FGH

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June 15, 2021

VIA EMAIL ONLY

City of Oxnard
City Manager's Office
300 West Third Street
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Oxnard, CA 93030
Attn: Alexander Nguyen
City Manager
Alexander.Nguyen@oxnard.org

**Re: FGH LLC – PROPOSED LOCAL EQUITY CANNABIS FACILITY
APPLICANT FOR 2320 N. ROSE AVE., OXNARD, CA**

Dear Mr. Nguyen,

This letter is written on behalf of Rose II LLC (owner of 2200 N. Rose Avenue and 1901 Lockwood St.), Oxnard Place, LLC (owner of 2340 N. Rose Avenue), and Rose TIC, LLC (owner of 2330 N. Rose Avenue and Lot 4), all of which are owners and operators of businesses (the "Neighboring Owners") in the commercial complex (the "Complex") where FGH Retail Services LLC ("FGH") intends to open its cannabis retail dispensary business, at 2320 N. Rose Avenue, Oxnard, CA (the "Property"). FGH has progressed to Phase 4 of the City's application process based upon false and misleading information.¹ We therefore write this letter to set the record straight and bring to the City's attention several matters that FGH either flat out misrepresented or willfully failed to disclose as the City prepares to evaluate FGH's application for a Special Use Permit for a cannabis dispensary at the Complex.

FGH's February 18, 2021 PowerPoint presentation to the City² touted purported "Neighborhood Compatibility" as a key reason for why it should be selected to apply for and obtain a Special Use Permit, spending nearly 50% of the slides discussing FGH's efforts at "building trust" and "being a good neighbor." This inaccurate narrative, however, flies in the face of reality. FGH has been acutely aware of, but failed to disclose, the Neighboring Owners' strong opposition to its proposed

¹ Final rankings of retail cannabis applicants available at: <https://www.oxnard.org/wp-content/uploads/2021/03/City-Manager-Approved-Final-Ranking.pdf>

² Available at: https://www.oxnard.org/wp-content/uploads/2021/03/CCB-21-38-3.-FGH_Phase-3-Presentation_02.18.21_redacted.pdf

operations since at least April 2020, when several of the Neighboring Owners put FGH on written notice that its proposed use at the Complex would violate several provisions of the governing CC&Rs, and would create various nuisances and disturbances within the Complex. (See Exhibit 1 [April 24, 2020 letter] and Exhibit 2 [May 27, 2020 letter].)

FGH's failure to be transparent with the City and disclose the strong opposition of the Neighboring Owners to its proposed use at the Complex is anything but an example of "building trust" and "being a good neighbor." Indeed, its presentation to the City attempted to give the impression that the Neighboring Owners in the Complex would benefit from, and perhaps even support, FGH's application. Nothing could be further from the truth.

Before it may issue a Special Use Permit, the first finding the City must make is that the proposed use will cause no adverse or detrimental effects to the neighboring uses and businesses. The requirement, in relevant part, is set forth below (emphasis added):

SEC. 16-531. REQUIREMENTS FOR GRANTING.

Before a special use permit may be granted, the applicant must show and the commission must find that the proposed use is in conformance with the general plan and other adopted standards and that the following conditions are met:

(A) The nature, condition and development of adjacent uses, buildings and structures shall be considered, and no proposed special use permit shall be granted if the approval body finds such use will adversely affect or be materially detrimental to such adjacent uses, buildings or structures or to the public health, safety or general welfare.

...

In this particular case, the "nature, condition, and development of adjacent uses, buildings and structures" which the City **must** (read: "shall") consider in its decisionmaking process, are governed by a written document: the "Amendment and Restatement of Easements with Covenants and Restrictions Affecting Land" (the "CC&Rs") which was recorded on August 15, 1996. (See Exhibit 1 [attachment to April 24, 2020 letter].) The CC&Rs prohibit the proposed cannabis use, as thoroughly analyzed in the letters to FGH from the Neighboring Owners (See Exhibits 1-2). FGH acquired the Property having been provided with actual and constructive notice of the CC&Rs, and FGH was fully aware of the restrictions and limitations of the Property it purchased.

This letter's purpose is not to ask the City to enforce the CC&Rs governing the Complex. The Neighboring Owners will do so themselves.

Rather, this letter has two purposes: **First**, it provides the City with the relevant information, which FGH has not provided, for the City to properly analyze the "nature, condition and development of [FGH's] adjacent uses, buildings and structures," and to ensure that FGH's proposed use does not "adversely affect or be materially detrimental to such adjacent uses, buildings or structures or to the public health, safety or general welfare" as required by Section 16-531. The City cannot make that finding in a vacuum. All of the owners in the Complex have agreed to be bound by the CC&Rs; those CC&Rs are therefore relevant to the City's findings concerning the effects on surrounding

uses. The Neighboring Owners will vigorously oppose the permitting of FGH's proposed cannabis use through the administrative process, and at all public hearings, due to the numerous adverse effects that it will have on them. The City should understand this, and the CC&Rs provide insights into the some of the reasons, and some of the specific adverse effects arising from the Property.

Second, because the Neighboring Owners understand and support the City's desire to grow its tax base, and approve businesses that will thrive in this new regulatory environment, it is important for the City to be on notice that even if it approves FGH's application for a Special Use Permit, FGH will not be permitted to open or operate its business in the Complex. Thus, the City will not see tax revenues from FGH at this location. Even if FGH were to succeed in securing a Special Use Permit, the Neighboring Owners will act to enforce the CC&Rs. Given the clarity of the CC&Rs on this issue, there is little question that a court will enforce them and enjoin any proposed cannabis operation at the Complex.

Indeed, the CC&Rs include a number of provisions that prohibit FGH's proposed cannabis use. Those provisions are detailed, with appropriate citations, in the April 24, 2020 letter attached as Exhibit 1. For the purposes of this letter, a brief summary of just two of the key prohibitions will suffice:

1. **Prohibition on "adult uses":** The CC&Rs broadly prohibit "adult uses" at the Complex. By definition, cannabis retail facilities are adult businesses that can only service adult customers under California law. In fact, the very first slide of FGH's presentation to the City describes a cannabis business as an "adult use." An adult cannabis business is no different than the myriad other types of adult businesses that are also expressly called out in the CC&Rs as prohibited uses in the Complex. A company that would seek the City's approval of a business that it undeniably knows is prohibited at the Property is not one deserving of the City's consideration for a Special Use Permit.
2. **Prohibition on illegal uses:** The CC&Rs also prohibit any use that violates "**any** law, ordinance, rule or regulation of **any** governmental authority with jurisdiction over any portion of the Shopping Center." Despite changes in State and local law, cannabis remains a Schedule 1 drug under the Controlled Substances Act (21 U.S.C. 802, 812) and the sale of cannabis is illegal under federal law. As a result, cannabis sales are prohibited by the CC&Rs.

In short, as the City proceeds to consider Special Use Permit applications from FGH and others who may be rightly deserving of one, the Neighboring Owners believe it is important for the City to have all of the relevant information at its disposal (including the CC&Rs) when considering whether it can make supportable findings. Moreover, the City should also understand that issuing a Special Use Permit—especially at the expense of another worthy applicant—would be a futile act resulting in wasted City efforts and the loss of needed tax revenues.

The Neighboring Owners are hopeful that, once the City is aware of the full information governing the Property and the Complex, it will understand that it cannot make the findings required under

Section 16-531(A) of the Oxnard Municipal Code, and should thus reject FGH's application for a Special Use Permit.

Thank you for your attention to this important matter. The Neighboring Owners, and their counsel, would be happy to meet with the City to discuss further, to the extent that the City has any questions relating to the contents of this letter.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Seena M. Samimi', with a stylized flourish at the end.

SEENA M. SAMIMI for
Jeffer Mangels Butler & Mitchell LLP

CC:

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Jose.Coyotl@oxnard.org (City of Oxnard)

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l.mcavoy@musickpeeler.com (Rose TIC, LLC, 2330 N. Rose Avenue and Lot 4)

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EXHIBIT 1

Seena M. Samimi
ssamimi@jmbm.com

1900 Avenue of the Stars, 7th Floor
Los Angeles, California 90067-4308
(310) 203-8080 (310) 203-0567 Fax
www.jmbm.com

April 24, 2020

VIA EMAIL ONLY

FGH, LLC.

1650 E. Gonzales Blvd., #296

Oxnard, CA 93036

Attn: Maria Valdez, David Allen Management Group

Office Phone: 805-384-0537

Cell: 805-223-4827

Email: mariav@damanagementgroup.com

**Re: POTENTIAL CANNABIS USE AT 2320 N. ROSE AVE., OXNARD,
CA, IN VIOLATION OF COVENANTS AFFECTING LAND**

Dear Ms. Valdez,

This letter is written on behalf of Oxnard Place, LLC, the owner of the property located at 2340 N. Rose Ave, Oxnard, CA 93036 (the "Neighboring Property"). As you know, the Neighboring Property, along with the property that you have recently purchased at 2320 N. Rose Ave, Oxnard, CA 93036 (the "Cannabis Property") are both governed by the "Amendment and Restatement of Easements with Covenants and Restrictions Affecting Land" (the "Restated E.C.R.") which was recorded on August 15, 1996. (See Exhibit 1.)

The Neighboring Property owner understands that the new owner and/or operator of the Cannabis Property intends to use the Cannabis Property for a cannabis-related retail/dispensary business enterprise ("Proposed Cannabis Business"). The purpose of this letter is to inform you that such a Proposed Cannabis Business would be in violation of the Restated E.C.R., and Neighboring Property owner will take any and all necessary legal action to ensure that the terms of the Restated E.C.R are properly effectuated.

The Restated E.C.R. has several provisions that restrict the use of the Cannabis Property for the use of the Proposed Cannabis Business. Those provisions have been reproduced below, with a brief analysis following each:

- Section 2.b.iv: "No portion of the Shopping Center shall be used for (iv) any violation of any law, ordinance, rule or regulation of any governmental authority with jurisdiction over any portion of the Shopping Center."
 - Cannabis is federally illegal as a Schedule 1 drug under the Controlled Substances Act (21 U.S.C. 802, 812, hereinafter "CSA"). This provision in the Restated

E.C.R. unequivocally references violation of "any law" of "any governmental authority with jurisdiction over" the Cannabis Property. Because the federal government has jurisdiction over the Cannabis Property, unless and until there is a change in federal law, any Proposed Cannabis Business is expressly forbidden under the Restated E.C.R. The fact that certain limited types of cannabis businesses have been legalized in certain limited localities within California does not affect the federal illegality of the use under the CSA.¹

- Section 2.b.i and 2.b.ii: "No portion of the Shopping Center shall be used for (i) any offensive, noisy or dangerous trade, business or manufacturing activity or occupation, (ii) any activity which constitutes a nuisance."
 - Although the details of the Proposed Cannabis Business are not known at this time, we understand that it will be a proposed retail/dispensary use. This provision from the Restated E.C.R. will present several issues with a Proposed Cannabis Business, for several reasons.
 - 1) Cannabis dispensaries often emit strong smells which the owners of the neighboring properties consider to be "offensive" and a "nuisance";
 - 2) Due to the federal illegality of cannabis which limits bank involvement in the industry, most cannabis dispensaries operate largely in cash, which means that there are often hundreds of thousands of dollars (if not millions) in cash and cannabis-related products that are in safes and other storage areas onsite. This often necessitates heavy security, including armed guards, which would be a "dangerous trade or business" and a "nuisance";
 - 3) To the extent applicable, manufacturing of certain volatile products in the processing of certain cannabis oils/edibles is a "dangerous" activity and would constitute a "nuisance"; and
 - 4) Because cannabis is a federally illegal drug, it is inherently "offensive" and/or "dangerous" under the CSA, and could be considered a "nuisance per se" due to its underlying illegality.
- Section 2.b.iii: "No portion of the Shopping Center shall be used for (iii) any activities which materially interferes with the business of any other occupant or tenant."
 - Cannabis smells and the increased security risks (with the potential presence of armed guards), are both considered by the Neighboring Property owner as a material interference with a business. In addition, a Proposed Cannabis Business

¹ It should also be noted that that the City of Oxnard is only issuing a very limited number of permits to cannabis-related businesses, and the owners of the Neighboring Properties would vigorously oppose the permitting of any Proposed Cannabis Business at the Cannabis Property on an administrative level. Therefore, it is also unlikely that local cannabis-related permits and entitlements would be granted, which in turn, means that the Proposed Cannabis Business would be unable to procure the necessary state licenses from the California Bureau of Cannabis Control and/or other state regulatory entities. In other words, beyond federal illegality, the Proposed Cannabis Business would also likely be operating in violation of local and state law as well.

- would materially alter the prestige of the shopping center, and therefore, the neighboring businesses. Furthermore, patrons who obtain the cannabis from the Proposed Cannabis Business may loiter and use the cannabis products in the parking lot, and in and around the businesses of the neighboring properties, which would materially interfere with the operations and success of those businesses.
- Separately, the presence of the Proposed Cannabis Business may adversely affect the ability of the Neighboring Property owner to obtain financing and/or loans.
 - Section 2.b: “No part of the Shopping Center shall be used for other than retail sales and service uses and incidental office uses. Retail services shall include, for example, banks, real estate brokerage offices, dental offices, accounting offices and insurance offices. ... No portion of the Shopping Center shall be used for the following uses: **entertainment or recreational uses** (such as, but not limited to, bowling alleys, billiard parlors, day care and children’s play centers [], health spas, game arcades and similar entertainment facilities, theaters, off-track betting parlors, etc.), **“adult” uses** (i.e. “adult” bookstores, “adult” theaters, massage parlors, and acupuncture studios)...ballroom, dance hall, **bar** (except a bar is permitted in connection with a restaurant use, provided such restaurant use is the primary or principal use), a **retail use or operation selling alcoholic beverages for off premises consumption** as its principal or primary businesses...” (emphasis added)
 - This Restated E.C.R. provision contains a long list of prohibited uses, many of which are just examples to illustrate a larger point (the list is not exhaustive). Taken as a whole, the prohibitions in Section 2.b strongly indicate that a Proposed Cannabis Business use is prohibited. Sale of cannabis would be similar in nature to sale of alcohol for offsite use (which is prohibited, unless incidental), as patrons would largely be buying cannabis for offsite use. Sale of cannabis is also an “adult” use, and would therefore be expressly prohibited thereunder as well. Because cannabis sales were illegal in 1996 when the Restated E.C.R was adopted, it was unnecessary and duplicative to expressly list cannabis uses within the document. However, these provisions strongly indicate that any cannabis-related use is prohibited, given the analogous provisions prohibiting similar uses such as alcohol and adult uses.

Taken separately, each of the above provisions of the Restated E.C.R. would prohibit any Proposed Cannabis Business. Taken collectively, the Restated E.C.R. overwhelmingly forbids the use of the Cannabis Property for any Proposed Cannabis Business, and no court or other decision-making authority would allow a Proposed Cannabis Business to operate without a prior formal amendment to the Restated E.C.R.

The Neighboring Property owner is prepared to take any and all necessary action to strictly enforce the terms of the Restated E.C.R., as provided by Section 23 therein, which provides, in relevant part: “...each of them may, in their own absolute discretion, at any time, and from time to time, exercise any and all rights and powers, and pursue any and all remedies now or hereafter given at law or in equity, including but not limited to any rights or remedies granted herein or by

California or Federal case, statutory or regulatory law...” With that said, we are hopeful that your review of the relevant provisions in the Restated E.C.R. will help you understand and determine that the Cannabis Property cannot and will not be used for a Proposed Cannabis Business.

Thank you for your attention to this important matter. We look forward to hearing from you regarding your position relating to the Restated E.C.R., and your plan as to the Cannabis Property.

Very truly yours,



SEENA M. SAMIMI for
Jeffer Mangels Butler & Mitchell LLP
Attorneys for Oxnard Place, LLC

CC:

Representatives for Oxnard Place, LLC (2340 N. Rose Avenue)

- Sean Rastegar: rastegarsean@gmail.com
- Steven Weiss: sweiss@naicapital.com
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Representatives for FGH, LLC (2320 N. Rose Avenue)

- Vanessa Hernandez: vanessa.hernandez246@gmail.com
- Keith Fuller: keithfuller@yahoo.com

Representative for Rose II LLC (2200 N. Rose Avenue and 1901 Lockwood St.)

- Stanley Rothbart: stan@rothbartdev.com

Representatives for MANP BB-OX, LLC, DMP BB-OX LLC (2300 N. Rose Avenue)

- Mark Perlmutter: mark@dmpproperties.com
- Brian Martini: brian@dmpproperties.com
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Representatives for McGrath Tenants in Common (2330 N. Rose Avenue)

- Laura McAvoy: l.mcavoy@musicpeeler.com
- Beverly Gutierrez: bevg@hvwonline.com

EXHIBIT 1

CONTINENTAL LAWYERS TITLE CO. 81

**RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:**

ROTHBART COMPANY
2450 Broadway, Suite 550
Santa Monica, California 90404

Attention: Stanley G. Rothbart

96-111789

Recorded
Official Records
County of
Ventura
Richard D. Dean
Recorder
8:00am 15-Aug-96

Rec Fee 148.00
A.R. 148.00

CONT CC 48

4952560 / C 10584

**AMENDMENT AND RESTATEMENT OF EASEMENTS WITH COVENANTS AND
RESTRICTIONS AFFECTING LAND ("RESTATED E.C.R.")**

This AGREEMENT ("Restated E.C.R.") is made as of the ____ day of ____, 1996, among ALAN F. HORN and CYNTHIA HARRELL-HORN, husband and wife as community property ("Lot 1 Owner"), BEST BUY CO., INC., a Minnesota Corporation, ("Best Buy"), and TIMOTHY S. McGRATH, as Successor Trustee of the Survivors Trust created under the John Francis McGrath and Elizabeth E. Trust dated October 29, 1982, as to an individual 23.8% interest, MARIAN E. GRAHAM, as Trustee of the Marian E. Graham Trust dated September 8, 1982, as to an undivided 23.8% interest, SEAN H. McGRATH, as Trustee of the Marital Trust created under the Frank and Lee McGrath Trust u/t/i August 27, 1982, as to an undivided 23.8% interest, CHRIS J. COOLURIS, as Trustee of the Ann Cooluris and Helen Mary Cooluris Trust dated March 12, 1982, as to an undivided 23.8% interest, and JURGEN GRANCKOW, as Successor Co-Trustee and TIMOTHY S. McGRATH, as Co-Trustee of the M.L. Trust of the Helen McGrath Trust dated December 6, 1973, as to an undivided 4.8% interest, all as tenants in common (collectively, the "Developer").

WITNESSETH:

WHEREAS, Lot 1 Owner is the Owner (as defined in Paragraph 16 hereof) of Lot 1 as shown on the site plan (the "Site Plan") attached hereto as Exhibit A and described in Exhibit B and

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incorporated herein by this reference and Best Buy is the "Prime Lessee" (as defined in Paragraph 31 hereof) of Lot 1; and

WHEREAS, Developer is the Owner of Lots 2 and 3 and Lots 4, 5, and 6 (Lots 4, 5, and 6 are herein collectively referred to as the "Outparcels" and individually an "Outparcel") shown on the Site Plan attached hereto as Exhibit A and described in Exhibit B; and

WHEREAS, Lot 1 Owner, Best Buy and Developer desire that Lots 1, 2, and 3, and the "Outparcel(s)" be developed in conjunction with each other pursuant to a general plan of improvement to form a commercial Shopping Center (sometimes hereinafter referred to as the "Shopping Center", including any Expanded Areas pursuant to Paragraph 11 hereof), and further desire that Lots 1, 2, and 3 and the Outparcel(s) be subject to the easements and the covenants, conditions and restrictions hereinafter set forth.

WHEREAS, Best Buy (as the then Owner of Lot 1) and Developer, heretofore executed that certain Easements with Covenants and Restrictions Affecting Land ("E.C.R.") dated July 11, 1995, recorded July 24, 1995, as Document No. 95-085875, in Official Records, County of Ventura, California ("Original E.C.R."), and

WHEREAS, Lot 1 Owner and Developer are the Owners of all of the Lots described in the Original E.C.R. and all of the Lots described in this Restated E.C.R., and

WHEREAS, Lot 1 Owner and Developer as such Owners, and Best Buy, desire to amend and restate the Original E.C.R. in its entirety by replacing same with this Restated E.C.R.,

NOW, THEREFORE, for and in consideration of the premises, easements, covenants, conditions, restrictions, encumbrances contained herein, the sufficiency of which are hereby acknowledged, Lot 1 Owner, Best Buy and Developer do hereby amend and restate the

Original E.C.R. in its entirety as follows:

1. Building/Common Areas.

a. "Building Areas" as used herein shall mean that portion of Lot 1 and those portions of Lots 2 through 6 shown on Exhibit A as "Building Area" or "Expansion Area." Canopies may encroach from the Building Areas and normal foundations and doors for ingress and egress may project from Building Areas, provided such canopies, doors and foundations do not materially interfere with the use of Common Areas.

b. "Common Area" shall be all of Lots 1 through 6 except those portions used for buildings on the Lots or for drive through areas, landscaping, walkways, exclusive loading areas, and patio areas immediately adjacent to an Outparcel building; provided that any portion of a Lot which is not a Building Area is not a Common Area until improved, provided, further, that so long as Lot 6 is developed and used primarily as a motor vehicle service station there shall be no Common Area thereon.

c. Conversion to Common Areas: Those portions of the Building Areas on each developed Lot which are not from time to time used or cannot, under the terms of this Agreement including Paragraph 5.a(iii), be used for buildings, excluding appurtenances servicing such buildings located within the Building Areas such as exclusive loading docks and related areas, shall become part of the Common Area for the uses permitted hereunder and shall be improved, kept and maintained as provided herein.

d. A Lot or lot shall mean a lot or parcel as defined in the California Subdivision Map Act and shall include any such Lot or lot in any "Expanded Area" as defined in Paragraph 11 hereof.

2. Use.

a. Restriction: No portion of the Shopping Center, other than Lot 1, may be used or occupied for use as:

i) an appliance store (the primary purpose of which is the retail sale of appliances such as refrigerators, washers, dryers, etc.)

ii) a computer store (the primary purpose of which is the retail sale of computer hardware or computer software of peripherals or any combination thereof, including but not limited to, any business whose primary purposes is the sale of brand name computers and accessors such as IBM, Compaq, Apple, NEC Toshiba and Hewlett Packard;

iii) an electronic store (the primary purpose of which is the retail sale of consumer electronics such as but not limited to, stereos, televisions, VCRs, etc.); or

iv) any combination of the uses described in (i), (ii), or (iii) above, (any use or uses listed in (i), (ii), (iii) or (iv) above are herein referred to as the "Exclusive Business"),

from and after the Effective Date (as defined in Paragraph 15 of this Restated E.C.R.) so long as the Owner or occupant of Lot 1 continues to operate the Exclusive Business in not less than twenty thousand (20,000) square feet of the rentable floor area of the building on Lot 1. In the event after the Owner or occupant of Lot 1 commences to operate the Exclusive Business, such Owner or occupant ceases to operate any portion of the Exclusive Business for a continuous period of twelve (12) months or more (provided, however, such 12-month period shall be extended by the period of any and each occurrence of any strikes, labor, difficulties,

governmental restrictions upon building activity, or delays caused by or resulting from fire, casualty, war, acts of God or any other event of force majeure, such restriction as to any portion of the Exclusive Business which the Owner or occupant of Lot 1 has ceased to operate for such period shall terminate, provided such portion of the restriction so terminated shall be reinstated in the event the Owner or occupant of Lot 1 again commences operation for such purposes, (effective as of such commencement of operation), but such reinstated restriction shall not be effective as to any use in the Shopping Center then being conducted which would otherwise be in violation of such reinstated restriction. Such 12-month period shall not apply during any period in which a building or buildings for the permitted Exclusive Business is being built, rebuilt, repaired or remodeled upon Lot 1 or some part thereof. Notwithstanding the foregoing, up to five thousand (5,000) square feet of floor area (in the aggregate as to any building on a Lot) on any of Lots 2, 3, 4, 5, and 6 inclusive in the Shopping Center may be used for the sale and display of products and supplies sold by the occupant of Lot 1 provided such sales are incidental to the primary or principal business conducted on such Lots, and further provided that such primary or principal business is not the Exclusive Business. Additionally, not more than 9,500 square feet (including adjacent aisle space) of the interior of any building on a Lot within the Shopping Center, other than Lot 1, may be used or occupied for the use for the retail sale and/or display for sale of compact discs, records and prerecorded tapes. Notwithstanding the foregoing restrictions, an office supply store such as Office Depot, OfficeMax and/or Staples shall be a permitted use and not prohibited by the foregoing restriction.

b. Shopping Center Restrictions: No portion of the Shopping Center shall be used for (i) any offensive, noisy or dangerous trade, business or manufacturing activity or occupation, (ii) any activity which constitutes a nuisance, (iii) any activities which materially interferes with the business of any

other occupant or tenant, or (iv) any violation of any law, ordinance, rule or regulation of any governmental authority with jurisdiction over any portion of the Shopping Center. No part of the Shopping Center shall be used for other than retail sales and service uses and incidental office uses. Retail services shall include, for example, banks, real estate brokerage offices, dental offices, accounting offices and insurance offices. Real estate offices, dental offices and accounting offices shall not occupy, in the aggregate, more than ten percent (10%) of the permitted Building Area of the Shopping Center determined on a first open for business basis. Incidental office uses (which are incidental to and a part of a retail use) in the Shopping Center shall be limited to no more than ten percent (10%) of the permitted Building Area of each Lot in the Shopping Center. No portion of the Shopping Center shall be used for the following uses: entertainment or recreational uses (such as, but not limited to, bowling alleys, billiard parlors, day care and children's play centers (other than a play area which is incidental to another permitted use), health spas, game arcades and similar entertainment facilities, theaters, off-track betting parlors, etc.) "adult" uses (i.e. "adult" bookstores, "adult" theaters, massage parlors, and acupuncture studios), training or educational uses (i.e. beauty schools, reading rooms, churches provided, however, that this prohibition shall not be applicable to on-site employee training or customer training by an owner or tenant incidental to the conduct of its business in the Shopping Center), laundromat or laundry, the sale, rental or storage of automobiles, recreational vehicles or boats, or flea markets, ballroom, dance hall, bar (except a bar is permitted in connection with a restaurant use, provided such restaurant use is the primary or principal use), a retail use or operation selling alcoholic beverages for off premises consumption as its principal or primary business, except that alcoholic beverages may be sold for off premises consumption in connection with retail motor vehicle service stations on Lots 4 and 6 so long as such service station is the primary or principal use, and as to Lot 1 and Lot 2,

no portion thereof shall be used as a grocery store. "Grocery store" means a store, the primary purpose of which is the sale of groceries. As used herein, the term "groceries" includes, without limitation, meats, meat products, fish, poultry, fruits, vegetables, and delicatessen products (including pizza), whether any such items are canned, fresh, frozen or smoked, foodstuffs, bakery products (including ice cream). Notwithstanding the foregoing, a store which sells groceries as an incidental part of its business shall be permitted, however in no event shall the area of display for such incidental grocery sales exceed 500 square feet. A "grocery store" shall not include restaurants or other establishments which sell prepared foods to be eaten on or off of the premises or drug stores such as Payless or Walgreens. No portion of Lots 1 or 2 shall be used or operated as a restaurant of any type, provided, however, a food service operation such as a coffee or snack bar operated only as part of and incidental to a use permitted hereunder shall not constitute a violation of this restaurant use restriction. None of the foregoing shall prohibit Best Buy from operating a typical "Best Buy" facility on Lot 1, or the operation of a typical "Office Max" facility on Lot 2.

3. Buildings.

a. Design and Construction. All buildings within the Building Areas shall be designed so that the exterior elevation of each shall be architecturally and aesthetically compatible and so that building wall footings shall not encroach from one Lot onto another Lot except as provided for in subsection 3d below. The design and construction shall be of high quality. No building shall exceed thirty-five feet (35') in height above finished grade. No buildings shall have a metal exterior. The exterior of all buildings shall be maintained in good condition and repair and in a neat and clean condition at all times. The size of buildings shall be measured from the exterior surface of exterior walls.

b. Location. No building shall be constructed on Lots 1, 2, and 3 (as either immediate development or future expansion) except within the Building Area and no improvements or alterations which substantially vary from those shown on Exhibit A may be made without the prior written consent of the Owners of Lots 1, 2, and 3 and Developer, such consent not to be unreasonably withheld. The front wall(s) of the building(s) on Lots 1, 2, and 3 shall be constructed no closer to Lockwood than as indicated by the Building Areas depicted on Exhibit A.

c. Fire Protection. Any building constructed in the Shopping Center shall be constructed and operated in such a manner which will preserve the sprinkler rating on the other buildings in the Shopping Center.

d. Easements. If due to surveying errors, building wall footings encroach from one lot onto another, despite efforts to avoid that occurrence, the Owner onto whose lot the footings encroach shall reasonably cooperate in granting an encroachment permit or easement to the party whose building wall foots encroach.

e. Outparcel(s) development. The Outparcel(s), when and if developed, shall be developed only under the following guidelines;

i) Buildings constructed on the Outparcel(s) shall not exceed (a) twenty-two (22) feet in height on Lot 6, and (b) twenty-five (25) feet on Lot 4 or Lot 5. The height of any building on an Outparcel shall be measured perpendicular from the finished floor of the building to the top of the roof structure, including any screenings, parapet, penthouse, mechanical and communications equipment or similar appurtenance located on the roof of such building but excluding architectural treatments.

ii) Any buildings to be constructed on the Outparcel(s) shall not exceed the following

Outparcel(s)

Lot 4 6000 square feet of floor area

Lot 5 10,600 square feet of floor area

Lot 6 6,500 square feet of floor area

iii) Any rooftop equipment shall be screened to reduce visibility thereof by consumers;

iv) No rooftop sign shall be erected on any building in the Shopping Center;

v) No freestanding identification sign may be erected on Outparcel(s) that is not consistent with the master sign program approved by the City of Oxnard, California (the "City"), without approval of the Owner of Lot 1 and the Developer, such approval not to be unreasonably withheld, and in no event shall such freestanding identification sign exceed the height of any of the shopping center pylon signs or block the visibility of the buildings on Lots 1, 2, and 3. There may be erected entrance-exit signs to facilitate the free flow of traffic, which entrance-exit signs shall be of a type and at locations reasonably approved by Developer.

vi) No improvements shall be constructed, erected, expanded or altered on the Outparcel(s) until the scaled exterior elevations ("Elevations") for same (including site layout, exterior building materials and colors and parking) have been approved by the Owners of Lots 1, 2, and 3 and the Developer, such approval not to be unreasonably withheld, provided, however, that such approval shall not be required as long as such Elevations conform to the height, no metal exterior, location and fire protection requirements of

Paragraphs 3a through c above, and a copy of such Elevations have been submitted to the Owners of Lots 1, 2, and 3 and Developer by or on behalf of the person proposing to construct same and none of them have given notice of objection thereto to such person within twenty (20) days of receipt of such Elevations, and without material modification, are thereafter approved by the City and such improvements are consistent with the architectural theme established generally for the Shopping Center and the site plan portion thereof is in accordance with Exhibit A attached. No building or structure of any kind or nature shall be erected on the Outparcel(s) except upon that area designated as Building Area on the Site Plan, provided: there may be constructed and maintained a canopy or canopies projecting from said Building Area; normal foundations and doors for ingress and egress may project from such Building Area; and signs may be erected upon said canopy or canopies, so long as said signs do not obstruct the signs of any other Owner or tenant of the Shopping Center;

vii) In developing and using the Outparcel(s), the Owner(s) of the Outparcel(s) shall continuously provide and maintain parking ratios as follows:

Sit Down Restaurant or Entertainment Use:

Lots 4 and 5: Ten (10) spaces for every one thousand (1,000) square feet of floor area. No "sit down," "smorgasbord" type restaurant or restaurant that serves alcoholic beverages is permitted on Lot 6.

Non Sit-Down Restaurant (Sale of food intended for consumption off-premises such as a fast food restaurant)

Lots 4, 5 and 6: Eight (8) spaces for every one thousand (1,000) square feet of floor area.

Non-Restaurant:

Lots 4, 5 and 6: Five (5.0) spaces for every one

thousand (1,000) square feet of floor area. The sale of food from a convenience store operated in connection with a retail motor vehicle service station on a Lot, which motor vehicle service station is the primary or principal use, is a non-restaurant use.

viii) No motor vehicle service station shall be located on Lot 5.

ix) A convenience store selling food products may be located on Lots 4 and 6 only as part of and in connection with the operation of a retail motor vehicle service station located on the same Lot, which retail motor vehicle service station shall be the principal or primary use of such Lot. In no event shall such convenience store be the primary or principal use of such Lot.

x) The Outparcel(s) shall be kept neat, orderly, seeded with grass (but not irrigation) and trimmed until improved and constructed.

xi) Owner(s) of the Outparcels shall cause landscaping areas to be maintained in conjunction with any building or other improvement constructed on the Outparcel(s).

4. Common Area.

a. Grant of Easement.

i) Owner(s) of each Lot, as Grantor(s), hereby grant to each of the other Owners of Lots as Grantee(s), and to the agents, customers, invitees, licensees, tenants, occupants and employees of each Grantee, a nonexclusive easement over, through and around their respective Lots for roadways, walkways, ingress and egress, loading and unloading of commercial and other vehicles, and the use of facilities

installed for the comfort and convenience of customers, invitees, licensees, tenants and employees of all businesses and occupants of the buildings constructed on the Building Areas defined above.

ii) The Owner(s) of Lots 1, 2, 3, 4, 5, and 6 as Grantor do each hereby grant to one another as Grantee, and the agents, customers, invitees, licensees, tenants and employees of each Grantee, a non-exclusive easement to use the Common Area on each of their respective Lots designated and improved for parking for the purpose of parking motor vehicles.

iii) Permanent Service Drives. The Owner(s) of Lots 1, 2, 3, 4, 5 and 6 as Grantor do each hereby grant to one another as Grantee, and the agents, customers, invitees, licensees, tenants and employees of each Grantee, a non-exclusive easement to use the designated "Permanent Service Drives" delineated on Exhibit A by double crosshatching and Drive Aisles, shown by single crosshatching on Exhibit A, all of which shall be access easements for the benefit of all Lots adjoining the Permanent Service Drive and Drive Aisle, and shall burden those Lots that contain and are adjoining the Permanent Service Drive and Drive Aisles.

b. Limitation on Use.

i) Customers. Each Lot Owner shall use reasonable efforts to ensure that customers and invitees shall not be permitted to park on Common Areas except while shopping or transacting business on Lot(s) 1 through 6.

ii) Employees. Each Lot Owner shall use reasonable efforts to ensure that employees shall not park on the Common Areas, except in those areas designated on Exhibit A as

"employee parking areas," if any, except employees of a Lot may park on the Common Area of the Lot on which the business of which they are an employee is located. The Owners hereto may from time to time mutually designate and approve "employee parking areas" not shown on Exhibit A.

iii) General. Any activity within the Common Areas other than the primary purpose of the Common Areas, which is to provide for access and parking for the occupants, tenants, customers, invitees and employees of those businesses conducted within the Building Areas and for the servicing and supplying of such businesses, shall be permitted so long as such activity shall not unreasonably interfere with such primary purpose. Persons using Common Areas in accordance with this Restated E.C.R. shall not be charged any fee for such use.

c. Utility and Service Easements. The Lot Owners shall cooperate and shall grant appropriate and proper easements for the installation, repair and replacement of storm drains, sewers, utilities and other proper services necessary for the orderly development and operation of the Shopping Center. The Lot Owners shall use their best efforts to cause the installation of such utility and service lines prior to paving of the Common Areas. No such lines, sewers, utilities or services of one Ownershall be installed within the Building Area of any other Owner(s) Lot.

d. Water Flow. Any alteration in the natural water flow which may occur as a natural consequence of normal construction activities and the existence of an Owner(s) improvements substantially as shown on Exhibit A (including without limitation building and building expansion, curbs, drives and paving) shall be permitted. There are hereby reserved to the Owners of Lots 1, 2, and 3 and Developer, easements in, over, under, across and through the Common Area and Outparcels to grade,

establish and maintain drainage patterns and facilities for the benefit of the Shopping Center as a whole and for Lots 1, 2, and 3, the Outparcels and the Common Areas. Upon establishment and completion of such drainage patterns and facilities, all of Lots 1, 2, and 3, the Outparcels and the Common Areas shall be and remain subject to such drainage patterns, facilities and easements.

e. No Fences or Barriers. Except as specifically set forth in Exhibit A, no fence, division, rail or obstruction of any type or kind shall ever be placed, kept, permitted or maintained on the Common Area of any Lot, or between any subsequent division thereof, or any expansion of the Shopping Center, or upon or along any of the common property lines or any portion thereof.

5. Development, Maintenance, and Taxes.

a. Development.

i) Arrangement. The arrangement of the Common Areas shall not be changed in a manner inconsistent with the provisions of this Restated E.C.R..

ii) "Parking Area" Ratio. Each Owner(s) of a Lot (except for an Outparcel which shall be controlled by Paragraph 3e(vii) hereof) shall at all times maintain on its respective Lot a parking ratio sufficient to accommodate the following number of car spaces for each one thousand (1,000) square feet of buildings on the Building Area(s) on such Lot:

Lots 1 and 2: Four and five-tenths (4.5), subject to the following provision: Lots 2 and 3 (in the aggregate): Four and one-tenth (4.1), provided, however, in the event of a restaurant operation (including fast food, smorgasbord, sit down or other) on Lot 3 the parking ratio for such

restaurant operation shall be not less than six (6) car spaces for each one thousand (1,000) square feet of restaurant operation on Lot 3.

iii) Development Timing. Concurrent with any building being constructed within the Building Areas of any Lot by the Owner or lessee of such Lot (the "Developing Party"), the Common Areas of that Lot shall be developed in accordance with Exhibit A at the expense of such Developing Party. If such construction by the Developing Party occurs prior to the development of any other Lot, the Developing Party shall have the right to grade, pave and use any portion of the Common Areas of other Owners' ("Non-Developing Parties") Lots for access and for construction of drainage structures and utility lines which are necessary to provide essential services to the Developing Party's Lot.

b. Maintenance of Common Areas.

i) Standards. Following completion of the improvements on the Common Areas, each Owner shall maintain or caused to be maintained the Common Areas on its respective Lot in good condition and repair. The maintenance is to include, without limitation, the following:

(A) Maintaining the surfaces in a level, smooth and evenly-covered condition with the type of surfacing material originally installed or such substitute as shall in all respects be equal in quality, use, and durability;

(B) Removing all papers, ice and snow, mud and sand, debris, filth and refuse and thoroughly sweeping the area to the extent reasonably necessary to keep the area in a clean and orderly condition.

(C) Placing, keeping in repair and replacing any necessary appropriate directional signs, markers and liens;

(D) Operating, keeping in repair and replacing, where necessary, such artificial lighting facilities as shall be reasonably required;

(E) Maintaining all perimeter and exterior building walls including but not limited to all retaining walls in a good condition and state of repair; and

(F) Maintaining, mowing, weeding, trimming and watering all landscaped areas and making such replacements of shrubs and other landscaping as is necessary.

ii) Expenses. The Owner(s) of each Lot or at the election of such Owner the tenants or occupants of such Owner's Lot, shall pay all costs and expenses for the maintenance, repair and replacement of Common Area improvements of its Lot, except as otherwise expressly set forth herein.

iii) By Agent. Any of the Owners, as to the respective Common Areas located on the Lots owned by such Owners, may appoint, by agreement amongst themselves, a third party as the agent of such Owners to maintain the Common Areas of the Lots of such Owners or any portions of such Common Areas, in the manner required under the terms of this Restated E.C.R.. Such third party may receive for such services a fee that is mutually acceptable to all such Owners appointing such agent to cover supervision, management, accounting and similar fees, which sums are to be included in a general maintenance expense paid by such respective Owners. Any such agreement

shall be effective only as to the Owners executing same and shall only affect Common Areas located on the Lots of the Owners executing such agreement.

iv) Maintenance of Service Drives and Driving Aisles. Each of the Owners of Lots 1, 2 and 3 and Developer shall have the non-exclusive right without limitation (except as expressly set forth herein) to maintain or repair any portion of the Permanent Service Drives and Drive Aisles located on a Lot in the event the Owner of a Lot on which such portion of the Permanent Service Drives and Drive Aisles is located does not maintain or repair, in the reasonable judgment of any Owner of Lot 1, 2, 3 and/or Developer, that portion of the Permanent Service Drives and Drive Aisles located on such Lot to the standards set forth herein, provided, however, that any such Owner or Developer, prior to exercising any such right, shall give written notice to the Owner of the Lot on which that portion of the Permanent Service Drives or Drive Aisles requiring maintenance or repair is located that the same is not being maintained or repaired as required hereunder and the specific maintenance or repairs required, and the Owner receiving such notice does not commence to perform such maintenance or repairs within ten (10) days of receipt of notice and diligently prosecute same to completion, except in the case of the necessity of emergency repairs to prevent damage or injury to persons or property, only such notice as is appropriate under the circumstances need be given, which notice may be less than the ten (10) days notice otherwise specified herein. The cost and expense for such maintenance or repairs shall be reimbursed by the Owner of the Lot that required same to the party performing such maintenance or repair within 30 days after written request.

c. Taxes. Each Owner agrees to pay or cause to be

paid, prior to delinquency, directly to the appropriate taxing authorities all real property taxes and assessments which are levied against the Lot and all improvements and personal property owned by such Owner on such Lot.

d. Each Owner shall, at its sole cost and expense, repair and maintain the utility lines of any type underlying such Owner's Lot(s) whether serving such Owner's Lot or any other Lot, provided, however if any such repair is required due to the negligence or willful misconduct of another Owner ("Other Owner"), or any tenant of such Other Owner, then the Other Owner shall reimburse the repairing Owner for all reasonable repair costs incurred within thirty (30) days after submission of a detailed billing therefore, but such repair and maintenance shall be performed only after ten (10) days notice to the Owners of Lots 1, 2, 3 and Developer, except in the case of an emergency, in which case a repair may be commenced immediately. Each Owner shall, at its cost and expense, promptly repair or replace any damage to any portion of the Shopping Center, or any improvements thereon, caused by or resulting from such repair and maintenance activities.

e. In performing any installation, maintenance, repair, relocation or removal of any utility lines after the Shopping Center, or any portion thereof, has been opened for business to the general public, each Owner shall use reasonable efforts to minimize interference with the operation of the Shopping Center and the business of other Owners and/or tenants or occupants therein.

6. Signs.

a. The Outparcel(s) shall be permitted ground identification sign(s) for the benefit of each Outparcel, which signs shall be located as shown on Exhibit A, and shall be consistent with the master sign program for the Shopping Center approved by the City, provided no sign on the Outparcel(s) shall exceed the height of the free standing Shopping Center identification sign. To the extent any Outparcel permitted ground identification sign as

shown on Exhibit A is not located on the Outparcel which it benefits, the Owner of such benefitted Outparcel is hereby granted an easement to construct, install, maintain and repair such permitted ground identification sign on that portion of the Shopping Center property shown on Exhibit A on which such sign is to be located and the non-exclusive right to enter upon such portion of the Shopping Center property to construct, install, maintain and repair such sign.

b. Free standing Shopping Center identification signs shall be located as shown on Exhibit A, only for the benefit of the businesses conducted or to be conducted on Lots 1, 2 and 3, and the Owners of such Lots are hereby each granted an easement to construct and maintain the identification signs on that portion of the Shopping Center property on which such signs are to be located as shown on Exhibit A, and the non-exclusive easement to enter upon such portion of the Shopping Center to construct, install, maintain and repair such identification signs. The Owner of Lot 1, or its tenant, shall occupy 1/3 of the area on each such free standing sign and shall utilize the top portion of such sign. The Owner(s) of Lots 2 and 3, or their respective tenants, shall be permitted to utilize each free standing identification sign, each as to 1/3 of the area of such sign. The Owner of Lot 2 shall utilize the signage panel below that of the Owner or tenant of Lot 1. The Owner of Lot 1 and Developer shall determine at the time of installation which of them shall be responsible for the physical installation and maintenance of the Shopping Center sign. Each Owner having the right to have sign panels located on said signs shall be responsible for thirty-three and one third percent (33-1/3%) of the cost of installation, construction and maintenance and cost of electricity relating to such sign.

7. Damage and Destruction. If any of the buildings or Common Area improvements within the Shopping Center are damaged or destroyed by fire or any other casualty, the Owner of any such

building or buildings or Common Area improvements shall promptly within one hundred and eighty (180) days of the occurrence of the casualty (subject to delays resulting from causes beyond the reasonable control of such Owner), cause the repair, restoration, or rebuilding of the building and improvements so damaged or destroyed, or, as to the buildings only, if the Owner of such buildings does not intend to restore same within such one hundred eighty (180) day period, then such Owner of such building(s), shall promptly cause the razing of any damaged building(s), the filling of any excavations, paving for parking to the same extent as existed prior to the casualty, and performance of any other work necessary to put such portion of the Shopping Center in a clean, sightly, and safe condition. The Owner of each building shall be responsible for such repair, restoration or razing, notwithstanding use of such building by any other person or entity.

8. Indemnification/Insurance. From and after the "Effective Date" (as defined in Paragraph 15) of this Restated E.C.R. :

a. Indemnification. Each Owner of a Lot ("Indemnifying Owner") hereby indemnifies and saves each other Owner of a Lot ("Indemnified Owner") harmless from any and all liability, damage, expense, loss, causes of action, suits, claims, or judgments arising from bodily injury, personal injury, death, or property damage occurring on or from its Lot, or arising out of the use, maintenance, repair or replacement of any building or Common Area on its Lot, except if caused by the act or negligence of the Indemnified Owner, or its agents, representatives, occupants or tenants. Notwithstanding the foregoing, each Indemnifying Owner shall indemnify, defend, protect and hold harmless the other Owners, their occupants, tenants, and their officers, directors, shareholders, employees, contractors and agents from and against all claims, liabilities, suits, actions, demands, costs, damages, losses of any kind, including but not limited to investigation, litigation, and remedial response costs, arising out of any

Hazardous Materials first used or permitted to be used after the Effective Date of this Agreement in or on any portion of the Shopping Center by such Indemnifying Owner, or any of their agents, representatives, contractors, occupants or tenants, whether or not used in the ordinary course of business. For purposes of this Section, the term (i) "Hazardous Materials" shall mean: petroleum products, asbestos, polychlorinated biphenyls, radioactive materials and all other dangerous, toxic or hazardous pollutants, contaminants, chemicals, materials or substances listed or identified in, or regulated by, any Environmental Law; and (ii) "Environmental Laws" shall mean: all federal, state, county, municipal, local and other statutes, laws, ordinances, regulations which relate to or deal with human health or the environment, all as may be amended from time to time.

b. Insurance.

1) Each Owner of Lots 1 through 6 for their respective Lots shall procure and maintain or cause to be procured and maintained in full force and effect throughout the term of this Restated E.C.R., comprehensive general public liability insurance and property damage insurance against claims for bodily injury, personal injury, death or property damage occurring upon, in or about its Lot, with such insurance to afford protection to the limit of not less than \$5,000,000.00 (including excess or umbrella-type coverage) for injury or death of a single person, and to the limit of not less than \$5,000,000.00 for any occurrence, and the limit of not less than \$2,000,000.00 for the property damage, with each Owner other than the insured Owner named as an additional insured thereunder. Each Owner shall provide all other Owners with Certificates of such insurance from time to time upon written request to evidence that such insurance is in force. Such insurance may be written by additional premises endorsement on any master policy of insurance carried by the

applicable Owner covering other property in addition to the Lots covered by this Restated E.C.R.. Such insurance shall provide that the same may not be canceled without thirty (30) days prior written notice to each additional insured named therein. Notwithstanding anything to the contrary contained in this Paragraph 8(b), so long as a Lot Owner, or the tenant of such Lot, has a net worth in excess of One Hundred Million Dollars (\$100,000,000.00), as shown by then current financial statements, audited by such Owner's or tenant's independent certified accounting firm, the Owner of such Lot shall have the right to self-insure as to such Lot, or cause the tenant of such Lot to self-insure, in whole or in part, for any and all risks for which the Owner is otherwise required to carry insurance under the provisions of this Paragraph 8(b) as to such Lot. The Owner shall, directly, or by and through the tenant's providing such self-insurance, give notice of self-insurance in accordance with the notice provisions of Paragraph 22 hereof to each other Owner. In the event of self-insurance, the Owner, or the tenant if the tenant is providing the self-insurance, shall provide all funds and take any and all action necessary to defend, protect, indemnify and hold the other Owners and other tenants of the Shopping Center and their respective customers, employees and invitees, harmless from any and all claims, damages and losses that would have been covered by the insurance required to be maintained under the provisions of this Paragraph 8(b) but for such self-insurance.

ii) At all times during the term of this Agreement, each Owner shall keep all improvements on its Lot insured against loss or damage by fire and other perils and events as may be insured against under the broad form Uniform Extended Coverage Clause in effect from time to time in the state in which the Lots are located, with such insurance to be for 90% or a co-insurance basis of the full replacement value of the

insured improvements; provided, no Lot Owner shall be required to maintain earthquake coverage, and further so long as a Lot Owner, or the tenant of such Lot, has a net worth in excess of One Hundred Million Dollars (\$100,000,000.00) as set forth in Paragraph 8b(i) above, the Owner of such Lot shall have the right to self-insure as to such Lot or cause the tenant of such Lot to self-insure, in whole or in part, for any and all risks which the Owner is otherwise required to carry insurance under this provision.

iii) Policies of comprehensive general public liability insurance provided for in this Paragraph 8 shall name the Owner of Lots 1, 2, 3, 4, 5 and 6 as additional insureds and each of them shall provide to other certificates evidencing the fact that such insurance has been obtained.

iv) Each Owner for itself and its property insurer hereby releases each other Owner from and against any and all claims, demands, liabilities or obligations whatsoever for damage to each other's property or loss of rents or profits of any other Owner resulting from or in any way connected with any fire or other casualty whether or not such fire or other casualty shall have been caused by the negligence or the contributory negligence of the party being released or by any agent, associate or employee of the party being released or by an agent, associate or employee of any party being released, this release being to the extent that such damage or loss is covered by the insurance which the releasing party is obligated hereunder to carry, or, if the releasing party is not carrying that insurance, then to the extent such damage or loss would be covered if the releasing party were carrying that insurance.

9. Eminent Domain.

a. Owner's Right to Award. Nothing herein shall be construed to give any Owner any interest in any award or payment made to any other Owner in connection with any exercise of eminent domain or transfer in lieu thereof affecting such other Owner's Lot or giving the public or any government any rights in said Lot. In the event of any exercise of eminent domain or transfer in lieu thereof of any part of Common Areas located on Lots 1 through 6, and the award attributable to the land and improvements of such portion of the Common Areas shall be payable only to the Owner thereof, and no claim thereon shall be made by the Owners of any other portion of the Common Areas.

b. Collateral Claims. All other Owners of the Common Areas may file collateral claims with the condemning authority for their losses which are separate and apart from the value of the land area and improvements taken from another Owner.

c. Tenant's Claim. Nothing in this Paragraph 9 shall prevent a tenant from making a claim against an Owner pursuant to the provisions of any lease between such tenant and Owner for all or a portion of any such award or payment.

d. Restoration of Common Areas. The Owner of any portion of the Common Areas so condemned shall promptly repair and restore the remaining portion of the Common Areas within its respective lot as nearly as practicable to the condition of the same immediately prior to such condemnation or transfer, to the extent that the proceeds of such award are sufficient to pay the cost of such restoration and repair, without contribution from any other Owner.

10. Rights and Obligations of Lenders. Any holder of a lien on any of Lots 1 through 6, and any assignee or successor in interest of such lienholder shall be subject to the terms and conditions of this Restated E.C.R.; provided however any lienholder

which acquires title through foreclosure (or deed in lieu) shall have no obligation to pay any sums due under this Agreement arising prior to the date such lienholder acquires title.

11. Expansion of Shopping Center. The Owners agree that in the event Developer, so long as it is an Owner of a Lot, or an "Expanded Area" as defined below, desires to expand the Shopping Center, then upon written notice from Developer to all other Lot Owners for annexation of such Expanded Area, all of the provisions of this Agreement shall apply to the Expanded Area designated by Developer in such notice and the parking to the building ratio in the Expanded Area shall not be less than five (5) car spaces for each one thousand (1,000) square feet of Building Areas on such Expanded Area (all expanded areas are collectively referred to herein as "Expanded Areas" or "Expanded Area", provided, however, such Expanded Areas or Expanded Area must adjoin and abut a portion of the Shopping Center as then existing), and shall constitute part of the Shopping Center. The right to expand the Shopping Center and apply the provisions of this Restated E.C.R. to such Expanded Areas, as set forth in this Paragraph 11, is exclusive to the Developer and may be exercised only by Developer so long as it is a Lot Owner, or owns the Expanded Area and may not be exercised by any other Lot Owner including any successor in interest to any Lot owned by Developer at any time, unless Developer assigns its expansion rights hereunder in a recorded instrument to its successor concurrently with the conveyance of a Lot or any interest in a Lot. Annexation of an Expanded Area to the Shopping Center shall be effective upon the recordation by Developer (or its successor pursuant to recorded assignment as set forth above) of a Declaration of Annexation identifying the Expanded Area. Whenever reference is made in this Restated E.C.R. to Lots 1 thru 6 or the Shopping Center or the Owners of any of the Lots hereto, the same shall be deemed to apply to the Expanded Area and the Owners thereof after annexation as aforesaid.

12. Release of Liability. Anyone acquiring fee or leasehold title to Lots 1 through 6, or any fee or leasehold title to any Expanded Areas pursuant to Paragraph 11, shall be bound by this Restated E.C.R. only during the period such person is the fee or leasehold owner of such lot or portion of the Lot or Expanded Area, except as to obligations, liabilities, or responsibilities that accrue during such period or ownership. Although persons may be released under this paragraph, the easements, covenants and restrictions in this Agreement shall continue to be benefits to and servitudes upon said Lots and Expanded Areas running with the land.

13. Breach. In the event of a breach or threatened breach of this Restated E.C.R., the Owners of Lots 1 through 6, and any Expanded Areas covered hereby, shall be entitled to institute proceedings at law or in equity, for full and adequate relief from the consequences of said breach or threatened breach. In the event that suit is brought for the enforcement of this Restated E.C.R., or as a result of any alleged breach hereof, the successful litigant or litigants in such suit, including any Lot Owner, shall be entitled to be paid reasonable attorneys' fees and reasonable out-of-pocket litigation expenses by the losing litigant or litigant, and any judgment or decree rendered shall include an award thereof.

14. Rights or Successors. The easements, restrictions, benefits and obligations hereunder shall create mutual benefits and servitudes running with the land. This Restated E.C.R. shall bind and inure to the benefit of all of the Owners of Lots, their respective heirs, representatives, lessees, successors and assigns. The singular number includes the plural and the masculine gender includes the feminine and neuter.

15. Document Execution, Modification and Cancellation. It is understood and agreed that until this Restated E.C.R. is fully executed by Developer, Lot 1 Owner, and Best Buy (the "Effective Date") there is not and shall not be an agreement of any kind between the parties hereto upon which any commitment, undertaking

or obligation can be founded. This Restated E.C.R. (including exhibits) may be modified or canceled only by the mutual written and recorded agreement of the Owners of all of the Lots (including those Owners that have designated a "Prime Lessee" as defined and set forth in Paragraph 31 hereof). An Owner of a Lot, as to such Owner's Lot only, shall have the right by separate agreement to grant an exclusive use to another Owner's Lot which exclusive use shall affect and be valid only as to the Lots of the Owners entering into such separate agreement and shall not have any affect on any other Owner's Lot.

16. Definition of Owner.

a. The term Owner(s) as used herein means any person or entity who from time to time holds fee title to a Lot located within the Shopping Center, including any Expanded Area, provided, however, in the case of a ground lease of a Lot, the Lot Owner may assign to such ground lessee/tenant all the rights and obligations of the Owner of such Lot as to such Lot only.

b. The approval rights granted herein as to the Owners of Lots 1, 2 and 3 may not be cast in a fractional basis. Where there is more than one record Owner of a Lot, only one of such co-Owners shall be entitled to exercise the voting, approval, or disapproval rights to which an Owner of the Lot is entitled hereunder. Such co-Owners shall from time to time designate to all other Lot Owners in writing one of their number who is authorized to act on behalf of all other co-Owners in exercising any voting approval or disapproval of rights hereunder. Where no voting co-Owner is designated, or if such designation has been revoked by any other co-Owner, any requirement of approval or disapproval hereunder shall not be required and any approval or disapproval of any action may be taken or given by the other Lot Owners acting alone. If any Owner exercises the rights to vote or approve or disapprove any action hereunder as to a particular Lot, it will

thereafter be conclusively presumed for all purposes that such Owner was acting with the authority and consent of all other co-Owners of the same Lot. In the event of the subdivision of Lots 1 or 2 or 3 as now existing, the approval rights granted herein to the Owner of such subdivided Lot shall be vested in and exercised only by the Owner of the largest square footage portion of the subdivided Lot.

17. Consent Required by Developer. If pursuant to the terms of this Restated E.C.R., the consent of the Developer or notice to Developer is required and in the event the Developer is no longer an Owner of a Lot, the consent of and notice to the Owners of Lots 1, 2, and 3 and if any such lot is subdivided, the Owner of any such resubdivided portion of such Lots having an area of greater than five (5) acres must be given and/or obtained, which consent shall not be unreasonably withheld or delayed.

18. Non-Merger. This Agreement shall not be subject to the doctrine of merger.

19. Duration. Unless otherwise canceled or terminated, all of the easements granted in this Agreement shall continue in perpetuity and all other rights and obligations hereof shall automatically terminated and be of no further force and effect after ninety-nine (99) years from the date hereof.

20. Headings. The headings herein are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope or intent of this document nor in any way affect the terms and provisions hereof.

21. Entire Agreement. This Restated E.C.R. constitutes the entire agreement between the Owners with respect to the subject matter hereof. The Owners do not rely upon any statement, promise or representation not herein expressed, and this Restated E.C.R.

once executed and delivered shall not be modified or altered in any respect by a writing executed and delivered in the same manner as required by this Restated E.C.R.

22. Notice. Any notice, request, demand, instruction or other communication (collectively, "Notices") required by this Restated E.C.R. to be given to any Owner or third party, including, but not limited to, a notice of assessment, shall be in writing and shall be either (a) personally delivered to each Owner, or the party otherwise entitled hereto, by a commercial messenger service regularly retaining receipts for such delivery, (b) sent by registered mail, return receipt requested, or (c) delivered by the courier services known as Federal Express, Express Mail, Airborne, and Emery Air, or equivalent courier service, and such notice shall be effective upon delivery thereof to the Owner or third party being given notice. Any such Notices, shall be addressed to the Owners as listed below, until such time as each ceases to be an Owner:

Developer: c/o Rothbart Development Corporation
2450 Broadway, Suite 550
Santa Monica, California 90404

With copies to: Laura K. McAvoy, Esq.
Nordman, Cormany, Hair & Compton
1000 Town Center Drive
Sixth Floor
Oxnard, California 93031-9100

Richard Hambelton, Esq.
Hoffman, Vance & Worthington
1000 South Seaward Avenue
Ventura, California 93001

To Best Buy: Best Buy Co., Inc.
7075 Flying Cloud Drive
Eden Prairie, Minnesota 55344
Attention: Legal Department - Real Estate

With copy to: Robins, Kaplan, Miller & Ceresi
2800 LaSalle Plaza
800 LaSalle Avenue South

Minneapolis, Minnesota 55402-2015
Attention: Steven A. Schumeister, Esq.

To Lot 1 Owner: Alan F. Horn and Cynthia Harrell-Horn
c/o American Capital Management Corporation
115 South La Cumbre, Suite 302
Santa Barbara, California 93105

With copy to: Hugh M. Boss, Esq.
Kindel & Anderson, LLP
5959 Topanga Canyon Boulevard
Suite 244
Woodland Hills, California 91367

Any Owner of a Lot may designate its address for service of Notices, as aforesaid, or may designate a change of address, by Notice to all Owners in the manner specified herein. The successors and assigns of Owners shall be substituted for prior Owners upon notice as provided above. However, unless and until such written notice is actually received, the last address and addressee as stated by written notice, or provided for herein if no written notice of change has been received, shall be deemed to continue in effect for all purposes hereunder. This notice provision shall be inapplicable to any judicial or nonjudicial proceeding where California law governs the manner and timing of notice, commencing and prosecuting an action, commencing and prosecuting a foreclosure, or seeking the appointment of a receiver.

23. Election of Remedies. In addition to the rights, powers and remedies given in this Restated E.C.R. to the Lot Owners, each of them may, in their own absolute discretion, at any time, and from time to time, exercise any and all rights and powers, and pursue any and all remedies now or hereafter given at law or in equity, including but not limited to any rights or remedies granted herein or by California or Federal case, statutory or regulatory law. The failure to exercise any right or remedy shall not be deemed a waiver of that right or remedy unless the Owner entitled to that right or remedy has so agreed, expressly and in writing,

and the failure to so exercise any right or remedy shall not preclude such Owner entitled thereto from later exercising any such right or remedy. The written waiver of any default hereunder given by a Lot Owner shall not be binding upon any other Lot Owner that does not consent in writing to such waiver. Any written waiver of default shall not constitute a continuing waiver or waiver of any other same, similar or different events of defaults on any future occasion, unless such a waiver of such future defaults is expressed, in writing, with precision. No courses of dealing between any Owner, or any tenant, occupant, lessee, or user of any of the Lots, or any encumbrancer thereof, in exercising any rights under this Restated E.C.R. shall operate as a waiver of such rights, nor shall any such delay, unless agreed to in writing by the Owner entitled to enforce this Restated E.C.R., constitute a waiver of any obligation or default. No waiver or default shall extend to or impair any other obligation not expressly waived, nor impair any right otherwise consequent on such covenant, provision or obligation. Any waiver may be given subject to satisfaction of condition stated therein. No power or remedy herein conferred is exclusive of or shall prejudice any other power or remedy given by law or by the terms of this Restated E.C.R., nor shall any Owner hereto be forced to make any election of remedies.

24. Waiver of Setoff/Counterclaim. Each Owner hereto, for its own benefit and for the benefit of all of its successors and assigns, including but not limited to all Owners with interests in the Shopping Center or any lot or building which forms a portion therefor, hereby waive any and all rights of setoff, recoupment, and counterclaim with respect to assessments and obligations due under the terms of this Restated E.C.R., including rights of setoff, recoupment, and counterclaim with respect to the Shopping Center which may arise from claims, transaction or occurrences heretofore or in the future unknown to the claimant.

25. Time of Essence. Time is of the essence with regard to

performance under the terms and provisions of this Restated E.C.R., and any amendment, modification or revisions thereof, with respect to the actions and obligations of each person bound by the terms hereof. No extension of time for payment of any sum due hereunder shall operate or release, discharge, modify, change or affect the original liability as established hereunder, either in whole or in part. In accepting an interest in any Lot in the Shopping Center, each Owner, tenant, occupant, lessee, user, mortgagee, and trust deed beneficiary shall be deemed to take its interest knowingly and willingly subject to this time of the essence clause.

26. Severability. Invalidity of any of the provisions contained in this Restated E.C.R., or the application thereof to any person by judgment or court order shall in no way affect any of the other provisions hereof or the application thereof to any other person and the same shall remain in full force and effect.

27. Negation of Partnership. None of the terms or provisions of this Restated E.C.R. shall be deemed to create a partnership between or among the Owners or any of their tenants or occupants, in their respective businesses or otherwise, nor shall it cause them to be considered joint ventures or members of any joint enterprise. Each Owner shall be considered a separate Owner and no Owner shall have the right to act as an agent for another Owner, unless expressly authorized to so herein by a separate written instrument signed by the Owner to be charged.

28. Not a Public Dedication. Nothing herein contained shall be deemed to be a gift or dedication of any portion of the Shopping Center or of any Lot or portion thereof to the general public, or for any public use or purpose whatsoever. Except herein specifically provided, no right, privileges or immunities of any Owner shall inure to the benefit of any third-party person, nor shall any third-party person be deemed to be a beneficiary of any of the provisions contained herein except as otherwise expressly

set forth in this Restated E.C.R..

29. Estoppel Certificates. Any Owner shall, from time to time upon not less than thirty (30) days notice from any other party, execute and deliver to the Owner requesting same, a certificate in recordable form stating that this Restated E.C.R. is unmodified and in full force and effect or, if modified, that this Restated E.C.R. is in full force and effect, as modified, and stating the modification and stating whether or not, to the best of its knowledge, any Owner is in default in any respect under this Restated E.C.R., and if in default, specifying the nature of such default.

30. Developer Rights. All rights of Developer shall cease when Developer is no longer the Owner or "Prime Lessee" (as defined in Paragraph 31) of any Lot, at which time all approval rights reserved to Developer hereunder shall inure to and may be exercised only by the Owners of Lot 1, 2, and 3 with each such Lot Owner having one vote.

31. Prime Lessee Constituting "Owner":

a. Notwithstanding anything to the contrary contained in this Restated E.C.R., it is expressly agreed that if an Owner sells, transfers or conveys its Lot to an unaffiliated third party and thereafter enters into a lease or sublease for all of such Lot such transferring Owner shall become a "Prime Lessee" as defined below, and such third party purchaser shall be a "Prime Lessor" (as defined below). So long as such transferring Owner remains as a Prime Lessee, it shall have all of the rights and obligations of the Owner of such Lot as to such Lot only, and the other Owners shall look solely to such Prime Lessee for the performance of any obligations by the Owner of the Lot so leased (as to such Lot only), and the Prime Lessor (the then Owner of such Lot) shall be relieved of any obligation for the performance of or liability for

the covenants, obligations and restrictions set forth herein relating to either such Owner (as to such leased Lot only) or the Lot leased by the Prime Lessee. The creation of the status of Prime Lessee shall be effective only on and after the transferring Owner records an instrument designating itself as a Prime Lessee and designating the name and address of the Prime Lessor with the Ventura County Recorder and gives notice thereof to all other Owners, except that the parties hereby acknowledge that the Lot 1 Owner has designated Best Buy as the Prime Lessee of Lot 1 pursuant to this Paragraph 31a, and that Best Buy hereby accepts such designation, and no further notice is required as to such designation.

b. Further, any Owner of a Lot, as to such Owner's Lot, may designate an unaffiliated third party tenant of all, or a portion, of such Lot as a Prime Lessee as to such leased Lot, in which event, by written instrument executed by such Owner and such tenant and recorded in Official Records of Ventura County Recorder, such tenant shall agree to have and perform all rights and obligations of the Owner as to such Lot, provided, however, the Owner of such Lot shall remain primarily liable for the obligations of the Owner as to such Lot in the event the Prime Lessee thereof fails to perform such obligations in accordance with the terms hereof.

c. For purposes of this Restated E.C.R., "Prime Lessee" means (1) an Owner of a Lot who sells, transfers or conveys, its Lot to any unaffiliated third party and thereafter enters into a lease for all of said Lot with such third party or its lessee or sublessee, or (2) any unaffiliated third party tenant of a Lot designated by the Owner of such Lot as a Prime Lessee. Prime Lessee includes the successors and assigns of a Prime Lessee but does not include the sub-lessee, licensees or concessionaires of a Prime Lessee.

IN WITNESS WHEREOF, the parties have executed this Agreement
the day and year first above written.

BEST BUY CO., INC.

By: [Signature]
Its: Alan F. Horn

[Signature]
Alan F. Horn

[Signature]
Cynthia Harrell-Horn

Developer

TIMOTHY S. McGRATH, as Successor
Trustee of the Survivors Trust
created under the John Francis
McGrath and Elizabeth E. McGrath
Trust dated October 29, 1982, as to
an undivided 23.8% interest

MARIAN E. GRAHAM, as Trustee of the
Marian E. Graham Trust dated
September 8, 1982, as to an
undivided 23.8% interest

SEAN H. McGRATH, as Trustee of the
Marital Trust created under the
Frank and Lee McGrath Trust u/t/i
August 27, 1982, as to an undivided
23.8% interest

CHRIS J. COOLURIS, as Trustee of the
Ann Cooluris and Helen Mary Cooluris
Trust dated March 12, 1982, as to an
undivided 23.8% interest

JURGEN GRAMCKOW, as Successor Co-Trustee of the M.L. Trust of the Helen M. McGrath Trust dated December 6, 1973, as to undivided 4.8% interest

TIMOTHY S. McGRATH, as Co-Trustee of the M.L. Trust of the Helen M. McGrath Trust dated December 6, 1973, as to an undivided 4.8% interest


~~JÜRGEN GRAMKOW~~, as Successor Co-
Trustee of the M.L. Trust of the
Helen M. McGrath Trust dated
December 6, 1973, as to undivided
4.8% interest


~~TIMOTHY S. MCGRATH~~, as Co-Trustee of
the M.L. Trust of the Helen M.
McGrath Trust dated December 6,
1973, as to an undivided 4.8%
interest

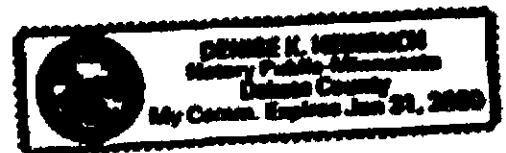
BEST BUY CO., INC.

State of Minnesota)
County of Hennepin)

On July 31, 1996, before me, Denise Heinbuch,
(Insert name of notary)

notary public in and for said State, personally appeared Robert S. Fox, personally known to me ~~(or~~
~~proved to me on the basis of satisfactory evidence)~~ to be the
person(s) whose name(s) is/are subscribed to the within instrument
and acknowledged to me that he/she/they executed the same in
his/her/their authorized capacity(ies), and that by his/her/their
signature(s) on the instrument the person(s), or the entity upon
behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.



Signature

Robert S. Fox

(Seal)

CAPACITY CLAIMED BY SIGNER:

☐ Individual(s)	☐ Attorney-In-Fact
☐ Partner(s)	☐ Subscribing Witness
☐ Trustee(s)	☐ Guardian/Conservator
☒ Corporate	☐ Other: _____
Officer(s) <u>Senior V.P. Finance</u>	
Title(s) _____	

SIGNER IS REPRESENTING:

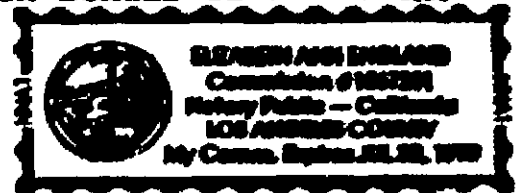
Name of Person(s) or Entity(ies): Best Buy Co., Inc., a Minnesota Corporation

State of California)
County of Los Angeles)

On August 12, 1996, before me, Elizabeth Ann Fryland (Insert name of notary).

notary public in and for said State, personally appeared ALAN F. NORM, personally known to me ~~(or proved to me on the basis of satisfactory evidence)~~ to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.



Signature Elizabeth Ann Fryland

(Seal)

CAPACITY CLAIMED BY SIGNER:

☒ Individual(s)	☐ Attorney-In-Fact
☐ Partner(s)	☐ Subscribing Witness
☐ Trustee(s)	☐ Guardian/Conservator
☐ Corporate Officer(s) _____	☐ Other: _____
<u>Title(s)</u>	_____

SIGNER IS REPRESENTING:

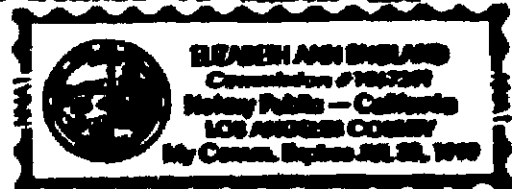
Name of Person(s) or Entity(ies): _____

State of California)
County of Los Angeles)

On August 12, 1996, before me, Elizabeth Ann England,
(Insert name of notary)

notary public in and for said State, personally appeared CYNTHIA MARRELL-MORN, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) (is) are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.



Signature Elizabeth Ann England

(Seal)

CAPACITY CLAIMED BY SIGNER:

☒ Individual(s)	☐ Attorney-In-Fact
☐ Partner(s)	☐ Subscribing Witness
☐ Trustee(s)	☐ Guardian/Conservator
☐ Corporate Officer(s) _____	☐ Other: _____
<u>Title(s)</u> _____	_____

SIGNER IS REPRESENTING:

Name of Person(s) or Entity(ies): _____

State of California)
County of Ventura)

On August 1, 1996, before me, Susan B Haynes,
(Insert name of notary)

notary public in and for said State, personally appeared TIMOTHY S. McGRATH, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.



Signature Susan B Haynes

(Seal)

CAPACITY CLAIMED BY SIGNER:

- | | |
|--|---|
| ☐ Individual(s) | ☐ Attorney-In-Fact |
| ☐ Partner(s) | ☐ Subscribing Witness |
| ☒ Trustee(s) | ☐ Guardian/Conservator |
| ☐ Corporate _____ | ☐ Other: _____ |
| Officer(s) _____ | |
| Title(s) _____ | |

SIGNER IS REPRESENTING:

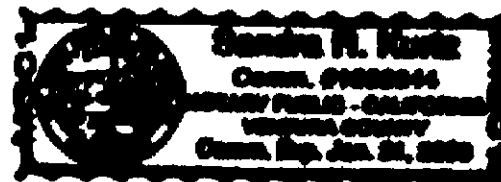
Name of Person(s) or Entity(ies): TIMOTHY S. McGRATH, as Successor Trustee of the Survivors Trust created under the John Francis McGrath and Elizabeth E. McGrath Trust dated October 29, 1982, as to an undivided 23.8% interest and as Co-Trustee of the M.L. Trust of the Helen M. McGrath Trust dated December 6, 1973, as to an undivided 4.8% interest.

State of California)
County of Ventura)

On August 2, 1996, before me, Sandra R. Kurtz,
(Insert name of notary)

notary public in and for said State, personally appeared **MARIAN E. GRAHAM**, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.



Signature Sandra R. Kurtz

(Seal)

CAPACITY CLAIMED BY SIGNER:

☐ Individual(s)	☐ Attorney-In-Fact
☐ Partner(s)	☐ Subscribing Witness
☒ Trustee(s)	☐ Guardian/Conservator
☐ Corporate Officer(s) _____	☐ Other: _____
Title(s)	

SIGNER IS REPRESENTING:

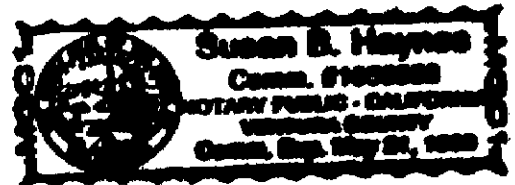
Name of Person(s) or Entity(ies): **MARIAN E. GRAHAM, as Trustee of the Marian E. Graham Trust dated September 8, 1982, as to an undivided 23.8% interest.**

State of California)
County of Ventura)

On August 2, 1996, before me, Susan B. Haynes,
(Insert name of notary)

notary public in and for said State, personally appeared SEAN H. McGRATH, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.



Signature

Susan B. Haynes

(Seal)

CAPACITY CLAIMED BY SIGNER:

☐ Individual(s)	☐ Attorney-In-Fact
☐ Partner(s)	☐ Subscribing Witness
☒ Trustee(s)	☐ Guardian/Conservator
☐ Corporate Officer(s) _____	☐ Other: _____
<u>Title(s)</u>	_____

SIGNER IS REPRESENTING:

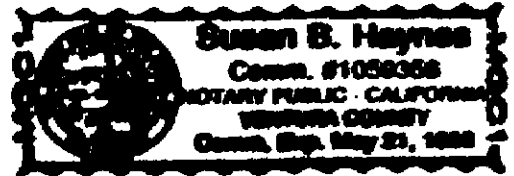
Name of Person(s) or Entity(ies): SEAN H. McGRATH, as Trustee of the Marital Trust created under the Frank and Lee McGrath Trust u/t/i August 27, 1982, as to an undivided 23.8% interest.

State of California)
County of Ventura)

On August 2, 1996, before me, Susan B. Haynes,
(Insert name of notary)

notary public in and for said State, personally appeared CHRIS J. COOLURIS, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.



Signature Susan B. Haynes

(Seal)

CAPACITY CLAIMED BY SIGNER:

☐ Individual(s)	☐ Attorney-In-Fact
☐ Partner(s)	☐ Subscribing Witness
☒ Trustee(s)	☐ Guardian/Conservator
☐ Corporate Officer(s) _____	☐ Other: _____
<u>Title(s)</u>	_____

SIGNER IS REPRESENTING:

Name of Person(s) or Entity(ies): CHRIS J. COOLURIS, as Trustee of the Ann Cooluris and Helen Mary Cooluris Trust dated March 12, 1982, as to an undivided 23.8% interest.

IN WITNESS WHEREOF, the parties have executed this Agreement
the day and year first above written.

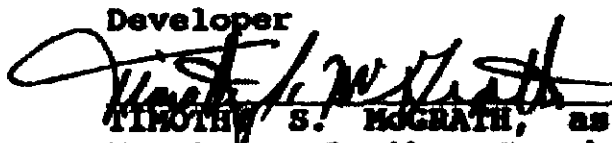
BEST BUY CO., INC.

By: _____
Its: _____

Alan F. Horn

Cynthia Harrell-Horn

Developer


TIMOTHY S. MCGRATH, as Successor
Trustee of the Survivors Trust
created under the John Francis
McGrath and Elizabeth E. McGrath
Trust dated October 29, 1982, as to
an undivided 23.8% interest


MARIAN E. GRAHAM, as Trustee of the
Marian E. Graham Trust dated
September 8, 1982, as to an
undivided 23.8% interest


SEAN H. MCGRATH, as Trustee of the
Marital Trust created under the
Frank and Lee McGrath Trust u/t/i
August 27, 1982, as to an undivided
23.8% interest


CHRIS J. COOLURIS, as Trustee of the
Ann Cooluris and Helen Mary Cooluris
Trust dated March 12, 1982, as to an
undivided 23.8% interest

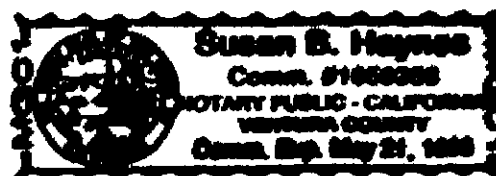
State of California)
County of Ventura)

On August 1, 1996, before me, Susan B. Haynes,
(insert name of notary)

notary public in and for said State, personally appeared JURGEN GRAMCKOW, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature Susan B. Haynes



(Seal)

CAPACITY CLAIMED BY SIGNER:

☐ Individual(s)	☐ Attorney-In-Fact
☐ Partner(s)	☐ Subscribing Witness
☒ Trustee(s)	☐ Guardian/Conservator
☐ Corporate Officer(s) _____	☐ Other: _____
<u>Title(s)</u>	_____

SIGNER IS REPRESENTING:

Name of Person(s) or Entity(ies): JURGEN GRAMCKOW, as Successor Co-Trustee of the M.L. Trust of the Helen M. McGrath Trust dated December 6, 1973, as to an undivided 4.8% interest.

PHASE II SITE PLAN

LEGEND

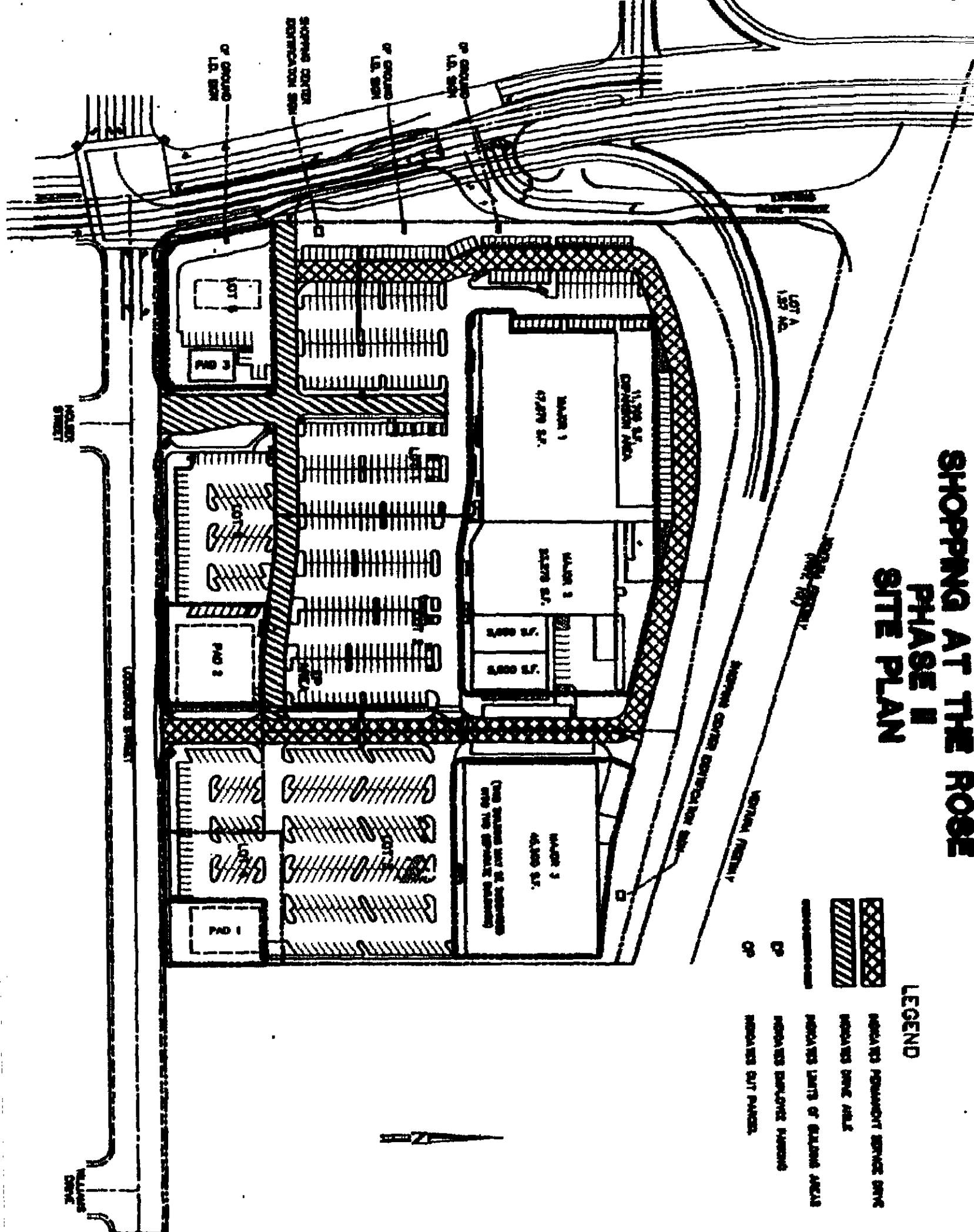
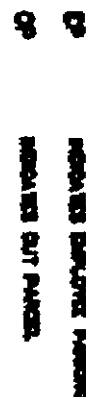


EXHIBIT A

EXHIBIT B

Lots 1, 2, 3, 4, 5 and 6 of Tract 4983, in the City of Oxnard, County of Ventura, State of California, as per map thereof recorded in Book 127, Page 75, of Miscellaneous Records in the Office of the County Recorder of the County of Ventura, State of California.

EXHIBIT B

EXHIBIT B

EXHIBIT 2

MusickPeeler

ATTORNEYS AT LAW

LAURA K. MCAVOY
l.mcavoy@musickpeeler.com
(805) 418-3115

2801 TOWNSGATE ROAD, SUITE 200
WESTLAKE VILLAGE, CALIFORNIA 91361

TELEPHONE: (805) 418-3100
FACSIMILE: (805) 418-3101
WWW.MUSICKPEELER.COM

LOS ANGELES
ORANGE COUNTY
SAN DIEGO
SAN FRANCISCO
SANTA BARBARA COUNTY
VENTURA COUNTY

May 27, 2020

Via Email and U.S. Mail: mariav@damanagementgroup.com

FGH, LLC
Attn: Ms. Maria Valdez
1650 E. Gonzales Road, #296
Oxnard, CA 93036

Re: Potential Cannabis Use at 2320 N. Rose Avenue, Oxnard

Dear Ms. Valdez:

The undersigned acts as general counsel to a number of members of the McGrath family who are the owners of the property located at 2330 N. Rose Avenue, Oxnard, California, and also that certain parcel known as Lot 4, a vacant parcel located directly east of the parcel occupied by Golden Corral on Lockwood Avenue. These two parcels are collectively referred to as the "Neighboring Property."

By letter dated April 24, 2020, you were notified by Seena M. Samimi of the law firm of the Jeffer Mangels Butler & Mitchell of the opposition of their client, Oxnard Place, LLC, which owns the property located at 2340 N. Rose Avenue, Oxnard, California, to any proposed cannabis business located at 2320 N. Rose Avenue (the "Cannabis Property").

On behalf of my clients, we also express strong concurrence with the position taken by the owners of 2340 N. Rose Avenue and my clients likewise inform you that we believe that any proposed cannabis business would be in violation of the Restated E.C.R. as defined and as detailed in the referenced April 24, 2020 letter.

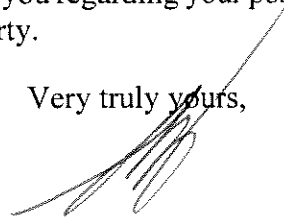
Likewise, we urge that you also conclude that the Cannabis Property cannot and may not be used for any proposed cannabis business.

MusickPeeler

FGH, LLC
May 27, 2020
Page 2

We look forward to hearing from you regarding your position relating to the Restated E.C.R. and your plans as to the Cannabis Property.

Very truly yours,



Laura K. McAvoy
for MUSICK, PEELER & GARRETT LLP

LKM:srk

cc: Seena M. Samimi, Esq. (sxs@jmbm.com)
Ms. Vanessa Hernandez (vanessa.hernandez246@gmail.com)
Mr. Keith Fuller (keithfuller@yahoo.com)
Mr. Stan Rothbart (stan@rothbartdev.com)
Mr. Mark Perlmutter mark@dmpproperties.com
Mr. Brian Martini brian@dmpproperties.com
Ms. Shawna Pierno shawna@dmpproperties.com
Ms. Beverly Gutierrez (bevg@hvwnonline.com)

1217900.1



CHERNIS LAW GROUP P.C.
2425 Olympic Blvd. Suite 4000-W
Santa Monica, CA 90404
Telephone: (310) 566-4388
Facsimile: (310) 382-2541

—
Email: michael@chernislaw.com

November 17, 2021

Honorable Chair and Members of the City Council
Oxnard City Council
300 West Third Street
Oxnard, California 93030

RE: FGH Retail Services, LLC Commercial Cannabis
Business Retail Special Use Permit

Honorable Mayor and Members of the City Council:

I serve as legal counsel to FGH Retail Services, LLC (“FGH”) and as a member of its Advisory Board. I have worked with FGH for the last two years in its effort to open a retail cannabis dispensary in Oxnard. I respectfully submit this letter on behalf of FGH in opposition to the appeal filed by Stanley Rothbart (“Appellant”) of the Planning Commission’s October 13, 2021 unanimous decision to grant FGH’s application for a Commercial Cannabis Business Retail Special Use Permit (“SUP”).

A. Executive Summary

Appellant has presented no basis to overturn the Planning Commission’s decision to grant the SUP. As discussed in [Section D](#) below, prior to granting the SUP the Planning Commission followed the requirements of Oxnard City Code §16-531, and fully considered and rejected, by a unanimous vote of 6-0, Appellant’s claims that FGH’s project would “adversely affect or be materially detrimental to [] adjacent uses.” Appellant had a full and fair opportunity to be heard by the Planning Commission, both in writing and orally at the October 13 hearing, which lasted more than three (3) hours. The Planning Commission even granted Appellant’s counsel extra time at the hearing to articulate his reasons for opposing the SUP. Thus, while Appellant may not like the decision of the Planning Commission, Appellant failed to provide any substantiation of his claims, and that remains the case here before this body. Appellant simply cannot meet its burden on this appeal.

Appellant raises two new issues on this appeal: (1) that no notice was given to the public that FGH’s retail cannabis activities would include delivery services; and (2) that FGH’s proposal to use part of its licensed premises to host community events would violate CC&R’s that apply to FGH’s property. As more fully discussed in [Section E](#) below, neither of these arguments has any merit, let alone justifies overturning the Planning Commission decision. Appellant and the Oxnard community were on notice of FGH’s proposed delivery activities from numerous



CHERNIS LAW GROUP

Oxnard City Council
November 17, 2021
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sources, and in fact **FGH told Appellant of its delivery plans in February 2021**. Moreover, those activities were fully considered by Planning Staff in advance of it recommending approval of the SUP.

As for the alleged conflict between the proposed “event space” and the CC&Rs, this is an apparent misunderstanding on the part of Appellant. **There is no “event space;”** it is a training room for FGH’s employees, which use does not violate the CC&Rs. As part of FGH’s Community Benefits Plan, it proposed to make the room available to non-profits which lacked their own meeting space, and to educate the community about cannabis use. If that community use is in fact in violation of the CC&Rs, FGH will refrain from such activity. In any case, and as the City has made abundantly clear to Appellant, CC&Rs are not enforced by the City and are not a basis for denying a SUP.

Appellant in its appeal filing also referenced other nuisance and economic concerns that it raised before the Planning Commission in a letter from Appellant’s counsel dated October 6, 2021. To the extent any of those issues are even ripe for consideration on this appeal, they likewise lack merit let alone justify reversing the judgment of the Planning Commission. As discussed in [Section D](#) and [Section F](#) below, each of these issues was thoroughly examined by the Planning Commission, and it along with Staff concluded they lacked any factual support and amounted to nothing more than speculation. Contrary to Appellant’s unsubstantiated fears, the Planning Commission concluded that the dispensary will enhance economic opportunities for FGH’s neighbors and help revitalize their shopping center, and that the extensive SUP conditions of operation will adequately insure against Appellant’s fears of nuisance from becoming a reality.

Thus, Appellant is not raising any ground on this appeal that justifies the drastic step of reversing the determination of the Planning Commission, and the recommendation of City Staff, which followed an arduous application and review process of FGH’s project.

Set forth below in [Section B](#) and [Section C](#) is an overview of the FGH project, including its improvement of the shopping center where Appellant is a neighboring property owner, and in [Section D](#) a review of the Planning Commission hearing on FGH’s SUP application. We then address in [Section E](#) the new arguments raised by Appellant on this appeal, and in [Section F](#) the prior claims made in Attorney Samimi’s October 6, 2021 letter.

B. FGH Project Overview

FGH seeks to operate a dispensary at 2320 N. Rose Avenue in Oxnard (hereinafter, “FGH Property”), which is part of a shopping center known as the Shopping at the Rose II (hereinafter the “*Rose II Center*”). The FGH Property consists of an existing 23,275 sf commercial building in the General Commercial (C-2) zone. No sensitive uses are within ¼ mile of the FGH Property.

As City and Planning Staff have concluded, FGH’s location is ideal for a cannabis dispensary. Apart from its distance from schools, daycare centers and youth centers (which are considered



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“sensitive uses” under Oxnard City Code §11-473), there is no residential housing within ¼ mile. Rather, it is adjacent to existing commercial centers and major traffic thoroughfares like Highway 101, N. Rose Avenue and Gonzales Avenue, in an area that already has substantial commercial traffic and activity. For example, the location sees 150,000 passing cars daily. It has more than sufficient parking with 129 dedicated spaces.

Prior to recommending approval of the SUP, Planning Staff subjected FGH to a thorough and exhaustive review process, which lasted approximately seven (7) months not including two separate license application review processes that lasted approximately one year. To mitigate any safety and nuisance concerns, Planning Staff **recommended 189 project conditions**. Those conditions address a range of issues including retail operations, odor control, exterior lighting, inspections by City officials, cash handling procedures, and security. There are 28 conditions alone (Nos. 81-109) addressing security measures, including a requirement that FGH “prohibit loitering by persons outside the facility both on the premises and within fifty (50) feet of the premises.” (Condition No. 102). There are also conditions governing security cameras, access control systems, alarms systems and fire control. During the October 13 hearing, several Planning Commissioners referenced these extensive conditions as insurance against the nuisance concerns raised by Appellant.

In addition to being the dispensary operator, FGH owns the FGH Property through an affiliated entity. FGH’s control over the premises ensures that FGH will be able to remain at the location without interruption and facilitates compliances with the SUP conditions. Moreover, as the property owner, FGH is incentivized to not only build its business and profit margin, but also to enhance the FGH Property and the surrounding neighborhood.

FGH’s management team and owners are Oxnard residents, and deeply rooted in the Oxnard community. Nearly the entire management team was born and raised in Oxnard, with most still residing and raising children there. They are a group of highly accomplished and competent professionals from diverse backgrounds including Fortune 500 companies, government, finance and highly regulated multi-state businesses including cannabis. They have more than 25 years of experience owning and operating cannabis businesses including a retail dispensary in adjacent Port Hueneme. The team is led by CEO Vanessa Hernandez, CEO-Alex Soriano and COO-David Garcia, each of whom were born in Oxnard and still lives in Oxnard (except for Mr. Soriano who now lives in Ventura). Of the seven members of the management team, all but one are current or formers residents of Oxnard, and all are current residents of Ventura County.

Thus, FGH is truly a local endeavor. Apart from being 100% locally managed, FGH is majority-owned (58.5%) by City of Oxnard Residents. FGH is the first beneficiary of the City of Oxnard Local Equity Program. This is in stark contrast to Appellant who is not a local resident and perhaps out of touch with the needs of present-day Oxnard.

Furthermore, by awarding FGH an SUP to operate a cannabis dispensary, the City of Oxnard also demonstrates its commitment to diversity. FGH has an all-Hispanic management team, the



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majority of whom (Vanessa Hernandez, David Garcia, Alex Soriano, Maria Valdez and Ricardo Hernandez) had parents and/or grandparents who worked as migrant farm workers in Oxnard and often worked in the fields themselves alongside their parents. Thus, FGH reflects the successes of the Hispanic community in helping to build Oxnard.

It would be a shame to deny these hard-working Oxnard residents the opportunity to be owners of a dispensary in their own city, just because of the unsubstantiated fears of some of their neighbors that a cannabis business will attract a bad element and harm the shopping center.

C. FGH Will Revitalize the *Rose II Center*

The *Rose II Center* was originally developed in 1996. In recent years it has become underoccupied and underutilized. The shopping center at one time consisted of several successful “big-box” retailers but that is no longer the case. For example, the FGH Property used to house **Office Max**, but since that store closed in 2019 the space has been leased to a costume store. On one side of the FGH Property is a **Best Buy** (the only remaining retail store in the shopping center) and on the other side a **Goodwill** store. **Babies R Us** used to occupy a standalone building in the shopping center but it closed in 2018 and the space has been vacant ever since (apart from being used temporarily as a vaccine facility). The other parcels consist of a gas station/convenience store owned by Appellant, a **Golden Corral** restaurant, and an undeveloped vacant lot. Thus, the *Rose II Center* no longer has the prestige, appearance or customer traffic of its neighboring shopping centers.

In addition, these larger retailers have vacated, the *Rose II Center* has become neglected and run down, and the absence of customers and adequate security has created a vacuum filled by vandals, homelessness and even criminals.



June 7, 2021



June 26, 2021

Thus, in just the last two years there have been numerous incidents of vagrants starting fires and other nuisance activities at the *Rose II Center*. For example, in August 2019, while the FGH



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Property was still in escrow, all the copper from its A/C units were stolen and many of the units were vandalized leading to a \$67,400 repair bill. Just one month later, in September 2019, someone set fire to an electrical closet behind the FGH Property destroying an electrical transformer that powered a number of the businesses and parking lot lights in the *Rose II Center*.



Damage from September 2019 fire

In February 2020, a homeless person living behind the shopping center started a fire at the back of the FGH Property leading to another \$5,000 in repairs.

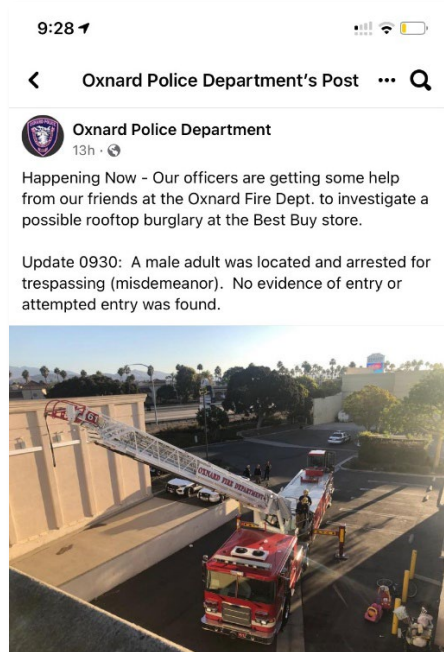


In November 2020, someone started a second fire behind the FGH Property. And on October 9, 2021, **just days before the Planning Commission hearing**, a burglar tried to gain entrance to the Best Buy through the roof requiring both Oxnard Police and Fire to respond.



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Many vagrants access the *Rose II Center* from the area adjacent to Highway 101 through a hole cut in a border fence that remained unrepaired for months (*see above*).

The limited security presence provided by the *Rose II Center* has proven inadequate to prevent these fires and other nuisance activity. It has also proven inadequate to deter more serious crimes which have been on the rise at the shopping center. For example, in the twelve-month period ended August 31, 2021 alone, there were numerous police reports and arrests for shoplifting, vehicle theft, possession of methamphetamine, and even drug overdoses in and around the neighboring businesses. On October 21, 2020, the Oxnard Police Department Drug Enforcement Unit arrested a man at Appellant's gas station suspected of operating a large scale heroin distribution operation; he was reportedly arrested with enough heroin to cause 2,000 overdoses. <https://www.citizensjournal.us/oxnard-narcotics-sales-arrest-2/>



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Apart from crime, the *Rose II Center* has also become garbage strewn and generally neglected. This point was made by local residents who spoke at the Planning Commission hearing.



June 26, 2021



September 21, 2021

The Planning Commission in granting the SUP recognized that FGH's presence at the *Rose II Center* will immediately increase the security presence, attract more customers and help the shopping center become more prestigious, beautiful and vibrant.

FGH plans an extensive renovation and upgrade of the FGH Property, both inside and out. The architectural plans and designs for the dispensary were prepared by Jeff Zook, an Oxnard-based architect who has won numerous prestigious awards and participates on the Oxnard Design Advisory Committee. The aesthetic is a contemporary design with an emphasis on natural and recycled materials. The interior will have a modern and large showroom, spacious waiting area and ample training center for employees.





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The renovation includes all new interior walls, ceilings, doors, floor and wall finishes, new high-end restrooms, and complete lighting and mechanical systems.



The exterior façade will also be redesigned to match the aesthetic of the interior, including an art installation. The goal is to make this one of the most beautiful dispensaries and shopping experiences in California, attracting visitors from neighboring cities.

Contrary to the fears of Appellants, FGHI's presence will boost business for its neighbors. Cannabis is the fastest growing industry in the United States. Cannabis sales are expected to reach \$92 billion in 2021 – up more than 30% from 2020 – and upwards of \$160 billion by 2025.¹ California is the biggest beneficiary of that growth trend given the size of its population and scope of its regulated cannabis sector, and Oxnard and FGHI will account for a significant share of those cannabis sales. FGHI through its relationship with the **Tree Factory** brand is expected to achieve its conservative sales goals of \$11 million in revenue and approximately \$800,000 in local taxes and charitable donations in Year 1 of operations, and \$16 million in revenue and \$1.1 million in local taxes and charitable donations by Year 3. FGHI's target customer ranges from 21-75 years of age, with an average age of 37. This demographic will, at the very least, logically create ancillary foot traffic for the restaurant, **Best Buy** and Appellant's gas station. It will likely also lead to more donations for the **Goodwill** store.

As the Planning Commission appreciated, FGHI will also bring much needed security to the *Rose II Center*. FGHI worked with the City to refine its security plan and receive the approval of the Oxnard Police Department. FGHI's security measures will be coordinated and overseen by Curtis Smith, a long time Ventura County resident, a retired Navy Seabee-Chief and a retired Oxnard

¹ <https://mjbizdaily.com/marijuana-industry-expected-to-add-92-billion-to-us-economy-in-2021/>.



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Police Detective. Curt's assignments at Oxnard PD included Field Training Officer, Police Academy Instructor, Narcotics Detective and Homicide Detective. He also served as President of the Oxnard Peace Officers Association. FGH's security measures will include multiple security guards, dozens of exterior and interior cameras, electronically-controlled points of entry, patrols in the parking lot to reduce nuisance activity and loitering, and enhanced exterior lighting. The Oxnard Police Department will have 24-7 web access to FGH's security cameras.

During the October 13, 2021 hearing, Port Hueneme Police Chief Andrew Salinas gave testimony in support of FGH's application for an SUP. Chief Salinas is a resident of Oxnard and has witnessed firsthand how dispensaries have reduced crime in Port Hueneme and how FGH's operating partner **Tree Factory** has successfully turned around a failing dispensary that it took over in 2021. According to Chief Salinas, there have been no nuisance problems or complaints related to Tree Factory in Port Hueneme and he commended its operators for their dedication to the community and for compliance. Steve Swenson, a retired Oxnard Police Officer who serves as a Safer Neighborhoods Specialist, likewise reported that in his view dispensaries reduce crime by taking precautions against theft and nuisance activity and increasing the presence of security.

Even before being granted the SUP, FGH began working with the Oxnard PD to improve security and reduce nuisance activity at the *Rose II Center*. For example, FGH's President Vanessa Hernandez met and spoke with Oxnard Police Officer Juanita Suarez on numerous occasions about ways to prevent ongoing loitering and vandalism issues and improve safety. With the input of Officer Suarez, FGH has already undertaken a number of minor improvements to improve safety and security, including 1) trimming trees and bushes to eradicate hiding spots for vagrants; 2) repairing the fence that separates the rear of the property from the 101 which became an access point for homeless and vagrants; and 3) picking up trash left behind by homeless and loiterers.



July 11, 2021



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Just these modest clean-up efforts by FGH in the last year and the frequent presence of its management team on the premises had led to a decrease in calls to the Oxnard PD relating to the *Rose II Center*. Several of the community members who spoke at the October 13 Planning Commission hearing commented on how FGH's presence has already improved the appearance and security of the shopping center. Those improvements will increase exponentially once FGH begins its renovations and operations and regular security presence.

D. The Planning Commission Thoroughly Considered and Rejected the "Adverse Affect" Claims of Appellant

In advance of the October 13 Hearing, Appellant's attorney Seena Samimi submitted written opposition to FGH's SUP application, in an October 6, 2021 letter, the same letter that Appellant references in his October 26, 2021 appeal.² This letter followed an earlier letter from Mr. Samimi dated June 15, 2021, which was substantively identical, and also circulated to the Planning Commission. Mr. Samimi's opposition argued, in relevant part, that the SUP could not be granted under Oxnard City Code §16-531 because the FGH dispensary would "adversely affect" neighboring businesses by causing cannabis odors, increasing crime and loitering, increasing insurance costs, making it more difficult for Appellant to obtain financing in the future, and deterring future tenants reluctant to lease space adjacent to a dispensary. In short, Mr. Samimi raised a slew of arguments in opposition, most of which fall under the umbrella of "nuisance" concerns.

In addition, Mr. Samimi argued that FGH's dispensary use would violate existing Easements with Covenants and Restrictions ("CC&Rs") governing the *Rose II Center*, because of the status of cannabis under federal law, and that FGH misled the City during the application process about Appellant's opposition to the project.

Planning Staff and the Planning Commission took Mr. Samimi's points seriously. Prior to the hearing, Associate Planner Jose Coyotl reviewed these contentions and discussed them in his Staff report to the Planning Commission. During the hearing, both Planning & Environmental Services Manager Scott Kolwitz and Chief Assistant City Attorney Kenneth Rozell addressed several points raised by Mr. Samimi, advising the Commissioners that they lacked any merit.

In particular, Mr. Rozell told the Commissioners several times in response to various questions that the CC&Rs are not a basis for denying an SUP as that is a private contract matter and the City's concern is the law of Oxnard with regard to cannabis as voted on by its voters and passed by the City Council. This echoed the conclusion of Associate Planner Coyotl in his October 7,

²As discussed in Section F below, it is FGH's position that pursuant to Oxnard City Code §16-545 the only issues to be considered by the City Council on this appeal are those expressly raised in the Appellant's October 26, 2021 filing, and not those raised in Mr. Samimi's letter of October 6, 2021.



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2021 Report to the Planning Commission, that “Staff has extensively reviewed the project and has found it in compliance with cannabis, general plan, and zoning regulations. ***Furthermore, the City does not enforce CC&Rs.***”³ (Emphasis added). Section 5 of the Draft Standard Conditions of Approval For Land Use Permits for FGH, dated September 7, 2021, likewise stated that “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).” (Emphasis added). In sum, Mr. Rozell advised the Planning Commission that because the City’s purview is whether a use complies with City law as articulated by the City Council, and not whether it violates a private contract restriction, and the City does not enforce private contracts, ***a purported conflict with CC&Rs is not an “adverse affect” that would justify denial of an SUP to FGH under Oxnard City Code §16-531(A).***

The Planning Commission gave extensive consideration to each of the concerns raised by Mr. Samimi and his clients. In fact, ***the hearing lasted 3 hours*** excluding breaks, and nearly all of that time was to vet and discuss the issues raised by Mr. Samimi. For example, during FGH’s opening presentation, I took time to address and rebut the contention that FGH had misled the City about the fact some of its neighbors opposed the project.

After the FGH presentation, the Planning Commission then spent an additional ***forty (40) minutes asking questions*** of Staff and FGH about Mr. Samimi’s “adverse affect” arguments, including whether FGH’s delivery operations would have any adverse impact on traffic flow near the dispensary or cause an increase in crime. In response to questions posed by Commissioner Dr. Lopez, there was extensive discussion of several nuisance concerns, such as odor and risks from increased cash handling. FGH was able to respond that the Tree Factory dispensary in Port Hueneme, which is owned and managed by some of FGH’s management, had not experienced any complaints from neighbors or criminal activity. FGH also explained that its access to banking and merchant services would significantly reduce the amount of cash being handled at the dispensary, one of the concerns raised by Mr. Samimi.

In response to several questions from Commissioners, FGH’s security consultant Curtis Smith spoke about some of the security safeguards including the number and training of guards, and ability of the Oxnard Police Department to monitor FGH’s premises and operations 24/7 through both internal and external security cameras. During this time, Retired Police Officer Swenson relayed that other cities had reported a decrease in crime around dispensaries and that FGH’s design exceeded the security standards for any retail business.

Thus, during this 40-minute Q&A session alone, the Planning Commissioners addressed a number of the “nuisance” issues raised in Mr. Samimi’s October 6, 2021 opposition letter.

³ Planning Commission Staff Report, Section 8.



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The Planning Commission then heard **30 minutes of public comment** from twelve (12) speakers including Mr. Samimi and Appellant Rothbart, who spoke about their concerns. Notably, Mr. Samimi and his clients were the only speakers in opposition to FGH - ***all the other public comment was in support of FGH***. Significantly, among the persons who spoke in support of FGH were a number of prominent community leaders and representatives of local non-profits who work in partnership with FGH, including the following:

- Nancy Lindholm, President of the ***West Ventura County Business Alliance*** (formerly the Oxnard Chamber of Commerce);
- Christina Zubko of ***Friends of Ormand Beach***;
- Marissa Roman of the ***Ventura County Contractors Association*** (located adjacent to the *Rose II Center* and who reported a reduction in homelessness and improvement of the appearance of the shopping center since FGH took over the property);
- ***Port Hueneme Police Chief Andrew Salinas***, who is also an Oxnard resident; and
- ***Port Hueneme Councilmember Bobby Martinez***.

Several other Oxnard residents also spoke in support of FGH – none spoke against FGH.

Both Chief Salinas and Councilmember Martinez spoke of their personal experience with Tree Factory in Port Hueneme, and its positive impact on the community, including sponsoring local non-profit events. Chief Salinas in particular reported a very positive experience with Tree Factory in Port Hueneme, with “zero negative issues,” and absolute confidence that FGH and Tree Factory will be good operators in Oxnard. Chief Salinas also report that crime has been down overall in Port Hueneme since its first dispensary opened.

When Mr. Samimi spoke during public comment, he focused on the alleged loss of business to his clients, loss of prospective tenants and increased insurance costs due to an adjacent dispensary, although he could not and did not provide any supporting data or even identify any prospective tenants that were lost due to cannabis fears when pressed to do so by Chair Chavez. He also argued – as Mr. Rothbart contends on this appeal – that his clients were not on notice of the fact FGH would be engaging in delivery at its premises, a claim that rings hollow for the reasons discussed in [Section E](#) below.

Appellant Rothbart repeated his lawyer’s points and argued (without any factual support) that a dispensary will deter tenants and increase insurance costs. Notably, Mr. Rothbart failed to mention that FGH had twice provided him with data showing cannabis dispensaries co-existing in more prestigious shopping centers in California. For example, attached as [Exhibit 1](#) are excerpts of a Power Point presentation given to Appellant and the other neighboring owners on February 23, 2021 setting forth just a few of numerous examples of dispensaries co-existing in shopping centers in California.



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One of Mr. Samimi's other clients, Beverly Gutierrez, spoke on behalf of the Goodwill Store, and argued that a dispensary would be "incompatible" with the family orientation of the existing uses and deter first-class tenants from leasing. Ms. Gutierrez, however, also failed to provide any evidence to support this contention, or explain why the Goodwill Store would be looking for a tenant to lease its space. Moreover, Ms. Gutierrez did not explain how the *Rose II Center* might be considered "family oriented" when not a single business there is family themed.

Notably, neither Mr. Samimi nor his clients even attempted to dispute the data provided to the Planning Commission by FGH showing a recent uptick in crime at the *Rose II Center*, and that FGH's presence would increase security and reduce crime. Several of the Commissioners specifically made note of the fact that Mr. Samimi's clients had failed to provide any data whatsoever to support their "averse affect" contentions. Similarly, they did not dispute that FGH would be good dispensary operators.

After the public comment period, the Planning Commission dedicated even more time to address Mr. Samimi's "adverse affect" claims, voting to spend **15 minutes more** to ask questions of Mr. Samimi, Chief Salinas and Councilmember Martinez concerning the impact of a dispensary on neighboring businesses. For example, in response to questions from Commissioner Nash, both Chief Salinas and Councilmember Martinez reported that the businesses adjacent to the Tree Factory dispensary in Port Hueneme seemed very pleased to have a dispensary in their shopping plaza, and Chief Salinas referenced tax revenue data provided by HdL (which serves as a consultant to both cities) showing that ***every business sector in Port Hueneme showing increased sales since the first dispensary opened in Port Hueneme***. Both Councilmember Martinez and Chief Salinas also stated that they would not have taken time to speak at the hearing unless they believed FGH and Tree Factory were good people. Chief Salinas added, that as an Oxnard resident, he "wholeheartedly" supports FGH.

Next, the Planning Commission heard additional comment from Staff to respond to claims made by Mr. Samimi. Messr. Coyotl discussed claims of a CEQA problem and concluded there was no merit to such claims. Mr. Kolwitz advised that from a planning perspective a dispensary in the *Rose II Center* was a compatible use. Mr. Rozell then made the following points in response to questions from some of the Commissioner:

- the claims of "adverse impacts" within the meaning of Oxnard City Code §16-531(A) were "pure speculation;
- there were no facts about tenants leaving the *Rose II Center* or rejecting the location due to cannabis;
- there was no evidence of increased insurance costs or loss of financing opportunities;
- the City is fully within its rights to allow the sale of cannabis and federal law as to cannabis, which is not even enforced, and purported conflicts with CC&Rs should not prevent the Planning Commission from approving the use through an SUP;
- in granting an SUP, "the City is not going to look to CC&Rs to see what our rules allow."



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When FGH was then provided with a final opportunity to respond to Mr. Samimi's claims, I provided the Planning Commission with actual examples (*see* [Exhibit 1](#) hereto) of dispensaries that are located in shopping centers next to national retailers and first-rate businesses.

The point is that the Planning Commissioners made a tremendous effort to vet the claims made by Appellant during the hearing, and heard extensive testimony from the public, FGH, Appellant and Staff, ultimately concluding there was no merit or evidence to support their adverse impact claims, and that the CC&Rs were a private matter and not a basis to deny FGH an SUP.

At the 3-hour mark of the hearing, the Planning Commission conducted its deliberations. Each of the Commissioners spoke, and none expressed any concerns about FGH as a dispensary operator or believed that there was a showing of "adverse affect." Significantly, more than one Commissioner pointed out the lack of data or documentation to support Mr. Samimi's claims.

Commissioner Dr. Lopez noted that Staff had done a remarkable job in its presentation and due diligence of the FGH project, and that several SUP conditions address the neighbor's concerns. Commissioner Connelly applauded the choice of FGH's location and its proximity to commercial centers and distance from residential areas.

And lastly, Chair Chavez pointed to the extensive review process that FGH had to undergo to get to this stage and that FGH does not meet the standard of causing undue harm to adjacent businesses. He also pointed to the poor condition of the Rose II Center and how FGH would help change it for the better: ***"This area has been rundown for a number of years...overgrown vegetation, trash, graffiti, homeless encampments,"*** with many police calls to the area. Chair Chavez relayed that even when Babies R Us was in operation he would not go there for fear of his safety and that of his daughter, and emphasized the safety improvements that would result from FGH's security presence at the *Rose II Center*.

The Commissioners then unanimously voted in favor of the SUP. This was a thorough and well-reasoned decision and Appellant has now shown any basis to question the Commissioners' judgment and deliberative process, let alone reverse their conclusion to grant FGH an SUP.

E. Current Issues on Appeal

1. Cannabis Delivery Is An Authorized Retail Use in Oxnard and Appellant Had Notice of Such Use

Appellant first argues that "no notice was given to the public regarding proposed delivery use." This is plainly wrong.

As an initial matter, FGH applied for a "retailer" cannabis license in Oxnard. State law authorizes cannabis retailers to engage in mobile delivery of cannabis goods to consumers. For example, Bus. and Prof. Code §26070(a)(1) defines a "retailer" license as authorizing "retail sale



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and delivery of cannabis or cannabis products to customer.” (Emphasis added). There are also numerous Department of Cannabis Control (formerly Bureau of Cannabis Control) regulations governing delivery operations.

Similarly, the Oxnard City Code makes it clear that cannabis retailers are authorized to engage in deliveries to consumers. For example, section 11-454(III) defines “Retailer” to include retail sales via delivery. FGH’s application for a license stated it was applying for a Type-10 “Retailer” license that would include a delivery component, and included extensive SOPs focused on delivery operations. That application was available to Appellant through the City website. https://www.oxnard.org/wp-content/uploads/2021/04/CCB-21-38_-FGH_redacted.pdf Throughout the Business Plan section and elsewhere in FGH’s application are references to FGH’s proposed delivery operations. And even FGH’s Phase 3 Power Point presentation (which Appellant acknowledges having) makes reference to its use of delivery drivers in the Location section. https://www.oxnard.org/wp-content/uploads/2021/03/CCB-21-38-3.-FGH_Phase-3-Presentation_02.18.21_redacted.pdf.

In addition, ***FGH directly told Appellant that it intended to engage in delivery sales.*** On February 23, 2021, FGH and I gave a two-hour long Zoom presentation to all the neighboring property owners at the *Rose II Center* and answered questions. This presentation was done at the request of the neighboring parcel owners, spearheaded by the owner of the property that leases to the Best Buy store (which has not opposed this project). During the presentation, we displayed an extensive PowerPoint presentation, including slides that referenced its delivery operations. (See [Exhibit 2](#) attached hereto). That presentation also included data showing how dispensaries lead to a reduction in crime and increase the economic prospects of adjacent businesses. (See [Exhibit 3](#) attached hereto). Thus, Appellant was fully aware of FGH’s delivery plans prior to the October 13 Planning Commission hearing.

Lastly, the proposed SUP conditions circulated by the City Staff to the public in advance of the Planning Commission hearing include in Nos. 150 and 155 a series of conditions governing cannabis deliveries, meaning FGH’s delivery operations were clearly considered by Planning Staff in reviewing and recommending approval of FGH’s business license and SUP.

The reality is that FGH’s delivery component will have no adverse impact on its neighbors. Delivery will reduce vehicle traffic to and from the facility, since FGH will be delivering to multiple consumers in a given trip. There is ample parking for FGH’s delivery vehicles. And other businesses in the *Rose II Center*, such as Best Buy, also engage in delivery.

This is not a basis to reverse the Planning Commission decision.



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2. FGH's Proposed "Event Space" Is A Community Benefit

Appellant's second contention is that FGH's "proposed event space" violates the CC&Rs.

However, FGH does **not** have an "event space." Rather, FGH's floorplan includes an "Education Room" where it will train its staff. This is an 877 sf space that can accommodate up to 18 occupants. As part of its proposed community benefits, FGH offered to also use the room to host meetings for its non-profit partners who lacked their own meeting place and events to educate the community on the cannabis use and wellness. FGH disclosed this fact to Appellant during its February 23, 2021 presentation (see [Exhibit 4](#) hereto) so to the extent there were questions or concerns Appellant could have raised them before.

In any case, FGH will not use its Education Room in a way that violates the CC&Rs. If FGH's desire to use its Education Room to benefit the community will violate the CC&Rs, FGH will modify its activities to avoid such a conflict, even if it means not hosting any events for the community. That would, however, be a loss to the Oxnard community.

F. Previous Issues Raised By Appellant

In addition to the two new issues raised on this appeal, Appellant's October 26, 2021 appeal also seeks to incorporate by reference "the reasons stated" in its October 6, 2021 letter to the Planning Commission. Oxnard City Code §16-545(C), however, requires that an appeal of a decision of the Planning Commission granting an SUP specify "the grounds for appeal." The "incorporation by reference" of other arguments previously raised with the Planning Commission does not appear to comply with the operative Code provisions.

Moreover, it is unclear from the filing which of the numerous arguments Appellant made to the Planning Commission that it seeks to repeat here, let alone the grounds for arguing that the Commission erred in resolving such contentions. Should the City Council nonetheless consider the points made in Mr. Samimi's October 6, 2021 letter, FGH submits the following response.

1. Appellant Has Not Provided Any Proof To Support Its Speculation That FGH Will Create A Nuisance or Cause A Negative Economic Impact

Mr. Samimi argued to the Planning Commission that FGH will adversely affect his clients due to (a) increased traffic, odors, loitering and crime ("nuisance concerns"), and (b) increased insurance cost, difficulty obtaining financing, loss of future tenants and loss of business ("economic concerns").

As detailed in [Section D](#) above, each of these concerns was examined and rejected by the Planning Commission at the October 13 hearing as unsubstantiated fears. For example, Commissioner Nash commented that there was no documentation to support the "adverse affect" claims made by Mr. Samimi during deliberations. There is no basis to disturb that finding, let



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alone justify the extreme step of overturning the Planning Commission's decision. In fact, the objective evidence presented by FGH to the Planning Commission undercuts all of Appellant's contentions about nuisance or negative economic impact.

For example, Staff analyzed **traffic** issues and concluded the dispensary will have no negative impact on vehicle traffic around the *Rose II Center*. FGH's delivery operations will obviously lessen the amount of vehicle traffic to the *Rose II Center*, which is a benefit for environmental and safety reasons, especially during the COVID-19 pandemic. The fact that Appellant even raises a concern about FGH attracting more consumers to the shopping center underscores the frivolous nature of this appeal.

The FGH dispensary will not produce a disturbing **odor** as Appellant seems to fear. As we explained to Appellant during the February 23, 2021 Zoom presentation (*see, e.g., Exhibit 5*), the City requires any cannabis dispensary as a condition of licensing to have in place extensive equipment, filtration systems and procedures to mitigate any offensive odor from being detectable outside the premises. *See, e.g.,* Oxnard City Code §11.480(I). The City deemed FGH's odor mitigation plan sufficient and SUP Condition No. 61 imposes further odor control restrictions upon FGH. Notably, FGH's odor management plan was available to Appellant for review <https://www.oxnard.org/wp-content/uploads/2021/04/CCB-21-38 -FGH redacted.pdf> and Appellant has not challenged the sufficiency of its components. Moreover, all goods sold in the FGH dispensary will be pre-packaged before entering the store premises, thereby making the emission of any cannabis odor virtually impossible. Thus, as a practical matter, there is no reason to believe the FGH dispensary will emit offensive odors.

Similarly, the City requires that licensed cannabis businesses prevent **loitering** and the use of cannabis anywhere near the licensed business. Oxnard City Code §§ 477(B)(6), 11-480(G)(3), 11-4840(L), 11-485(E). SUP Conditions No. 56, 84, 102, 103 and 131 obligate FGH to prevent consumption of cannabis and to patrol within 50 feet of the dispensary to prevent loitering. FGH's Security Plan addresses loitering and consumption concerns, with at least one of the security guards at all times focused on patrolling for these and other nuisance concerns, in addition to the security guard that monitors the video camera feed. Once operations begin, if FGH determines that it needs to hire additional security guards to prevent loitering and consumption of cannabis around its property, it will absolutely do so.

Mr. Samimi next argued that FGH is likely to have "millions of dollars in **cash**" on premises thereby increasing the risk of attempted theft. This concern is both factually incorrect and inconsistent with FGH's SOPs. In fact, the City requires FGH to have a robust cash management plan in place (Oxnard City Code §§477(A)(7), (A)(9) and (C)), and the City deemed FGH's extensive plan to be more than sufficient. SUP Condition No. 120 requires that the police chief or his designee approve FGH's cash handling procedures, so Appellant can take comfort in the fact that the Police Department will oversee cash handling to reduce risks of theft.



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Moreover, and as previously disclosed to Appellant during the February 23, 2021 Zoom presentation, and discussed during the Planning Commission hearing, ***FGH has access to banking and merchant services to reduce the amount of cash transactions.*** FGH will use a special courier service to make cash deposits on an as-needed basis to ensure that it never has on hand more cash than any other retailer, which will be fraction of what Appellant speculates. And finally, the consensus from the security experts, Retired Oxnard Police Officer Swenson and Chief Salinas, is that dispensaries reduce and deter crime. To that end, Planning Staff has also concluded that the FGH dispensary would not result in an increase in crime. Thus, Planning Staff wrote that “[w]ith implementation of the recommended operating conditions, the Police Department anticipates the retail of cannabis products will have little, if any, adverse impact on area crime or demand for policing services.”⁴

In sum, Appellant has not shown there is any merit to these nuisance concerns let alone that they constitute an “adverse affect.” With regard to Appellant’s “economic concerns,” they too are entirely speculative and, in most cases, illogical.

First, and as Mr. Rozell pointed out at the hearing, there is no basis to believe ***insurance costs*** will rise, or that Appellant will have difficulty in the future obtaining ***financing*** on his property. While cannabis businesses in the past may have had difficulty obtaining loans from conventional banks, that has never been the case for businesses *adjacent* to a cannabis business, and it is likely that Congress will soon pass the SAFE Banking Act, further removing any obstacles and risks for conventional lending institutions to support the cannabis industry. But again, since cannabis businesses in 2021 such as FGH can obtain loans, it is difficult to take seriously Appellant’s concerns that if it decides to refinance its property it will not be able to get financing because its neighbor is a cannabis business.

With regard to the concern about Appellant incurring increased ***insurance*** costs, Appellant raised this issue with FGH during its February 2021 presentation, and FGH proposed that if the fear materialized Appellant would seek to find an alternative insurance provider or even cover any increased insurance costs incurred by Appellant which were attributable to FGH’s business. But again, this concern is too speculative to constitute an “adverse affect.”

The claim that FGH’s presence will somehow result in the ***loss of leasing opportunities*** by Appellant is illogical. Appellant owns and operates a gas station at the *Rose II Center*, as well as a parcel of land that is leased to the Golden Corral, each of which are longstanding tenants and do not appear to be leaving anytime soon. The other two lots at the *Rose II Center* are occupied by anchor tenant Best Buy, and a Goodwill store, which also appear to be staying put for the long term. Mr. Samimi told the Planning Commission that the owner of the former Babies R Us space (which is now vacant) lost a possible tenant due to cannabis fears, but there is no evidence of that, and even if it was true the loss of one potential tenant does not justify denying a permit to FGH. Moreover, as was pointed out to the Planning Commission, that space has been vacant

⁴ Planning Commission Staff Report, Section 6.d.



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since 2018, well *before* FGH sought to open a dispensary at this location. It is simply a difficult location to rent given its size and that cannot be blamed on FGH.

Contrary to Mr. Samimi's claims, FGH's presence will not in any way restrict the type of tenants that can lease in the future, even assuming Appellant has a vacant space to lease. Oxnard City Code §11-473 imposes "sensitive use" restrictions requiring that FGH be 600 feet from schools, youth centers, and day cares, but those restrictions apply to FGH, *not* to prospective business. And, in any case, the same CC&Rs Appellant seeks to invoke against FGH expressly prohibit "day care and children's play centers," "educational uses" and "entertainment facilities" (Section 2.b), meaning that *no youth-oriented business would be permitted to lease in the Rose II Center regardless of FGH's presence.*

Lastly, there is no evidence to support, let alone any reason to believe, Mr. Samimi's speculation that FGH will lead to a ***loss of business*** by his clients in the shopping center. Most of the rationale for this speculation is built on the shaky foundation of nuisance concerns (i.e., odor) coming to fruition. Logically, it is more likely that Appellant's gas station, the Golden Corral and the other businesses will gain customers due to new consumers attracted by FGH. Several Planning Commissioners made similar observations, with Commissioner Dr. Sanchez stating he believed FGH could be an "economic engine" to drive business in the *Rose II Center*. There is in fact anecdotal evidence that neighboring businesses will benefit from FGH's presence. (See, e.g., [Exhibit 3](#)). Chief Salinas said this was his experience in Port Hueneme, and he has tax data from HdL to back up this statement.

The current state of the *Rose II Center* is sad – parts of it remain undeveloped or empty. It makes sense that a FGH's store, as part of the fastest growing industry in the United States, will draw hundreds of new customers daily, for itself and its neighbors, and revitalize the *Rose II Center*. FGH's Owners and Management has roots in Oxnard and is invested in the community and its improvement, for themselves and their families, and has a long track record of community involvement; it would make no sense for them to allow the dispensary and their investment to become a nuisance to their own community to make a buck.

2. FGH's Dispensary Use Does Not Conflict With The CC&Rs

Mr. Samimi argued to the Planning Commission that FGH's operation of a retail cannabis dispensary would violate the CC&Rs because the sale of cannabis conflicts with the federal Controlled Substances Act and constitutes a prohibited "Adult Use." Both contentions are false.

As an initial matter, and as City Staff and Chief Assistant City Attorney Rozell stated repeatedly, during the Planning Commission hearing, that a use may violate a private contract, when it comports with City law, is not a valid basis for denying an SUP, and not considered an "adverse affect." Thus, it is respectfully submitted that there is no need for the Planning Commission to delve into the *Rose II Center* CC&Rs. As Mr. Rozell told the Planning Commission, the City is



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fully within its rights to allow the sale of cannabis and federal law as to cannabis and any CC&Rs should not prevent the Planning Commission from approving the use through an SUP.

In any case, there is nothing in the CC&Rs that prohibits a cannabis business that is licensed and approved by the City of Oxnard from operating in the *Rose II Center*. And there is no statement in the CC&Rs to the effect that a business that is legal in California and in the City of Oxnard cannot operate because it is in violation of the federal Controlled Substances Act. The language Mr. Samimi relies upon was drafted twenty-five (25) years ago and did not contemplate a time when Oxnard, California, and indeed most of the United States would legalize medical and/or adult-use cannabis. It merely instructs not to violate any law “*of any governmental authority with jurisdiction over any portion of the Shopping Center*.” This antiquated language refers to land use and zoning law, which is the province of the City, and not federal authorities; and it does not mean that a cannabis dispensary licensed by the City of Oxnard pursuant to a law passed by the City Council is prohibited.

Moreover, the phrase “*governmental authority with jurisdiction*” is a term of art routinely used as shorthand in development documents, ordinances and industry codes to refer to the governmental authority that sets standards for myriad building code issues, equivalent to the term “authority having jurisdiction” (“AHJ”). There is a benefit to using a single term to refer to the group of agencies and authorities involved in enforcing and approving building and safety codes rather than seeking to list them all in the operative document. In Section 203.0 of the California Mechanical Code, for example, the term “Authority Having Jurisdiction” is defined as “[t]he organization, office, or individual responsible for enforcing the requirements of a code or standard, or for approving equipment, materials, installations, or procedures.” Similarly, Cal. Code of Reg. Title 24, Part 3, Art. 100, defines “Authority Having Jurisdiction” as “[a]n organization, office, or individual responsible for enforcing the requirements of a code or standard, or for approving equipment, materials, an installation, or a procedure.” Therefore, the AHJ language, and in particular the words “governmental authority with jurisdiction over any portion of the Shopping Center,” are “[t]echnical words [that] are to be interpreted as usually understood by persons in the profession or business to which they relate,...” and not in the ordinary sense of what jurisdiction might mean. (Cal. Civ. Code § 1645.) Simply put, it does not refer to federal law or have the meaning urged by Mr. Samimi.

Similarly, the CC&Rs do *not* prohibit all “adult use” as has been suggested by Appellant; rather as per section 2, the CC&Rs only prohibit very specific ones that implicate sexual activities (i.e., adult bookstores, adult theaters, massage parlors, and acupuncture studios).⁵ At bottom, the CC&Rs are not a basis for granting or denying FGH an SUP and in any case do not provide an obstacle to the dispensary operations FGH will undertake.

⁵ That acupuncture studios are prohibited reflects how out of touch the CC&Rs are with modern times.



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3. FGH Never Misled The City About The Support of its Neighbors

Mr. Samimi's suggestion that FGH has somehow misled the City about his clients' opposition to the FGH project is simply untrue. The Planning Commissioners questioned Mr. Samimi about this allegation and ultimately determined it lacked any substance. Nonetheless, FGH will briefly address this issue to assure the Council it has no validity.

FGH never claimed during the licensing process, or during its February 18, 2021 interview with Staff, that it had the full support of its neighbors. ***No place within FGH's application to the City does it makes this claim.***

To the contrary, during the application process FGH disclosed to the City that some of its neighbors were opposed to the project and taking the position that FGH's operation of a dispensary would violate the CC&Rs. I specifically discussed this matter with Chief Assistant City Attorney Rozell who advised me (as he advised the Planning Commission) that the City does not get involved in disputes pertaining to CC&Rs and that they are not a basis for a denial of a permit. During the interview with Staff on February 18, 2021, FGH disclosed that it was scheduled to meet the following week with neighboring property owners about their concerns.

And, in any case, as of the time FGH had its February 18, 2021 interview with the City, it was not yet clear Appellant Rothbart (or the other neighbors) would oppose the project. For example, on December 16, 2019 I provided Appellant Rothbart (at his request) with information showing numerous other dispensaries operating in comparable shopping centers in California, to demonstrate they can co-exist. (See [Exhibit 6](#) attached hereto). Thereafter I invited Mr. Rothbart to meet to discuss the data, but he never accepted my offer, much less indicated he was in opposition to the project. I didn't hear anything further from Appellant Rothbart about the FGH project—let alone any opposition to FGH's plans for more than a year—until February 23, 2021—when FGH and I gave our Zoom presentation to all the neighboring property owners.

Notably, this presentation to Appellant and the other neighboring owners was conducted approximately one week after FGH had its February 18, 2021 interview with the City. We were optimistic at that time that the neighbors would appreciate the obvious benefits of FGH's dispensary. It was only months later that we learned Mr. Samimi had written to the City in formal opposition to our plans and that Mr. Rothbart was opposed to FGH's dispensary plans, long after FGH had received its conditional license from the City. Thus, it is disingenuous for Appellant to claim FGH misled the City about its opposition when it was not even apparent to us at the time FGH made its presentation to the City.



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G. Conclusion

Appellant has the burden to demonstrate that the Planning Commission erred in granting FGH its SUP, and that there are real and cognizable “adverse affects” to Appellant resulting from FGH’s dispensary. Appellant has failed to meet this standard, and has failed to provide any real reason, let alone evidence, to disturb the judgment of the Planning Commission to grant an SUP to FGH.

Thus, the appeal should be denied.

Although Appellant is wedded to a negative vision of the future, out of fear or simply a rejection of cannabis as a legitimate business, the voters of Oxnard and California and the City Council have spoken and embraced cannabis and its economic prospects. FGH hopes that in time Appellant appreciates the value FGH can bring to his business and the *Rose II Center*.

Respectfully,

Michael Chernis, Esq.

cc: Planning@oxnard.org
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Jose.coyotl@oxnard.org
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Ashley.Golden@oxnard.org
Stephen.Fischer@oxnard.org

Exhibit 1

Shopping at the Rose II Presentation

February 23, 2021



Dispensaries Exist in High End Shopping Centers

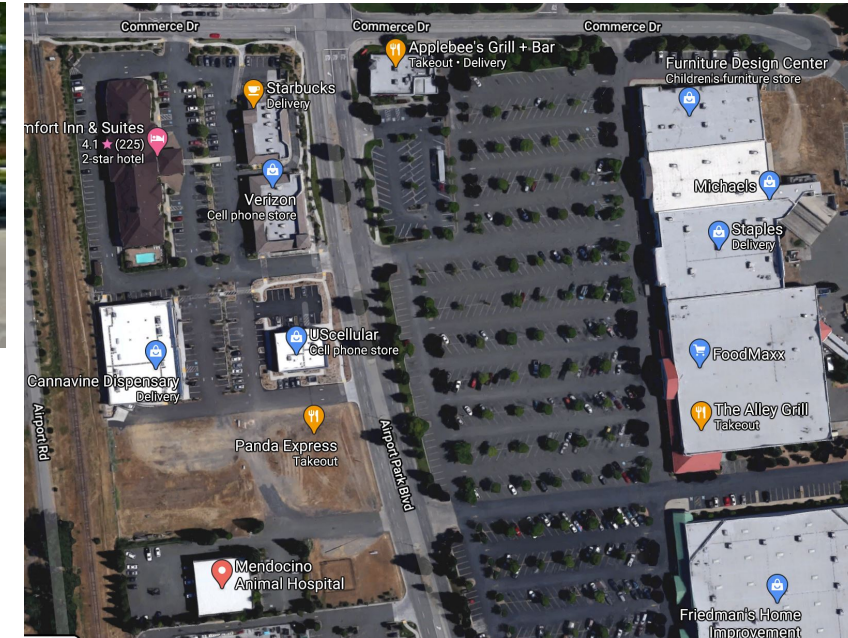
Examples



The Plant in Woodland Hills – located in the prominent Warner Center shopping plaza in Woodland Hills (adjacent to Westfield Topanga mall). This plaza like Rose II is several standalone lots/building with common areas. Other adjacent businesses in the plaza are **Staples**, **Scandinavian Designs (formerly Plummer's)**, **Farmers Insurance** and a **First Bank** (in the same building as dispensary). The immediately adjoining property includes a **McDonalds**, **REI**, **Eddie Bauer**, **Verizon**.



Zen Garden Wellness in Stockton – In a shopping plaza called the Hammer Ranch Shopping Center, along with the following businesses: **Carl's Jr.**, **Dollar Tree** (which has over 4,400 stores nationally), **H&R Block**, a US Post Office center, the **Shelter Thrift store**, a **Save-Mart Foods** store (more than 240 stores across California and Nevada), a **CVS** drugstore and pharmacy, a **Wells Fargo** and **United Cerebral Palsy**.



Cannavine Dispensary in Ukiah – located in a shopping plaza which like Rose has multiple buildings around a common lot. Other Buildings/businesses include **Sears** (same building), **US Cellular**, **Verizon**, **Comfort Inns Suites**, and **Starbucks**.

Dispensaries Exist in High End Shopping Centers

Examples



Toluca Lake Collective in Los Angeles – part of a two-building shopping center; dispensary is in the same building as **CVS**. There is a **Food 4 Less** in the building next door.



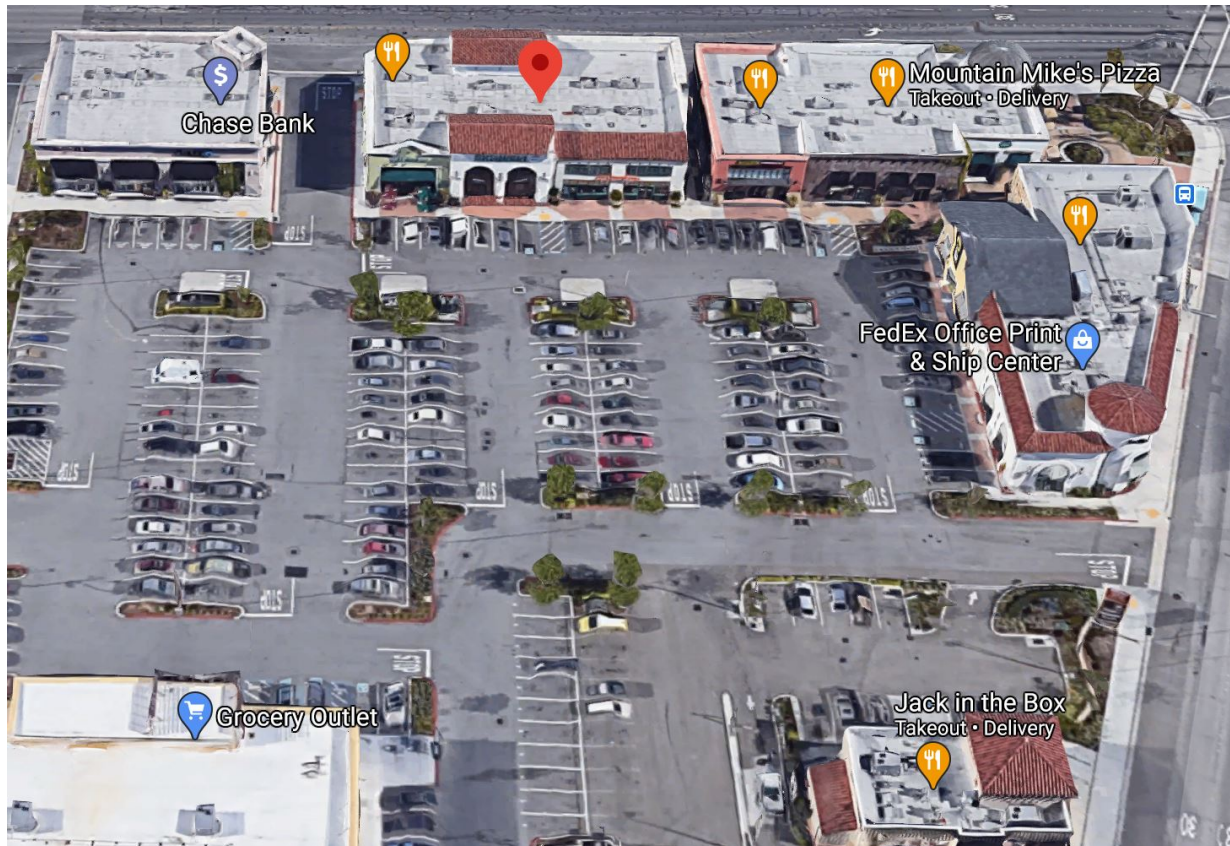
Holistic Healing Collective in Richmond – located in the Vista Del Mar Shopping center with the following businesses: **Round Table**, **UPS**, **Quizno's**, **Wells Fargo**, **Subway** and **Starbuck's**



Pal's Association in Bishop – in a shopping Plaza next to **Rite Aid**. In this plaza, there is also a **Subway** and **Domino's Pizza**.

Dispensaries Exist in High End Shopping Centers

Last example



Sugar Leaf (MedMen) in Seaside –

This is located in a shopping plaza, with several separate buildings, and the other businesses include *Chase Bank*, a *Jack in the Box*, *Fed Ex*, *Buffalo Wild Wings*, and a *Grocery Outlet Bargain Market* (company founded in 1946 with stores across multiple states).

Exhibit 2

Qualification of Owners



Maria Valadez - Dir. of Compliance and HR

- Santa Clara HS in Oxnard, Oxnard College, lifelong Ventura County resident and Oxnard resident 1999-2010
- Co-Owner of cannabis delivery business
- Cannabis Retail expert in Compliance, Training, SOPs
- 20+ years experience in government compliance HR and multi state regulatory compliance background



Lenea Gutierrez - CTO

- Online marketing expert in Cannabis
- Co-Owner of cannabis delivery business
- 3 years of cannabis retail operations experience
- Cannabis Inventory Management and E-commerce expert
- 15 years experience in online training /DMV Instructor
- Software Engineer, BS Computer Science, Cal Lutheran



Rick Hernandez- Delivery Management

- Born and Raised in Oxnard
- Co-Owner of Lompoc Dispensary
- Extensive cannabis delivery operations experience
- 30+ years of logistics management expertise with UPS

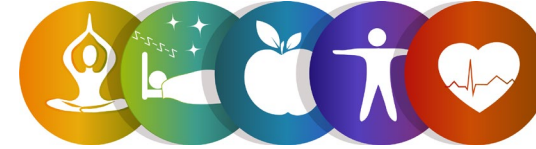


Andrea Hernandez - Inventory Management

- Resident of Oxnard since 2005
- Owns 3 local UPS Stores, UPS Bronze Star winner
- 15+ years of retail and inventory management experience
- Co-Owner of Lompoc Dispensary

Labor & Employment Plan

Proposed Compensation and Benefits Package



Creating a Healthy Culture Benefits FGH, Families and Community the "Oxnard Way"

POSITION	WAGE
Marketing Manager -1	\$65,000
Delivery Manager- 1	\$55,400
Inventory Manager -1	\$55,000
Dispensary Floor Manager- 3-4	\$55,400
Accountant/Bookkeeper -1	\$45,000
Budtender -10	\$41,600
Compliance Administrator-1	\$45,000
Purchase Administrator - 1	\$41,600
Processor/Router -3	\$41,600
Verification Clerks -4	\$35,360
Phone Budtenders – 5	\$33,280
Salesclerk (merchandise)- 1	\$33,280
Receiving/Processing Specialist- 4	\$33,280
Inventory Managers- 3	\$33,280
Online Ordering Clerks – 3	\$31,200
Delivery Drivers -7	\$31,200

BENEFITS

- Medical Insurance
- Vision/Dental
- Mental Health
- Life Insurance
- Vacation/Sick Time
- Parental Leave
- Retirement Plan
- Advancement Opportunities
- Employee 30% Discount

WELLNESS

- Promote Blue Zone Office Environment
- Downshift Stress techniques
- Eat More Plants & Fruits Days
- Yoga Class
- Mindfulness clinics
- Walking Breaks
- Team Building- Volunteer Days
- Health Incentives
- Drive Less - Commuter Benefits

*FGH will employ 50-60 employees with at least 80% local hire**

Employee Training and Onboarding

Provide ongoing training and yearly refresher courses to ensure staff maintain skills, knowledge on state and local regulations, product information and safety procedures.*



ONBOARDING

- 2 weeks (hands on & online)
- COVID Education
- Software
- Treez POS and Metrc
- Cannabis Waste Management
- Handling, Storing Product
- Cash Handling/Counterfeit
- Safety Plan
- Security Plan
- Daily Purchase Limits
- Odor Control
- Good Neighbor Policy

JOB SPECIFIC

- Additional 30hrs on SOPS
- Responsible use of Cannabis
- Proper Storage Education
- Methods of Cannabis Consumption
- General Botanicals/Chemical Components
- Proper Customer Service
- Proper Visual Inspection of Product

*Will NOT offer medical advice

DELIVERY

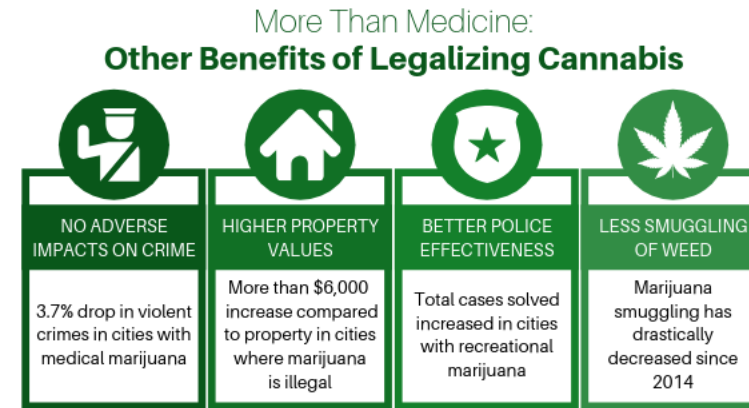
- Additional 30hrs
- Age Verification
- Delivery Ledger and Process
- Cash Storage
- Security Requirements
- Treez POS and Onfleet
- Permissible Delivery Locations
- Attempted Robbery Procedures

Exhibit 3

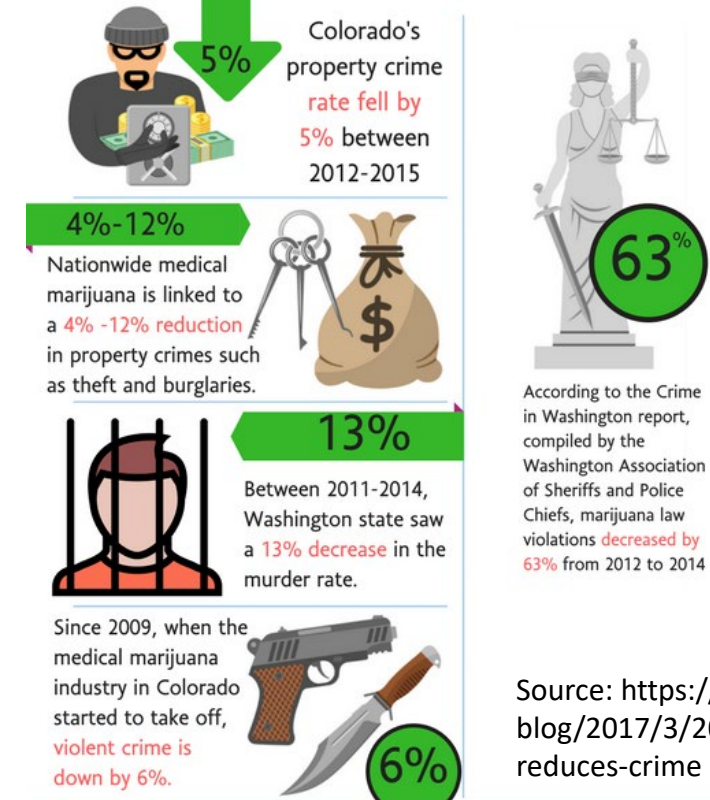
Correlation Between Dispensaries and Crime

No negative impact on crime rates

- Myth that legal cannabis promotes the spread of crime, brings property values or encourages teen marijuana use
- Humboldt Institute for Interdisciplinary Marijuana Research found that licensed cannabis dispensaries have been linked to either decreased crime rates or no changes in crime rate in given area, as well as increased property values and a decrease in teenage marijuana use.
- Study done in 2019 analyzing crime rates in Colorado and Washington, the first two states to legalize recreational use marijuana, found little to no effect on the number of property crimes.
- Dispensaries result in increased security presence and ancillary benefits from being highly regulated
- FGH will have 55 cameras combined for the interior and exterior, security guards and 24-hour security surveillance
- Oxnard Police has 24-hour remote access to log into all cameras
- Security Plan is required to mitigate nuisance concerns
- State mandated security measures, increased lighting, security, and foot traffic have served to deter crime around dispensaries



Is Marijuana Legalization Linked to Increased Crime?



Source: <https://www.mycannx.com/new-blog/2017/3/20/why-legal-cannabis-reduces-crime>

Correlation Between Dispensaries and Crime

- Illegal sources of marijuana are a hotbed for criminal activity, not the businesses that follow the rules.
- Legal cannabis retail has funded additional 3 police officers in Port Hueneme as an example
- As a result, Cannabis partially attributed by Chief Salinas to 39% overall drop in crimes in Port Hueneme

PORT HUENEME

With 30% dip in violent offenses, crime declines in Port Hueneme, according to report

Staff reports

Published 6:00 a.m. PT Mar. 6, 2020 | Updated 7:57 p.m. PT Mar. 6, 2020

[View Comments](#)



Don't be a victim of vehicle crime

Police in Ventura County offer advice on how to avoid vehicle theft and burglary. *Wochit*

Port Hueneme saw a 6.3% decline in crime in 2019, including a 30% drop in violent crimes in a year that brought no homicides and notable reductions in robberies and aggravated assaults.

Salinas said although some residents were concerned about a possible crime increase after marijuana dispensaries opened in the city, that never happened.

Housing: [How Port Hueneme aims to keep homeless from sleeping on beach](#)

He said the illegal sources of marijuana are a hotbed for criminal activity, not the licensed businesses that follow the rules.

After recreational marijuana became legal in the state, Port Hueneme embraced the industry. As a result, tax revenues from cannabis businesses have been a boon to the once cash-strapped city's budget coffers.

Dispensaries Create Economic Benefits in Shopping Centers

- Retail Foot traffic at shopping centers has decreased in recent years due to on-line shopping and other variables.
 - According to April 15, 2020 **CNBC Report**, US Retailers shut nearly 6,000 stores in 2019 while opening only 2,641 stores, and **Thaos** reported foot traffic decline at malls across country since peak in August 2018.
- Dispensaries have been shown to revitalize struggling shopping centers.
 - In Denver, a struggling shopping center had a 60% occupancy rate before rebranding with a retail cannabis dispensary; increased foot traffic and raised the occupancy rate to 95%. (<https://creaunited.com/recreational-cannabis-in-new-jersey-how-legalization-benefits-industrial-and-commercial-real-estate/>)
 - According to Spencer Levy, chairman of CBRE, part of the reason for retail dispensaries rejuvenating shopping centers is, “. . . the value of foot traffic. . .”. Abdel Jimenez, *Marijuana Dispensaries Can Boost Foot Traffic and Sales At Nearby Businesses, But Not Every Neighborhood Wants A Pot Store*, CHI. TRIB., Feb. 7, 2020
- The **Chicago Tribune** reported that since the opening of a new cannabis dispensary, there has been an increase of customers in a diverse range of businesses from bars/restaurants to nail salons to hardware stores.
- The introduction of new cannabis dispensaries in Colorado was also linked to a 7.7% average home price increase within a half-mile radius of the dispensary, with a diminishing home price increase as property locations were further away from a new dispensary. Jesse Burkhardt & Matthew Flyr. *The Effect of Marijuana Dispensary Openings on Housing Prices*. 37 Contemporary Economic Policy (2018). <https://onlinelibrary.wiley.com/doi/abs/10.1111/coep.12414>

Exhibit 4

Cannabis Community Benefits

Youth Prevention and Community Education



Preventing Youth Access to Cannabis

Jaime Moreno, Oxnard Educator, public servant for over 23 years, Head Coach, Oxnard High School Football, will advise FGH on marketing to prevent underage cannabis use

- Will collaborate with Oxnard Police Department to promote alternative activities for youth with financing from FGH
- Create social media promoting dangers of youth cannabis
- Vigilant security and ID verification



Community Education and Event Space

- 900 Sq Ft. dedicated event space for training and education
- Made available to community and nonprofits for meetings
- FGH sponsored events relating to cannabis including
 - Discussions by physicians on safe cannabis use
 - Proper storage of cannabis away from children and pets
 - Holistic wellness sessions
- Job Training in cannabis space

Exhibit 5

Neighborhood Compatibility

Odor Management Plan

As residents of Oxnard, we do not want cannabis odor escaping the facility.

- Pre-packaged cannabis goods
- HVAC- best practices
- Negative Air Pressure
- 10 Air Changes per Hour
- Ease of use for staff- plug and play, no tools required
- Regular Replacement of Equipment by “Air Cleaning Specialist (ACS)”
- Daily olfactometric measuring



CleanLeaf CL2500D-CCPHE

2000 CFM Odor Mitigation & Filtration System

Included Filters:

- 26" x 26" x 4" – 35% Pleated Pre-Filter
- 26" x 26" x 16" – 99.9% V – Bank HEPA
- (16) 7lb Carbon Canisters (112lbs)
- 26" x 26" x 2" – 35% Pleated After-Filter

Exhibit 6

From: [Michael Chernis](#)
To: ["Stanley Rothbart"](#)
Bcc: [Michael Chernis](#)
Subject: RE: Rose Property 2
Date: Monday, December 16, 2019 4:16:00 PM
Attachments: [California Dispensaries shopping centers.pdf](#)
[Out of state Dispensaries shopping centers.pdf](#)

Hello Stanley – I hope you had a nice thanksgiving.

Sorry for the delay but the project was a little more cumbersome then expected, especially given the holidays. But we have compiled comp data that we believe answers you question, in that it shows dispensaries already co-exist in shopping centers similar to Rose II. We have included our findings on the attached documents. There is one which lists about 20 California dispensaries, as well as a list of 4 out-of-state dispensaries. Each of the out-of-state dispensaries we found appears to be in a shopping center on par if not exceeding the level of stores in Rose, with big national brand retailers and restaurants and other businesses. For the in-state list of 20, more than half of them also fit the same criteria; some of the ones we included we could not determine if the dispensary was technically on the same property as the shopping center but even in those cases the dispensary is co-existing immediately adjacent to big national retail brands and parking, and a few are smaller shopping plazas which include national brand retailers or restaurants, but not quite what I would call a shopping center.

I hope this satisfies you that Rose II would not be the first shopping center of its kind to have a dispensary. While we have not determined for each of these locations whether CCRs or ECRs exist, I think given the type of properties we are looking at it is safe to say most of them do.

Lastly, we believe there are other examples out there, especially in other states, of dispensaries in shopping centers, but which we have not yet identified. That is because I do not have access to this information from out of state and thus had to rely on examples provided to me by colleagues. And as for in-state, I got the universe of dispensaries from the State website of retailers already operating, but that does not include hundreds of dispensaries that are not yet operational but are in the planning or build-out stage, some of which may be in shopping centers. For example, Los Angeles is in the process of approving licenses for an additional 100 applicants, some of which are no-doubt located in shopping centers.

Please let me know when you would like to meet to discuss this further.

Thank you, Michael

From: Stanley Rothbart <stan@rothbartdev.com>
Sent: Wednesday, November 27, 2019 8:39 PM
To: Michael Chernis <michael@chernislaw.com>
Subject: Re: Rose Property 2

I would like to visit the centers in person (assuming that they are convenient) before we meet

Stanley Rothbart
Stan@rothbartdev.com

On Nov 27, 2019, at 6:17 PM, Michael Chernis <michael@chernislaw.com> wrote:

At the meeting was what I was thinking

From: Stanley Rothbart <stan@rothbartdev.com>
Sent: Wednesday, November 27, 2019 6:15 PM
To: Michael Chernis <michael@chernislaw.com>
Subject: Re: Rose Property 2

When will you get me the comp locations

Stanley Rothbart
Stan@rothbartdev.com

On Nov 27, 2019, at 4:06 PM, Michael Chernis
<michael@chernislaw.com> wrote:

Hi Stanley – I am following up on our call from last week and the dispensary issue. As you suggested we are putting together a list of comp situations with dispensaries to review with you and was wondering whether you might be available for a meeting towards the end of next week.

Have a nice thanksgiving.

Michael

Michael S. Chernis, Esq.
CHERNIS LAW GROUP P.C.
Santa Monica Water Garden
2425 Olympic Blvd
Suite 4000-W
Santa Monica, CA 90404

Tel: (310) 566-4388
Fax: (310) 382-2541
Michael@chernislaw.com

www.chernislaw.com

<image001.jpg>

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Dispensary Name & Address	County	Image	Additional Image, if any	Details/Notes			
PAL'S ASSOCIATION 1367 ROCKING W DR BISHOP, CA 93514 http://Palscollective.com	Inyo		https://www.screencast.com/t/WjgUgFd9N5L	In a shopping plaza next to Rite Aid and there's a Subway, and a Dominos Pizza			
THE PLANT formerly known as the Highland Park Patient Collective 21759 ERWIN ST WOODLAND HLS, CA 91367	Los Angeles		https://www.screencast.com/t/B8HJLqmrB	This is located in the prominent Warner Center shopping plaza in Woodland Hills (adjacent to Westfield Topanga mall). This plaza like Rose is several standalone lots/building with common areas. Other adjacent businesses in the plaza are Staples, Scandinavian Designs (formerly Plummers), Farmers Insurance and a First Bank (in the same building as dispensary). The immediately adjoining property (some of which may be part of separate development) includes a McDonalds, REI, Eddie Bauer, Verizon, and then the Westfield Topanga mall.			

<u>TOLUCA LAKE COLLECTIVE</u> 3650 OLYMPIC BLVD LOS ANGELES, CA 90023	Los Angeles		https://www.screencast.com/t/t46klYfJKFw	This is part of a two building shopping center; dispensary is in same building as CVS. There is a Food 4 Less in building next door			
<u>STONE AGE FARMACY</u> ALTERNATE HEALTH COLLECTIVE ASSOCIATION 3428 LONG BEACH BLVD LONG BEACH, CA 90807	Los Angeles		Stone Age Image 1	This is located in the Long Beach Blvd Center which includes the following businesses: Subway, 7-11, Sprint			
<u>CANNAVINE</u> <u>(aka UKIAH VALLEY HOLISTICS)</u> 1230 AIRPORT PARK BLVD UKIAH, CA 95482	Mendocino	https://www.google.com/maps/place/Cannavine/@39.131348,-123.1996246,55m/data=!3m1!1e3!4m5!3m4!1s0x808165861d1a540d:0x55cd4a086c72bd8b!8m2!3d39.1312817!4d-123.1997145		This is located in a shopping plaza which like Rose has multiple buildings around a common lot. Other Buildings/businesses incldue Sears (same building), US Cellular, verizon, Comfort Inns Suites, and Starbucks.			

SUGAR LEAF (MED MEN) 840 Broadway Ave Suite B-4, Seaside, CA 93955	Monterrey	https://www.google.com/maps/place/840+Broadway+Ave+Suite+B-4,+Seaside,+CA+93955/@36.6086728,-121.8472851,159m/data=!3m1!1e3!4m13!1m7!3m6!1s0x808de4f043b09971:0x361939e22146a679!2s840+Broadway+Ave+Suite+B-4,+Seaside,+CA+93955!3b1!8m2!3d36.6089875!4d-121.8467713!3m4!1s0x808de4f043b09971:0x361939e22146a679!8m2!3d36.6089875!4d-121.8467713		This is located in a shopping plaza, with several seperate buildings, and the other businesses include Chase Bank, a Jack in the Box, Fed Ex, Buffalo Wild Wings, and a Grocery Outlet Bargain Market (company founded in 1946 with stores across multiple states).			
CONNECTED CANNABIS STOCKTON 678 WILSON WY STOCKTON, CA 95205 connectedcannabisco.com	San Joaquin		https://www.screencast.com/t/9EbOxPluHtt	Located in the Eastland Plaza Shopping Center, which is organized like Rose, with multiple seperate lots around a shared lot. The other businesses include: Subway, Food 4 Less, Bank of the West, Dollar Tree, Health Net. El Pollo Lolo and Burger King			
ZEN GARDEN WELLNESS STOCKTON PARTNERS, INC. 7632 PACIFIC AVE STOCKTON, CA 95207	San Joaquin		Zen Garden Wellnes Img	In a shopping plaza called the Hammer Ranch Shopping Center, along with the following businesses: Carls Jr., Dollar Tree (which has over 4,400 stores nationally), H&R Block (a national tax preparer services with over 11,000 retail locations in the US alone), a US Post Office center, the Shelter Thrift store, a Save-Mart Foods store (more than 240 stores across California and Nevada), a CVS drugstore and pharmacy, a Wells Fargo and and United Cerebal Palsy).			
SONOMA PATIENT GROUP 2425 CLEVELAND AVE SANTA ROSA, CA 95403	Sonoma	Sonoma Patient Group Img		This is in a shopping plaza next to Big 5 Sporting Goods.			

<u>SOLFUL</u> GRAVENSTEIN 116 LLC 785 GRAVENSTEIN HWY SEBASTOPOL, CA 95472 Solful.com	Sonoma		Solful Map	In a shopping plaza that includes the following businesses: Starbuck's, Round Table Pizza which has been around since 1961 and has more then 400 locations across California and several other states and countries, and is now owned by Global Franchise Group, and operates 1500 franchised and corporate stores in over 16 countries.			
<u>DELTA HEALTH & WELLNESS</u> 2416 17TH ST SACRAMENTO, CA 95818	Sacramento		https://www.screencast.com/t/MWY2WwilTh2	located in a small shopping plaza that shares lot with Chase Bank			
<u>MR. NICE GUY</u> Monex Place Wellness, Inc. 730 DYER RD SANTA ANA, CA 92705	Orange	https://www.google.com/maps/place/Mr+Nice+Guy/@33.7082354,-117.8552617,162m/data=!3m1!1e3!4m5!3m4!1s0x0:0xcdbffd7a0c50ee2!8m2!3d33.7084886!4d-117.855202		Located in a shopping center configured like Rose, with multiple businesses and buildings around a common lot; other businesses include a Jack n the Box, Shell, Subway			
<u>BIG O RELIEF</u> 16940 CA-14, Mojave, CA 93501	Kern	https://www.google.com/maps/place/Big+O+Relief+%7C+Medical+Marijuana+Collective/@35.0687395,-118.1763627,17z/data=!3m1!4b1!4m5!3m4!1s0x80c259dae3c6a0ef:0x35f356e9ce674555!8m2!3d35.0687395!4d-118.174174		In a shopping center with Stater Bros Market, configured like Rose with seperate lots and a common lot			

<u>HOLISTIC HEALING COLLECTIVE</u> 15501 SAN PABLO AVE RICHMOND, CA 94806 www.holistichealingcollective.org	Contra Costa		https://www.screencast.com/t/jAH2n4XQHA	This is located in the Vista Del Mar Shopping Center along with the following businesses: Round Table, UPS, Quizno's, Wells Fargo, Subway and Starbucks, among others.			
<u>COASTAL DISPENSARY</u> 1019 CHAPALA ST SANTA BARBARA, CA 93101 Website- www.coastaldispensary.com	Santa Barbara		https://www.screencast.com/t/c2IVSCQYPd	In the shopping plaza adjacent to Ralph's, Starbuck's, although they may technically not be part of the same center			
<u>PALM ROYALE COLLECTIVE</u> 75048 GERALD FORD DR PALM DESERT, CA 92211	Riverside		https://www.screencast.com/t/sKUEf4t30DmG	This is located in the same center as a Kaiser Permanente medical center, and adjacent to a Circle K and Mobil			

LEAF & LION PORT RETAIL LLC 437 W CHANNEL ISLANDS BLVD PORT HUENEME, CA 93041	Ventura		Leaf and Lion Img	This is right next door to an Avis and budget car rental store where all businesses share one building. In the same complex and in adjacent buildings is a Dominos Pizza and Pizza Hut, amonth other businesses.			
MOE GREENS FMSF, INC 1276 Market St, San Francisco, CA 94102	San Francisco		https://www.screencast.com/t/BAVQXgjN	Next to Wells Fargo			
ZONE2 CALIFORNIA STREET 212 California St, San Francisco, CA 94111	San Francisco			located in Financial District, next to Charles Schwab			
GREEN REMEDY 2928 Hilltop Mall Rd, Richmond, CA 94806	Contra Costa	https://www.google.com/maps/place/Green+Remedy/@37.9797091,-122.3305116,17.3z/data=!4m5!3m4!1s0x0:0x77c67ebbcbe2f7a5!8m2!3d37.978159!4d-122.3318221		This is included because it is on the perimeter of the Shops at Hilltop, which includes a Macys, Walmart and 24 Hour Fitness. Not in the same complex			

CITY COUNCIL OF THE CITY OF OXNARD

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OXNARD DENYING THE APPEAL AND UPHOLDING PLANNING COMMISSION APPROVAL OF PLANNING AND ZONING PERMIT NO. 21-516-36 (SPECIAL USE PERMIT) TO ALLOW A REQUEST TO PERMIT THE OPERATION OF A COMMERCIAL CANNABIS RETAIL FACILITY WITHIN AN EXISTING 23,275 SQUARE-FOOT COMMERCIAL SUITE OF A 92,591 SQUARE-FOOT MULTI-TENANT COMMERCIAL BUILDING ON A 17.38-ACRE SITE LOCATED AT 2320 NORTH ROSE AVENUE (APN: 213-0-011-175, 213-0-011-255, 213-0-011-265, 213-0-011-275, 213-0-011-195, 213-0-011-205, 213-0-011-215, AND 213-0-011-225) LOCATED AT 2320 NORTH ROSE AVENUE, SUBJECT TO CERTAIN FINDINGS AND CONDITIONS. FILED BY JEFF ZOOK ON BEHALF OF FGH RETAIL SERVICES, LLC., 505 S. A STREET SUITE 200, OXNARD, CA 93030, ON BEHALF OF FGH RETAIL SERVICES, LLC.

WHEREAS, on March 30, 2021, Jeff Zook, (the “**Applicant**”), submitted a request to permit the operation of a commercial cannabis retail facility within an existing 23,275 square-foot commercial suite of a 92,591 square-foot multi-tenant commercial building on a 17.38-acre site within the General Commercial (C-2) zone. Proposed development includes tenant improvements: installation of interior wall partitioning, plumbing upgrades, upgrades to an existing fire alarm system, security upgrades to the existing building, and installation of new secure doors/windows, and upgrades to the storefront facade. Cannabis retail operations will be conducted between the hours from 9:00 AM to 9:00 PM daily (collectively, the “**Project**”); and

WHEREAS, on October 7, 2021, the Planning Commission of the City of Oxnard (“**Planning Commission**”) conducted a duly noticed public hearing and received public testimony to consider the application for Planning and Zoning Permit No. 21-516-36 (Special Use Permit- Cannabis Retail) associated with the Project in accordance with Oxnard City Code Sections 16-530 through 16-553 of the Oxnard City Code ; and

WHEREAS, on October 7, 2021, the Planning Commission continued the public hearing to a date certain of October 13, 2021; and

WHEREAS, on October 13, 2021, the Planning Commission continued a a duly noticed public hearing and received public testimony to consider the application for Planning and Zoning Permit No. 21-516-36 (Special Use Permit- Cannabis Retail) associated with the Project in accordance with Oxnard City Code Sections 16-530 through 16-553 of the Oxnard City Code ; and

WHEREAS, on October 13, 2021, the Planning Commission also reviewed all of the information provided in the staff report and considered the testimony given at the public hearing, including all written communications to the Planning Commission, as well as other pertinent information; and

WHEREAS, on October 21, 2021, the Planning Commission voted 6-0, with one Commissioner abstained, to adopt Resolution No. 2021-31 to deny the project; and

WHEREAS, on October 26, 2019, the Applicant filed a timely Appeal application with the City of the decision of the Planning Commission's approving of Planning and Zoning Permit No. 21-516-36 within 18 days after the Planning Commission action pursuant to Sections 16-544 and 16-545 of the Oxnard City Code ("OCC"); and

WHEREAS, on December 7, 2021, the City Council conducted a duly noticed public hearing to consider the Appellant's Appeal of the Planning Commission's decision to Approve Planning and Zoning Permit No. 21-516-36 (Special Use Permit) in accordance with Oxnard City Code Sections 16-530 through 16-553 of the Oxnard City Code; and

WHEREAS, the Planning and Environmental Services Division has completed a preliminary environmental assessment of the Project in accordance with the California Environmental Quality Act (CEQA) and determined that the Project is subject to a Section 15301 (Existing Facilities) Categorical Exemption. Further, the project does not trigger any of the Exceptions to the Exemptions (Section 15300.2) to defeat the Exemption:

- (a) **Location. Classes 3, 4, 5, 6, and 11 are qualified by consideration of where the project is to be located -- a project that is ordinarily insignificant in its impact on the environment may in a particularly sensitive environment be significant. Therefore, these classes are considered to apply to all instances, except where the project may impact on an environmental resource of hazardous or critical concern where designated, precisely mapped, and officially adopted pursuant to law by federal, state, or local agencies.**

The project site is located within the 2030 General Plan land use designation of Commercial General and the zoning is General Commercial (C-2). The Project is surrounded by commercial buildings. The project site and adjacent sites do not contain any known environmental resource of hazardous or critical concern. Therefore, the project will have no impact on an environmental resource of hazardous or critical concern.

- (b) **Cumulative Impact. All exemptions for these classes are inapplicable when the cumulative impact of successive projects of the same type in the same place, over time is significant.**

The proposed cannabis retail facility is consistent with the 2030 General Plan, and the Oxnard City Code and is compatible with the scale and character of other commercial development in the project area. Any projects requiring discretionary approval would be analyzed with the 2030 General Plan and the Oxnard City Code for consistency and CEQA for any potential impacts. Therefore the project will have no significant cumulative impact.

- (c) **Significant Effect. A categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances.**

The proposed cannabis retail facility will not result in an unusual circumstance that would cause the project to have a significant effect on the environment. The project will not alter the commercial uses of the surrounding development and the property does not contain any unusual environmental characteristics as the property is surrounded on all sides by an established commercial development. Therefore, the project will not have a significant effect on the environment due to unusual circumstances.

- (d) Scenic Highways. A categorical exemption shall not be used for a project which may result in damage to scenic resources, including but not limited to, trees, historic buildings, rock outcroppings, or similar resources, within a highway officially designated as a state scenic highway. This does not apply to improvements, which are required as mitigation by an adopted negative declaration or certified EIR.**

The project is not located in or adjacent to a State designated scenic highway.

- (e) Hazardous Waste Sites. A categorical exemption shall not be used for a project located on a site, which is included on any list compiled pursuant to Section 65962.5 of the Government Code.**

The proposed project site is not included on any list compiled pursuant to Section 65962.5 of the Government Code as confirmed by staff on September 20, 2021.

- (f) Historical Resources. A categorical exemption shall not be used for a project, which may cause a substantial adverse change in the significance of a historical resource.**

The project site does not contain an existing or potential landmark, point of interest, or historic resource, and it is not located within an existing, proposed, or potential Historic District. Therefore, the proposed project will not cause a substantial adverse change in the significance of a historical resource.

WHEREAS, on December 7, 2021, the City Council also reviewed all of the information provided in the staff report and considered the testimony given at the public hearing, including all written communications to the Planning Commission, as well as other pertinent information; and

WHEREAS, on December 7, 2021, the City Council deliberated the merits of the Project and Appeal and made a motion to Deny the Appeal and uphold Planning Commission Approval of Planning and Zoning Permit No. 21-516-36 finding that the Appellant has not provided substantial evidence to support the Appeal.

WHEREAS, the proposed project is consistent with the following:

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF OXNARD HEREBY APPROVES PLANNING AND ZONING PERMIT NO. 21-516-36 (COMMERCIAL CANNABIS BUSINESS RETAIL SPECIAL USE PERMIT), SUBJECT TO THE FOLLOWING FINDINGS AND CONDITIONS.:

SECTION 1. Based on the entire record before the City Council and all written and oral evidence presented, including the City Council and Planning Commission Staff Reports and all attachments thereto, the City Council finds:

1. The proposed use is in conformance with the General Plan and other adopted policies of the City of Oxnard.

As described in the Staff Report, the proposed cannabis retail facility is an allowable use within the General Commercial (C-2) zone, subject to approval of a Special Use Permit. As documented in the attachments to the staff report, the Project is in compliance with General Plan, zoning and cannabis regulations. This Resolution includes 189 conditions of approval which were crafted for compliance with the requirements set forth pursuant to OCC Article XVII (Commercial Cannabis Activity) to ensure operational standards were met. Therefore, the proposed cannabis retail use is in conformance with the 2030 General Plan, Oxnard City Code, and the elements thereof and other adopted standards. Therefore, this Project meets this finding.

2. The nature, condition and development of adjacent uses, buildings and structures shall be considered, and no proposed special use permit shall be granted if the approval body finds such use will adversely affect or be materially detrimental to such adjacent uses, buildings or structures or to the public health, safety or general welfare.

As described in the Staff Report, the Project will allow cannabis retail within an existing building within an existing commercial shopping center. General retail uses, and other more intense uses such as restaurants and wedding chapels, are allowed permitted uses within the C-2 zone which do not require a Special Use Permit. The proposed retail cannabis use requires a Special Use Permit to ensure operational characteristics of the business will be both compatible with and not adversely affect or be materially detrimental to the other uses, buildings or structures within the shopping center.

As the Project will be located more than 600 feet from established commercial cannabis sensitive uses, the Project is consistent with public health, safety and general welfare by City standards. This Resolution includes 189 conditions of approval which were crafted for compliance with the requirements set forth pursuant to OCC Article XVII (Commercial Cannabis Activity) to ensure operational standards were met. After considering extensive testimony about the enhancements the proposal would bring to the vacant tenant space, the City Council finds the increase in customers to the shopping center and the decrease in crime rates experienced at other cannabis facilities with enhanced security, the City Council also finds the Project will not aggravate policing issues when properly regulated through the imposition of and compliance with the conditions of approval. Based on these factors, the City Council finds this business, responsibly

managed, would not have an adverse impact on area crime or demand for police services. Conversely, the City Council finds the proposed use would be a beneficial addition to the shopping center by bringing in new customers, making enhancements to the building and parking areas, and would introduce a private security component which would benefit all tenants within the shopping center. As such, this Project meets this finding.

3. The site that is subject to the special use permit shall be adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and items which may be required by Section 16-532 (Conditions).

As described in the Staff Report, the Project will be located within an existing building within an existing shopping center within the Commercial Planned Development (C-2) zone which has previously been reviewed and approved to ensure the development is adequately proportional to the size of the property and served by public infrastructure. The existing project site is a developed 17.38-acre lot. Pursuant to the C-2 zone, the Project will be located within an existing building designed to be consistent with the development and design standards included within the C-2 zone, including, but not limited to, maximum building height, front, side and rear setbacks, lot coverage, landscaping, and equipment screening standards. The gross floor area of the building will not be changed while the Project includes a facade modification with unique architecture. The existing development is not consistent with the City's parking standards for motorcycles (17 required) or bicycle parking (20 required). The parking lot will provide parking for a minimum of 665 vehicles, including 12 accessible parking spaces, 622 standard parking spaces, and 39 compact parking spaces, and the project has been conditioned to provide a total of 17 motorcycle parking spaces and 20 bicycle spaces within the whole of the shopping center's shared parking lot. The project site has a frontage and vehicular access on Rose Avenue and Lockwood Street. Proposed interior tenant improvements to the site will be reviewed for compliance with C-2 zoning requirements. Given these circumstances, the site for the proposed use is adequate in size and shape to accommodate the setbacks, parking, landscaping, and other City standards. Therefore, this Project meets this finding.

4. The site that is subject to the special use permit shall be served by highways adequate in width and improved as necessary to carry the kind and quantity of traffic such use will generate.

As described in the Staff Report, the project is currently served by existing infrastructure and will continue to be accessed directly from Rose Avenue and Lockwood Street, which indirectly connects to Highway 101. The proposed cannabis retailer is not anticipated to generate significant traffic that would require improvements to infrastructure. Therefore, the site for the proposed retail of cannabis products will be served by highways adequate in width and improved as necessary to carry project-generated traffic.

The existing development is not consistent with the City's parking standards for motorcycles (17 required) or bicycle parking (20 required). The parking lot as designed will provide parking for a minimum of 665 vehicles, including 12 accessible parking

spaces, 622 standard parking spaces, and 39 compact parking spaces, and 16 motorcycle parking spaces. Based on the configuration of the proposed cannabis retail facility the entire project site requires 2 loading spaces. The project will utilize an existing customer parking loading zone along the northwest side of the buildings accessed by the main storefront entrance to the tenant space. The project is consistent with City parking requirements. The project has been conditioned to include a total of 17 motorcycle and 20 bicycle parking spaces within the whole of the shopping center's shared parking lot, to design motorcycle and bicycle space during the building permit process, and provide these spaces prior to a Certificate of Occupancy being issued. The project also includes short and long term parking to support bicycle use. Therefore, the site will be served by streets, highways, transit and bike facilities adequate to provide access to the proposed building and its anticipated uses. As such, this Project meets this finding.

5. The site that is subject to the special use permit shall be provided with adequate sewerage, water, fire protection and storm drainage facilities.

As described in the Staff Report, the proposed Project will operate within an existing development with minor tenant improvements proposed. The Project has been reviewed by City Departments and divisions who have determined that the project is currently served by adequate electricity, sewerage, disposal, and water. The proposed use is not anticipated to generate utility demands in quantities that are different from other commercial uses which have previously occupied the building. Therefore, the site for the proposed use will be provided with adequate sewerage, water, fire protection and storm drainage facilities. As such, this Project meets this finding.

SECTION 2. The City Council, in accordance with the California Environmental Quality Act (CEQA), determined that the Project will not have a significant impact on the environment and is categorically exempt from CEQA pursuant to Article 19, Section 15301 (Existing Facilities) of the State CEQA Guidelines pertaining to projects involving "negligible or no expansion of use beyond that existing at the time of the lead agency's determination" may be found to be exempt from the requirements of CEQA. The Project involves a request to retail cannabis products within an existing commercial building, the project request will not increase the square footage of the existing building. No Exceptions to the Exemptions (Section 15300.2) apply to defeat the Exemption. Therefore, the City Council has determined that there is no substantial evidence that the Project will have a significant effect on the environment. The Planning and Environmental Services Manager is hereby authorized to file a Notice of Exemption with the Ventura County Clerk pursuant to Section 15602 of the State CEQA Guidelines within five (5) working days of passage, approval and adoption of this Resolution.

SECTION 3. Based on the findings set forth herein, the City Council hereby denies the Appeal of the Planning Commission's approval and upholds the Planning Commission's approval of Planning and Zoning Permit No. 21-516-36 (Commercial Cannabis Business Retail Special Use Permit), subject to the attached conditions of approval.

SECTION 4. The decision of the City Council shall be final.

SECTION 5. The City Clerk shall certify the adoption of this Resolution.

**CONDITIONS OF APPROVAL
FOR LAND USE PERMITS**

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	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 October 7, 2021 (“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. All required off-site and on-site improvements for the project, including structures, paving, and landscaping, shall be completed prior to occupancy unless the Planning Manager allows the Applicant to provide security or an executed agreement approved by the City Attorney to ensure completion of such improvements. (DS, *G-4*)
4. By commencing any activity related to the project or using any structure authorized by this permit, the Applicant 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*)

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. Applicant 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, Applicant shall submit the original completed, signed and notarized document, together with the required fees to the Planning Manager. (PL, G-8)
7. Applicant 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, Applicants shall obtain a sign permit from the City. Except as provided in the sign permit, Applicant may not change any signs on the project property. (PL/B, G-10)
9. Applicant shall obtain a building permit for any new construction or modifications to structures, including interior modifications, authorized by this permit. (B, G-11)
10. Applicant shall not permit any combustible refuse or other flammable materials to be burned on the project property, except as provided in a permit issued by the Fire Chief.
11. Applicant 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 Applicant, owner or tenant fails to comply with any of the conditions of this permit, the Applicant, 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, Applicant shall correct all violations of the City Code existing on the project property for which the Code Compliance Division has open cases. (PL, G-15).

State Law and Regulations Compliance

14. The permittee shall comply with all relevant law, ordinance, or regulation of the State of California, City of Oxnard, and any other governmental entity Laws and Regulations at all times during the life of the permit.
15. Wherever a condition requires that something be initially “built,” “constructed,” “equipped,” “installed,” “provided” or the like in a certain fashion or per certain requirements or approvals, it also requires that the same shall at all times be “maintained” in accordance with the condition, requirement or approval.

PLANNING DIVISION STANDARD CONDITIONS

16. 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*)
17. Before the City issues building permits, the Applicant shall include a reproduction of all conditions of this permit as adopted by Resolution of the Community Development Director / Planning Commission in all sets of construction documents and specifications for the project. (PL, *PL-3*)
18. Before the City issues building permits, the Applicant shall provide to the Planning Manager color photographic reductions (8 1/2" by 11") of full-size colored elevations and any other colored exhibit approved by the Community Development Director / Planning Commission. The Applicant may retain the full-size colored elevations after the reductions are so provided. (PL, *PL-4*)
19. The Applicant may not modify any use approved by this permit unless the Planning Manager determines that the Applicant has provided the parking required by the City Code for the modified use. (PL, *PL-7*)
20. During the plan check review process, the Applicant shall provide a lighting plan that provides design details (light standards, bollards, wall mounted packs, etc.) and illumination site information within alleyways, pathways, streetscapes, and open spaces proposed throughout the development. An electrical engineer shall prepare the site lighting plan demonstrating that adequate lighting ranges will be provided throughout the development without creating light spillover, light pollution, or conflicts with surrounding factors such as tree locations, off-site or adjacent lighting. (PL)
21. Prior to issuance of building permits, the Applicant shall demonstrate that light standards illustrated on conceptual lighting plan do not conflict with tree locations. The Applicant shall submit a plan showing both the lighting and landscape on the same sheet.
22. Project on-site lighting shall be of a type and in a location that does not constitute a hazard to vehicular traffic, either on private property or on adjoining streets. To prevent damage from vehicles, standards in parking areas shall be mounted on reinforced concrete pedestals or otherwise protected. The Applicant shall recess or conceal under-canopy lighting elements so as not to be directly visible from a public street. The applicant shall submit a lighting plan showing standard heights and light materials for design review and approval of the Planning Division Manager. (PL/B, *PL-8*)
23. In order to minimize light and glare on the project property, all parking lot and exterior structure light fixtures shall be high cut-off type that divert lighting downward onto the property and shall not cast light on any adjacent property or roadway. (PL, *PL-9*)

24. Applicant agrees to participate in a water conservation program that includes refitting water fixtures existing on the project property with water conserving devices within residences or businesses in the City's water service area, if such a program is in effect when building permits are issued for this project. Among the requirements of such a program might be refitting existing toilets, faucets, shower heads, landscaping irrigation or other fixtures and items that consume water within the structure. (PL, *PL-14*)
25. Because of water limitations placed upon the City by its water providers, approval of this permit does not guarantee that the City will issue building permits. Issuance of building permits may be delayed as a result of implementation of a water conservation or allocation plan. (PL, *PL-15*)
26. Prior to issuance of building permits, Applicant 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*).
27. Applicant shall participate in the City's Public Art Program by paying the Public Art fee prior to issuance of building permits, in accordance with City Council Resolution No. 14,124. (PL, *PL-50*)

COMMERCIAL

28. Applicant shall recess or screen roof heating and cooling systems and other exterior mechanical equipment from adjoining property and public streets, as required by this permit. Plumbing vents, ducts and other appurtenances protruding from the roof of structures shall be placed so that they will not be visible from the front of the property or other major public vantage points. Applicant shall include a note on the construction plumbing drawings of exterior elevations to indicate to contractors that roof features shall be grouped and located in the described manner. Roof vents shall be shown on construction drawings and painted to match roof material color. (PL/B, *PL-41*)
29. Applicant shall install all roof and building drainpipes and downspouts inside building elements. These items shall not be visible on any exterior building elevations. (PL, *PL-42*)
30. For any exterior utility meter panels, Applicant shall paint such panels to match the structure upon which it is located. Such panels shall be located to take advantage of screening (e.g. landscaping or other building elements) from public right-of-ways, to the maximum extent feasible. (PL, *PL-43*)
31. Prior to issuance of a certificate of occupancy, Applicant shall remove all construction materials and vehicles from the subject property. (PL/B, *PL-47*)

32. Applicant shall restripe loading zones placed partly or wholly within a structure for loading and unloading activities only and post to prohibit storage or other non-loading activity within the loading zone. (PL/B, PL-49)

Special Conditions of Approval

33. Prior to occupancy, faded striping in parking areas directly in front of the building shall be repainted per City standards.
34. In accordance with Oxnard City Code Section 16-624, parking facilities for 17 motorcycles shall be provided in the shopping center's shared parking lot, the configuration and location of which shall be as reviewed and approved by the City Planning Division. Motorcycle parking area dimensions and location shall be a paved area at least 4'6" x 7' for each required parking space. Staff shall review all construction documents prior to building permit issuance to assure that the motorcycle spaces have been provided and are not in conflict with the applicable development standards for building in the General Commercial (C-2) zone district.
35. In accordance with Oxnard City Code Section 16-637, parking facilities for 20 bicycles shall be provided, the configuration and location of which shall be as reviewed and approved by the City Planning Division. The project plans shall be revised to identify bicycle racks, with a minimum of 3 bicycle spaces, to be provided on site near the front entrance of the building located at 2320 North Rose Avenue and the remaining required spaces equally distributed in the shopping center near front entrances. Bicycle parking area dimensions and location shall be a paved area at least 6' x 1'6" for each required parking space. Staff shall review all construction documents prior to building permit issuance to assure that the bicycle rack has been provided and is not in conflict with the applicable development standards for building in the General Commercial (C-2) zone district.
- The applicant shall submit a bicycle parking plan to be reviewed and approved by the Community Development Director or his/her designee(s). All bicycle parking shall comply with AASHTO, NACTO, or APBP standards, as permitted by the California Building Code. The bicycle parking shall be designed to provide two (2) points of contact on the bicycle, be supported upright, and cause no stress onto tires. All provided bicycle parking shall be able to accommodate a standard U-lock. Bicycle parking area dimensions and location shall be a paved area at least 6' x 1'6" for each required parking space and shall be located outside of pedestrian walkways, loading areas, landscape planters, etc. Where feasible, bicycle-parking areas should be covered.
36. No final inspection or occupancy permit shall be granted until all construction and landscaping is complete in accordance with the plans approved and the conditions required herein.
37. All landscape materials shall be as represented to or as specified by the Planning Commission, and any deviation will require the express approval of the Chief of Police. Once constructed or installed, all improvements shall be maintained in accordance with the approved plans and in a manner acceptable to the Chief of Police. This includes landscape materials being maintained in a healthy and weed-free manner at all times.

PLANNING DIVISION CANNABIS CONDITIONS

Automatic Expiration

38. The Commercial Cannabis Business Permits shall expire, and be subject to the renewable process in Chapter 11 of the Oxnard City Code twelve (12) months after the date of issuance of the Special Use Permit (SUP) pursuant to the Oxnard City Code Section 11-459.

Renewal

39. All Commercial Cannabis Business Permits shall be renewed in accordance with Chapter 11, Article XVII of the Oxnard City Code.

Appeals

40. The permittee shall within ten (10) calendar days after the date of a decision of the City Manager or his/her designee(s) to revoke, suspend or deny a permit, or to add conditions to a permit, an aggravated party may appeal such action by filing a written appeal with the City Clerk setting forth the reasons why the decision was not proper. At the time of filing, the permittee shall pay the designated appeal fee, established by Resolution of the City Council from time to time.

Revocations of Commercial Cannabis Business Permits

41. Commercial Cannabis Business Permits may be revoked for any violation of any law and/or any rule, regulation and/or standard adopted pursuant to Sections 11-461, 11-462, 11-468, or 11-477 pursuant to any policy, procedure or regulation adopted by the City. The City Manager or his/her designee may immediately suspend operation of the uses approved by this permit pending a hearing on the revocation of this permit's conditions and/or a license issued by the State of California, or by any of its departments or divisions, or if there is a single serious violent crime or single significant incident to which multiple police units or multiple police jurisdictions respond associated with the operations of this use, which is detrimental to the public safety or health. The City Manager or his/her designee shall immediately inform the Community Development Director and Planning Manager of the suspension and the Planning Manager shall schedule a hearing on the revocation of the permit by the Community Development Director or other competent hearing officer to be held no more than 30-days after the beginning of the suspension. In the hearing, notice will be provided establishing the causal factors that caused the suspension and determination shall be made with the below options:
- a. End the suspension of the permit;

- b. Continue the suspension of the permit pending other legal action;
 - c. Amend the permit conditions;
 - d. Direct the permittee to change operations or business practices that precipitated the suspension of the permit;
 - e. Or, any combination of the above;
 - f. And, provide benchmarks and timeline for corrective action to take place.
42. The Applicant agrees suspension of a license issued by the State of California, or by any of its departments or divisions, shall immediately suspend the ability of a commercial cannabis business to operate within the City, until the State of California, or its respective department or division, reinstates or reissues the State license. Should the State of California, or any of its departments or divisions, revoke or terminate the license of a commercial cannabis business, such revocation or termination shall also revoke or terminate the ability of a commercial cannabis business to operate within the City of Oxnard.

Enforcement and Compliance

43. For the life of the permit, the Applicant shall be responsible for all violations of the laws of the State of California or of the regulations and/or the ordinances of the City of Oxnard, whether committed by the Applicant or any employee or agent of the Applicant, which violations occur in or about the premises of the commercial cannabis business whether or not said violations occur within the permit holder's presence.
44. Applicant agrees to pay enforcement, compliance, and inspection fees set by the City's Fee Schedule. Applicant shall deposit the equivalent of 30 hours of the Planning Hourly Fee (currently \$134.27 per hour) during plan check review to cover staff time, billed at an hourly rate, for conditions compliance, required inspection, and reporting associated with commercial cannabis project, PZ 21-516-36. Additional funds will be required as deposits are depleted to less than the equivalent of 10 hours of the Planning Hourly Fee or as additional funds are needed as determined by the Community Development Director.
45. All operators are subject to all penalties as outlined in Oxnard City Code.

Property Owner Authorization

46. Prior to the issuance of a zone clearance or business license, whichever comes first, the Applicant shall be required to provide a signed and notarized statement from the owner of the property acknowledging that the property owner agrees to use of the property for a Commercial Cannabis Business Permits subject to Chapter 11, Article XVI, Section 11-475 of the Oxnard City Code.

Business Location Transfers

47. Commercial Cannabis Business Permits represent a land use entitlement and cannot be transferred from one location to another unless they comply with the transfer provisions outlined in Chapter 11, Article XVII of the Oxnard City Code.

Business Notification

48. The Applicant shall provide to the City, the name, telephone number, and email address of a community relations contact (community relations officer) designated by Applicant. The community relations officer's information shall be provided to the City prior to issuance of a building permit. The community relations contact shall be responsible for responding to complaints, should they arise between the hours of 10:00 p.m. and 7:01 a.m. Complaints shall be addressed within fifteen minutes of receiving the initial complaint
49. The Applicant shall provide the name/phone number/email address for the business community relations officer to all businesses and residences located within six hundred (600) feet of the commercial cannabis business before operation of the business before issuance of a building permit. The contact name and number shall be prominently posted outside of the facility
50. During the first year of operation, the owner, manager, and community relations officer shall attend quarterly meetings with the City Manager or his/her designee(s), and other interested parties as deemed appropriate by the City Manager or his/her designee(s), to discuss conditions of approval, operations, and overall cannabis activities in the subject location.
51. After the first year of operation should no permit condition(s) violations be identified, the owner, manager, and community relations officer shall meet with the City Manager or his/her designee(s) when and as requested by the City Manager or his/her designee(s).

Inventory Tracking

52. Prior to issuance of a certificate of occupancy, the Applicant shall have in place a State of California approved point-of-sale or management inventory tracking system to track and report on all aspects of the commercial cannabis business including, but not limited to, such matters as cannabis tracking, inventory data, gross sales (by weight and by sale) and other information which may be deemed necessary by the City. The commercial cannabis business shall ensure that such information is compatible with the City's record-keeping systems. In addition, the system must have the capability to produce historical transactional data for review at the request of the City. Furthermore, any system selected must be approved and authorized by the City Manager or his/her designee(s) prior to being used by the permittee.
53. All cannabis and cannabis products sold, distributed or manufactured shall be cultivated, manufactured, and transported by licensed facilities that maintain operations in full conformance with the State and local regulations.

Onsite Restrictions

54. Sales of cannabis may only occur between the hours of 9:00 A.M. and 9:00 P.M. daily.
55. The Applicant shall conform with the following requirements to prevent minors from having access to cannabis products:
 - a. Persons under the age of twenty-one (21) years, or eighteen (18) years with a medical marijuana card, shall not be allowed on the premises of a commercial cannabis business and shall not be allowed to serve as a driver for a mobile delivery service. It shall be unlawful and a violation of this Article for any person to employ any person at a commercial cannabis business who is not at least twenty-one (21) years of age.
 - b. The entrance to the commercial cannabis business shall be clearly and legibly posted with a notice that no person under the age of twenty-one (21) years of age is permitted to enter upon the premises of the commercial cannabis business.
56. Cannabis shall not be consumed by any employee or patron on the premises of any commercial cannabis business.
57. No outdoor storage of cannabis or cannabis products is permitted at any time.

Operational Requirements for Retailers

58. Sales and service of cannabis or cannabis products is limited to only the customer service area, which consists of approximately 23,275 square feet inside the building as identified on PZ No. 21-516-36 floor plans presented at the Planning Commission public hearing on October 13, 2021 and incorporated herein.
59. Access to the customer service area is to be controlled by an access door from a common lobby. A maximum of two (2) patrons may be served by one (1) budtender at any time. The budtenders and security personnel shall be readily identifiable personnel and are to monitor and control the behavior of customers in and around the premises.
60. There shall not be any amplified music or live bands unless the licensee has a valid Entertainment Permit issued by the City of Oxnard, pursuant to Oxnard City Code Section 11-187.

Odor Control

61. Odor control devices and techniques shall be incorporated in all commercial cannabis businesses to ensure that odors from cannabis are not detectable off-site. Commercial cannabis businesses shall provide a sufficient odor absorbing ventilation and exhaust system so that odor generated inside the commercial cannabis business that is distinctive to its operation is not detected outside of the facility, anywhere on adjacent property or public rights-of-way, on or about the exterior or interior common area walkways, hallways, breezeways, foyers, lobby areas, or any other areas available for use by common tenants or the visiting public, or within

any other unit located inside the same building as the commercial cannabis business. As such, commercial cannabis businesses must install and maintain the following equipment, or any other equipment which the Community Development Director or his/her designee(s) determine is a more effective method or technology:

- a. An exhaust air filtration system with odor control that prevents internal odors from being emitted externally; and
- b. An air system that creates negative air pressure between the commercial cannabis businesses interior and exterior, so that the odors generated inside the commercial cannabis business are not detectable on the outside of the commercial cannabis business.

Signage and Notices

62. The permittee shall conform with the following Signage Specifications:
 - a. In addition to the requirements otherwise set forth in this section, business identification signage for a commercial cannabis business shall conform to the requirements of the City of Oxnard regulations, including, but not limited to, seeking the issuance of a City sign permit.
 - b. No signs placed on the premises of a commercial cannabis business shall obstruct any entrance or exit to the building or any window.
 - c. Each entrance to a commercial cannabis business shall be visibly posted with a clear and legible notice indicating that smoking, ingesting, or otherwise consuming cannabis on the premises or in the areas adjacent to the commercial cannabis business is prohibited.
 - d. Business identification signage shall be limited to that needed for identification only and shall not contain any logos or information that identifies, advertises, or lists the services or the products offered. No commercial cannabis business shall advertise by having a person holding a sign and advertising the business to passersby, whether such person is on the premises of the commercial cannabis business or elsewhere including, but not limited to, the public right-of-way.
 - e. Signage shall not be directly illuminated, internally or externally. No banners, flags, billboards or other prohibited signs may be used at any time.
 - f. No cannabis or cannabis products or graphics depicting cannabis or cannabis products shall be visible from the exterior of any property issued a commercial cannabis business permit, or on any of the vehicles owned or used as part of the commercial cannabis business.

Community Benefits Agreement

63. Prior to issuance of a certification of occupancy, Applicant shall enter into a signed and recorded Community Benefits Agreement with the City. Said agreement shall include the following:
64. Retail
 - a. One time payment of \$250,000

- b. Donation of 1% of gross revenues to the City of Oxnard required to be paid with the associated yearly business license fee. This amount is in addition to the license fee and the City cannabis taxes.
- c. Requirement to hire 75% of the businesses employees from the City of Oxnard, as defined in Chapter 11 of the Oxnard City Code.

BILLING AND LICENSING CONDITIONS

Cannabis Business Tax Certificate

- 65. Prior to commencing operations, any business engaged in a Commercial Cannabis Business shall obtain a Commercial Cannabis Business tax certificate, pursuant to Article I. The Commercial Cannabis Business taxes imposed by Chapter 11, Article XVI of the Oxnard City Code shall be paid, in arrears, on a quarterly basis to the City Licensing Department.
- 66. The Applicant for a Commercial Cannabis Business shall secure from the Department of Billing and Licensing a commercial cannabis business tax certificate.
- 67. On applying for a Commercial Cannabis Business tax certificate, the applicant shall furnish to the tax administrator a sworn statement, on a form provided by the tax administrator setting forth the following:
 - a. The exact nature of the Commercial Cannabis Business for which the Commercial Cannabis Business tax certificate is applied;
 - b. The street address where such business is to be conducted, the street addresses of the residences of the owners of the business or names and street addresses of the officers or partners if a corporation or partnership;
 - c. If the amount of the Commercial Cannabis business tax is measured by gross receipts, the applicant shall estimate the gross receipts for a period of one full calendar quarter. Such an estimate, if accepted by the tax administrator as reasonable, shall be used in determining the amount of the Commercial Cannabis Business tax. However, the amount is only provisional.
 - d. At the end of the tax period, the tax administrator may request the certificate to verify gross receipts. Within 30 days of the request, the certificate shall report to the tax administrator the gross receipts during the Commercial Cannabis Business tax period, and the Commercial Cannabis Business tax will be redetermined. If the certificant underpaid the redetermined Commercial Cannabis Business tax, the certificant shall immediately pay the amount due.

Reporting and remittance of quarterly tax payments

- 68. The Commercial Cannabis Business tax shall be paid in arrears on a quarterly basis.
- 69. Each person owing Commercial Cannabis Business tax for a calendar quarter shall, no later than the last day of the month following the close of the calendar quarter, file with the tax administrator a statement of the tax owed for that calendar quarter and the basis for calculating the tax.

70. For the purpose of ascertaining the amount of Commercial Cannabis Business tax owed or verify any representations made by any taxpayer to the city in support of his or her calculation, proof of gross revenues (including but not limited to bookkeeping records, State and Federal income tax returns, and other records relating to the gross receipts of the business) must be provided prior to obtaining or renewing a Commercial Cannabis Business tax certificate.
71. Quarterly after commencing operations, Applicant shall allow the City of Oxnard officials or their designees to have access to the business's books, records, accounts, together with any other data or documents relevant to its permitted commercial cannabis activities, for the purpose of conducting an audit or examination. Books, records, accounts, and any and all relevant data or documents will be produced no later than twenty-four (24) hours after receipt of the City's request, unless otherwise stipulated by the City. The City may require the materials to be submitted in an electronic format that is compatible with the City's software and hardware.
72. At all times during the life of the permit, Applicant shall pay all sales, use, business and other applicable taxes, and all license, registration, and other fees required under federal, state and local law. Each commercial cannabis business shall cooperate with the City with respect to any reasonable request to audit the Commercial Cannabis Business' books and records for the purpose of verifying compliance with this section, including but not limited to a verification of the amount of taxes required to be paid during any period.
73. The Applicant shall maintain accurate books and records in an electronic format, detailing all of the revenues and expenses of the business, and all of its assets and liabilities. On no less than an annual basis (at or before the time of the renewal of a Commercial Cannabis Business permit issued pursuant to Chapter 11, Article XVI, Section 11-476 of the Oxnard City Code), or at any time upon reasonable request of the City, each Commercial Cannabis Business shall file a sworn statement detailing the fiscal value of sales by the Commercial Cannabis Business during the previous twelve-month period (or shorter period based upon the timing of the request), provided on a per-month basis. The statement shall also include gross sales for each month, and all applicable taxes paid or due to be paid. On an annual basis, each owner and operator shall submit to the City a financial audit of the business's operations conducted by an independent certified public accountant. Each permittee shall be subject to a regulatory compliance review and financial audit as determined by the City Manager or his/her designee(s)

Employee Work Permit

74. Prior to issuance of a certificate of occupancy for the Commercial Cannabis Business, all employees are required to comply with Chapter 11, Article XVI, Section 11-455 of the Oxnard City Code which specifies the requirements for employees of cannabis operators; the Cannabis Employee Work Permit is required to be obtained from the City Licensing Department.
75. Cannabis Employee Permit Requirements shall comply with Chapter 11:

- a. Cannabis Employee Work Permit Application;
- b. Cannabis Employee Work Permit Fee \$125.00, or as update by the City;
- c. Age and verification of applicant, copy of government ID required (must be at least 21 years of age);
- d. Investigation Questionnaire;
- e. Live Scan (fingerprinting and a recent photograph of the applicant); and
- f. A statement signed under penalty of perjury that the information is true and correct.

76. A Cannabis Employee Work Permit shall be valid for up to twelve (12) months from the date of certificate of occupancy and shall be renewed on an annual basis by the permittee/employer and all applicable employees. If a permit is issued for less than a 12-month basis, then the cost of such permit shall be adjusted on a pro-rata basis.
77. The Applicant and Commercial Cannabis Business employees will be issued a permit in the form of a personal identification card that shall be worn in a prominent and visible location. The identification card shall be maintained in good and readable condition at all times.

Employment Transfers

78. In the event a person changes employment from one Commercial Cannabis Business in the City to another, the work permit holder shall notify the applicable Department Head or his/her designee(s) in writing of the change within ten (10) days, or the work permit shall be suspended or revoked, and such person shall not be permitted to work at any Commercial Cannabis Business within the City.

Revocation of Employee Work Permit

79. The City may immediately revoke the commercial cannabis employee permit should the permit holder be convicted of a crime listed in Chapter 11, Article XVI, Section 11-455 of the Oxnard City Code or if facts become known to the City that the permit holder has engaged in activities showing that he or she has been convicted of a crime involving dishonesty.

Appeal of Employee Work Permit Revocation

80. The Applicant may appeal the denial or revocation of a commercial cannabis employee permit by filing a notice of appeal with the City Clerk within ten (10) days of the date the applicant received the notice of denial/ revocation. Revocation shall follow the provisions contained in Oxnard City Code Chapter 11.

POLICE CONDITIONS

Security Measures

81. The Applicant shall implement sufficient security measures to deter and prevent the unauthorized entrance into areas containing cannabis or cannabis products, and to deter and prevent the theft of cannabis or cannabis products at the Commercial Cannabis Business. Except as may otherwise be determined by the City Manager or his/her designee(s), these security measures shall include, but shall not be limited to, all of the following and are considered in addition to the Best Practices identified in the guidelines for issuance of a Cannabis Business Permit and/or conditions imposed as part of the land use permit approval.
82. An alarm system shall include intrusion, fire, and panic button components. The system shall be remotely monitored by a licensed alarm service provider.
83. An access control system and security personnel shall restrict access to the site to persons engaged directly with the permitted operations of the Commercial Cannabis Business.
84. Security personnel shall remove any person on or about the Commercial Cannabis Business who is not engaged directly with the permitted operations of the business.
85. Except for live growing plants which are being cultivated at a cultivation facility, all cannabis and cannabis products shall be stored in a secured and locked vault or vault equivalent. All safes and vaults shall be compliant with Underwriter Laboratories burglary-resistant and fire-resistant standards. All cannabis and cannabis products, including live plants that are being cultivated, shall be kept in a manner as to prevent diversion, theft, and loss.
86. A security camera system shall monitor activity inside and around the Commercial Cannabis Business. The system shall provide secure real-time access to the City Manager or his/her designee(s) of any and all cameras at the site. The system shall meet or exceed current industry standards. The system shall be reevaluated every five years on the anniversary of the issuance of the permit to ensure the system, software and equipment meets current industry standards. The Commercial Cannabis Business shall upgrade equipment within six-months of the reevaluation when findings have identified needed improvements or upgrades.
87. A security plan shall be approved by the Police Chief or his/her designee(s). The security plan shall include all elements of the alarm system, security camera system, and access control system. The plan shall also include security policies, cash handling policies, security personnel post orders, and requirements for security patrols during hours the business is closed. The security plan is subject to review on the annual anniversary of the issuance of the permit. Should a deficiency in the plan be discovered through findings during an inspection, a theft event, an audit or other significant event where a flaw in the security plan failed to sufficiently capture or deter a theft, loss of product, or an injury the plan may be amended by the Police Chief or his/her designee(s).
88. Any bars installed on the windows or the doors of the Commercial Cannabis Business shall be installed only on the interior of the building.
89. Security personnel shall monitor premises in accordance with a security plan as authorized by the City Manager or his/her designee(s), and must have a verified response security patrol

when closed. Security personnel must be licensed by the State of California Bureau of Security and Investigative Services personnel and shall be subject to the prior review and approval of the City Manager or his/her designee(s), with such approval not to be unreasonably withheld. Firearms may be carried by security personnel while they are on duty if authorized by the Police Chief.

90. Each Commercial Cannabis Business shall have the capability to remain secure during a power outage and shall ensure that all access doors are not solely controlled by an electronic access panel to ensure that locks are not released during a power outage.
91. Entrance areas are to be locked at all times and under the control of a designated responsible party that is either:
 - a. An employee of the Commercial Cannabis Business; or
 - b. A licensed security professional
92. Each Commercial Cannabis Business shall have an accounting software system in place to provide point of sale data as well as audit trails or both product and cash, where applicable.
93. Each Commercial Cannabis Business shall demonstrate to the Police Chief, City Manager or their designee(s) compliance with the state's track and trace system for cannabis and cannabis products, as soon as it is operational.
94. Each Commercial Cannabis Business shall have state of the art network security protocols in place to protect computer information and all digital data.
95. Exterior vegetation shall be planted, altered and maintained in a fashion that precludes its use as a hiding place for persons on the premises.
96. The Applicant shall identify a designated security representative/liaison to the City of Oxnard, who shall be reasonably available to meet with the City Manager or his/her designee(s) regarding any security related measures or and operational issues. The designated security representative/liaison shall, on behalf of the Commercial Cannabis Business, annually maintain a copy of the current security plan on the premises of the business, to present to the City Manager or his/her designee(s) upon request that meets the following requirements:
 - a. Confirms that a designated Manager will be on duty during business hours and will be responsible for monitoring the behavior of employees.
 - b. Identifies all Managers of the Commercial Cannabis Business and their contact phone numbers.
 - c. Confirms that first aid supplies and operational fire extinguishers are located in the service areas and the Manager's office.
 - d. Confirms that burglar, fire, and panic alarms are operational and monitored by a licensed security company 24 hours a day, seven days a week, and provides contact information for each licensed security company.
 - e. Identify a sufficient number of licensed, interior and exterior security personnel who will monitor individuals inside and outside the Commercial Cannabis Business, the parking lot, and any adjacent property under the business' control.

- f. Confirm that the licensed security personnel shall regularly monitor the parking lot and any adjacent property to ensure that these areas are: (i) free of individuals loitering or causing a disturbance; (ii) are cleared of employees and their vehicles one-half hour after closing.
- 97. The Applicant shall have a storage and transportation plan, which describes in detail the procedures for safely and securely storing and transporting all cannabis, cannabis products, and any currency. The storage and transportation plan shall be a confidential document that is intended to be reviewed and approved by the City Manager and his/her designee(s) and not available for public consumption.
- 98. The Applicant shall cooperate with the City whenever the City Manager or his/her designee(s) makes a request, without prior notice, to inspect or audit the effectiveness of any security plan or of any other requirement of this Article. Prevention Fire Inspectors shall be allowed access to audit buildings for Fire Life Safety concerns on a yearly basis or as determined necessary per the Fire Marshal.
- 99. The Applicant shall notify the Police Chief within twenty-four (24) hours after discovering any of the following:(Section 11.437 (E))
 - a. Significant discrepancies identified during inventory. The level of significance shall be determined by the regulations promulgated by the City Manager or his/her designee(s).
 - b. Diversion, theft, loss, or any criminal activity involving the Commercial Cannabis Business or any agent or employee of the Commercial Cannabis Business.
 - c. The loss or unauthorized alteration of records related to cannabis, customers or employees or agents of the Commercial Cannabis Business.
 - d. Any other breach of security.
- 100. The Applicant acknowledges compliance with the foregoing requirements shall be verified by the City Manager or his/her designee(s) prior to commencing business operations. The City Manager or his/her may supplement these security requirements once operations begin, subject to review by the City Manager if requested by the business owner.
- 101. The Applicant shall post in a location readily-visible to the public location the original copy of the Commercial Cannabis Business permit conditions of approval and the City issued business license.
- 102. The Applicant shall prohibit loitering by persons outside the facility both on the premises and within fifty (50) feet of the premises.
- 103. Security personnel shall remove any person on or about the Commercial Cannabis Business who is not engaged directly with the permitted operations of the business.
- 104. Prior to the establishment of any Commercial Cannabis Business or the operation of any such business, the employer intending to establish a Commercial Cannabis Business must first obtain all applicable planning, zoning, building, and other applicable permits from the relevant

governmental agency which may be applicable to the zoning district in which such Commercial Cannabis Business intends to establish and to operate.

105. The Applicant acknowledges no person shall cause or permit the sale, dispensing, or consumption of alcoholic beverages on or about the premises of the Commercial Cannabis Business.
106. The Applicant acknowledges no person shall cause or permit the sale or tobacco products on or about the premises of the Commercial Cannabis Business.
107. Prior to beginning employment all employees are required to secure and have issued a background check and passed a live scan through the Police Department as specified in Chapter 11, Article XVII of the Oxnard City Code. Results of the background check/live scan shall be provided to the employee and employer(s).
108. Inbound and outbound shipping of product and/or cash shall only occur during daylight hours. Deliveries and departure times of product and/or cash shall be irregular and maintained as a confidential matter known only to those persons who have a need to know.
109. No signage, graphic or symbol displayed visible outside the building shall show that the site is a cannabis business unless the specific sign, graphic or symbol is jointly approved by the Planning Manager and the Chief of Police or their designees.

Exterior Lighting

110. A condition of approval requires compliance with the Outdoor Lighting Code & Guideline Outdoor lighting shall comply with Title 24, Part 6, of the California Code of Regulations: California's Energy Efficiency Standards for Residential and Nonresidential Buildings.
 - a. Unless approved as a specific exception to this guideline, all outdoor lighting shall be flat lens, full cut-off fixtures with the light source fully shielded with the exceptions:
 - b. Luminaires with a maximum output of 260 lumens per fixture, regardless of number of bulbs (equal to one 20-watt incandescent light), may be left unshielded provided the fixture has an opaque top to keep light from shining directly up.
 - c. Luminaires that have a maximum output of 1,000 lumens per fixture, regardless of number of bulbs (equal to one 60-watt incandescent light) may be partially shielded provided the bulb is not visible, and the fixture has an opaque to keep light from shining directly up.
 - d. Oxnard City Code 16-320: Lighting within physical limits of the area required to be lighted shall not exceed seven foot-candles, nor be less than one foot-candle at any

point. A light source shall not shine upon, or illuminate directly any surface other than the area required to be lighted. No lighting shall be of a type or in a location that constitutes a hazard to vehicular traffic, either on private property or on the abutting streets. The height of light standards shall not exceed 26 feet. To prevent damage from automobiles, standards shall be mounted on reinforced concrete pedestals or otherwise protected.

111. Exterior lighting of the site including parking areas shall be between 1 and 7-foot candles and shall be in harmony with existing adjacent lighting schemes.
112. All exterior lighting shall operate from dusk to dawn.
113. LED or similar in nature and spectrum (3,000K to 20,000K Correlated Color Temperature).
114. Lighting instruments shall be full cut-off and installed so that light does not directly illuminate property outside the project site. Instruments shall not create glare for motorists or pedestrians.
115. Outdoor lighting instruments shall not be placed in close proximity of parking lot trees. In the event outdoor lighting instruments and trees are in close proximity an additional sheet will be required illustrating light and tree placement showing trees with a 20-year maturity.
116. Integrated landscape/lighting/photometric plan shall be submitted illustrating a 20-year tree maturity. This plan shall include all outdoor areas as well as the parking facility. This is to ensure that tree growth will not adversely impact future lighting and therefore site safety as the project matures. Luminaires used in the photometric calculations shall only include those instruments mounted 8-feet or more above any walking/driving surface. This plan shall be submitted to specialprojects@oxnardpd.org and approved prior to the issuance of building permits.
117. Safe Room construction shall consist of the below minimum features:
 - a. Concrete or CMU wall or walls and/or
 - b. Wood or steel stud constructed walls and ceiling wrapped with a metal mesh enveloped under drywall surfacing. Metal mesh shall have a minimum weight of .45 lbs. per sq. ft. and be opened spaced no more than 76%.
 - c. Other than doors, openings in the metal mesh walls shall not be larger than 12-inches square to provide HVAC ventilation and similar mechanical access.
 - d. Each door and window shall have callouts on plans identifying their size and design features.
 - e. Any service windows shall be constructed with a securable metal door or plate and have a vertical opening no taller than 12-inches.
118. Retail sites shall install security glass or interior mounted roll-up security screens for each window. Design, placement and exceptions shall be approved by Planning and Police prior to the issuance of Building Permits.

Operations and Inspections

119. The permittee is authorized to operate the commercial cannabis retail business license between the hours of 9:00 a.m. to 9:00 p.m, subject to lighting requirements of Conditions 20-23.
120. Cash handling procedures shall be approved by the police chief or his/her designee.
121. Except for live growing plants which are being cultivated at a cultivation facility, all cannabis and cannabis products shall be stored in a secured and locked vault or vault equivalent. All safes and vaults shall be compliant with Underwriter Laboratories burglary-resistant and fire-resistant standards. All cannabis and cannabis products, including live plants that are being cultivated, shall be kept in a manner as to prevent diversion, theft, and loss.
122. A security camera system shall monitor activity inside and around the Commercial Cannabis Business. The system shall provide secure real-time access to the City Manager or his/her designee(s) of any and all cameras at the site. The system shall meet or exceed current industry standards. The system shall be reevaluated every five years on the anniversary of the issuance of the permit to ensure the system, software and equipment meets current industry standards. The Commercial Cannabis Business shall upgrade equipment within six-months of the reevaluation when findings have identified needed improvements or upgrades.
123. The business shall have the capability to remain secure during a power outage and shall ensure that all access doors are not solely controlled by an electronic access panel to ensure that locks are not released during a power outage.
124. Each Commercial Cannabis Business shall have an accounting software system in place to provide point of sale data as well as audit trails or both product and cash, where applicable.
125. Each Commercial Cannabis Business shall demonstrate to the Police Chief, City Manager or their designee(s) compliance with the state's track and trace system for cannabis and cannabis products, as soon as it is operational.
126. Each Commercial Cannabis Business shall have state of the art network security protocols in place to protect computer information and all digital data.
127. Exterior vegetation shall be planted, altered and maintained in a fashion that precludes its use as a hiding place for persons on the premises.
128. Scheduled and unscheduled inspections of the site may occur during the business' authorized hours of operation, or under the below listed circumstances:
 - a. At a time while the business is closed that is mutually agreed to by the business' management and the Police Department
 - b. During any criminal investigation at the business.
129. The Applicant acknowledges compliance with the foregoing requirements shall be verified by the City Manager or his/her designee(s) prior to commencing business operations. The City

Manager or his/her may supplement these security requirements once operations begin, subject to review by the City Manager if requested by the business owner.

130. The Applicant shall post in a location readily-visible to the public location the original copy of the Commercial Cannabis Business permit conditions of approval and the City issued business license.
131. The Applicant shall prohibit loitering by persons outside the facility both on the premises and within fifty (50) feet of the premises.
132. Prior to the establishment of any Commercial Cannabis Business or the operation of any such business, the employer intending to establish a Commercial Cannabis Business must first obtain all applicable planning, zoning, building, and other applicable permits from the relevant governmental agency which may be applicable to the zoning district in which such Commercial Cannabis Business intends to establish and to operate.
133. Prior to beginning employment all employees are required to secure and have issued a background check and passed a live scan through the Police Department as specified in Chapter 11, Article XVII of the Oxnard City Code. Results of the background check/live scan shall be provided to the employee and employer(s).

Retail Cannabis Conditions

134. Each customer entering the business shall present a valid form of government issued photo identification. A staff member or licensed security professional shall use an approved “identification card scanner” which verifies the age of the customer. The security officer will also visually confirm that the person presenting the identification card by matching the person with the card’s photo and confirming other data on the card.
135. The permittee shall acquire an “identification card scanner” for use by security officers to screen all customers as they enter the business. These scanners shall have these features:
 - a. Determine that the person is legal age to enter the premises.
 - b. Records the data from the presented identification including name, address, and date of birth and the time and date of the scan.

Security Camera System

136. A security camera system shall be installed and operated 24-hours a day to monitor the activity at the site. The system shall be designed to capture images of all persons and all vehicles that enter the site. Cameras shall also be distributed throughout the site to capture general activities. The camera system shall comply with these minimum standards:
 - a. Cameras and supporting equipment shall supply digital color images under normal lighting conditions. Grayscale images are expected for infra-red lighting.
 - b. Cameras shall be made by a reputable manufacturer and maintained to current industry standards.

- c. Cameras shall have low light capability to facilitate the later identify persons involved in criminal or problem activities.
- d. The video system shall utilize a Digital Video Recorder (DVR). VHS and other formats are prohibited.
- e. The video system shall allow recording, live viewing and playback of recorded video for a period of a period of at least 30 days.
- f. Recorded images shall bear a date and time stamp that cannot be altered.
- g. All entry doorways to the premises shall be monitored by a camera or cameras that are strategically mounted to capture quality images of the heads and shoulders of persons who enter. Such cameras shall be mounted no higher than 7-feet above the floor/ground.
- h. At least one camera shall be dedicated to the point of sale, or equivalent as determined by the Police Chief, to monitor the exchange of money and identification checks for age.
- i. A monitor shall be placed near the primary entrance to the business to show patrons their image has been captured.
- j. Cameras in domed casings are highly encouraged as their area of focus is not easily determined by a casual observer.
- k. Site management shall provide in a timely manner any digital records of security camera or access control systems requested pursuant to a police investigation or for the periodic inspection of equipment required under these conditions.
- l. The video system shall be made available to the Chief of Police or his/her designee at all times by means of a secure Internet connection.
- m. Height gauges are required on the interior frame of each exterior door.
- n. A high-definition cloud based-video security system shall be used with a required 90 day tamper proof hard drive or software system pursuant to BCC 5044. System will be remotely accessible by the Chief of Police or his designee at all times. Prior to 90 days, no video will be erased without prior approval from the Chief of Police. At no time shall the business be open if the security system is down regardless of the presence of armed security guards.
- o. Cameras shall be mounted outside the business to monitor pedestrian and vehicular traffic around the business. Where possible and practical, cameras will be positioned to capture the faces of persons approaching the business and the license plates of vehicles driving on parking area drive aisles.

Access Control Systems

137. The site shall be equipped with an access control system that shall restrict access throughout the site.
- a. The access control system shall have the capability to add, subtract or modify a cardholder's access.
 - b. Access to various areas or rooms within the site will be restricted based on the cardholder's need for access according to the business plan and the security plan.
 - c. The primary entry to the site shall be controlled by a card or similar instrument coupled with a keypad to provide entry. A keypad entry will be required for the first access of

each business day. Each employee authorized for “opening” entry shall have their own access and their own emergency code.

- d. Access to interior “safe rooms” where product and cash are stored shall require keypad and pass card to enter.
- e. Those persons authorized to utilize keypad entry locations will have two passcodes unique for their use. One passcode for normal entry and one for “distress” entry. The “distress” entry shall be used if the cardholder is entering under distress such as a robbery, kidnap or threat of harm. Permittee shall coordinate with the alarm service provider for this function.
- f. An access card providing universal access to the site shall be provided to the Oxnard Fire Department for placement in the site Knox Box.

Alarm Systems

- 138. Intrusion/burglar alarms shall be “dual” technology and have the capability to differentiate between human and non-human motion. The burglar alarm sensors shall be mounted throughout the premises and shall specifically include: Receiving Area, Safe Room, Security Room, Holding Area, All Areas Noted Corridors, Processing, Receiving, Retail Area “Safe Room”, Delivery, On-Line Storage “Safe Room”, Education Room, Waiting Room, Grand Lobby, Retail (non-cannabis) and the Roof.
- 139. Panic alarms shall be installed at various sites within the business to be used in the event of a robbery.

Security Site Plan

- 140. A Security Site Plan in a pdf format shall be submitted to the Chief of Police or his or her designee and approved prior to the issuance of building permits. The plan shall include:
 - a. The plan shall identify the location of each security camera, camera recording/support equipment, all elements of an access control system, and any safe or secure room or rooms designed to maintain valuable assets or records.
 - b. The plan shall include a chart shall identify each camera by an alpha-numeric, the scope of their capture area, placement of the camera above the floor/ground, make and model of the instrument, type of camera (dome, PTZ, etc.).
 - c. The plan shall identify any area which is served by an intrusion/burglary alarm system.
 - d. The plan shall identify the location of each panic alarm installation.
 - e. The Security Site Plan shall identify all the components of the access control system, their location and a chart that identifies each instrument with an alpha-numeric with the device name, make and model.
- 141. The Security Plan includes all matters relating to the security camera system, access control system, alarm system, security officer post orders, security site plan and other documents related to the safe and secure operation regulated under this permit. An updated Security Plan

in a pdf format shall be submitted to the Police Department to specialprojects@oxnardpd.org under any of the below circumstances:

- a. Any modification to the site that changes the location of walls, doors or windows.
- b. Any system upgrades or significant changes to the security camera or access control systems.
- c. Or, when deemed appropriate by the Chief of Police or his or her designee based on security deficiencies discovered during any inspection of the site or any violation of the conditions of this permit.

142. Any component of the security system including all elements of the alarm, camera and access control systems are subject to replacement, upgrades, adjustments or additions should any of these circumstances occur:

- a. Equipment is outdated and not up to current industry standards or formats.
- b. Or, through the oversight process exercised by the City of Oxnard or the State of California, deficiencies are discovered in the security and monitoring equipment which can be addressed through the adjustment or addition of security equipment.

143. The permittee shall create and maintain Post Orders for security officers working at the site. Post Orders shall be a “living document” and shall be subject to change based on operational experiences, noted deficiencies, and recommendations by the Oxnard Police Department. These orders shall outline the following:

- a. Specific duties and responsibilities for each security officer.
- b. Procedures security officers shall follow during normal operations, emergency circumstances and when a crime is discovered.
- c. Post orders shall delineate activities that security officers shall not perform as they distract or interfere from their security role.
- d. Post Orders shall be identified by the last approved revision date and shall include the approval of the permittee and a designee from the Oxnard Police Department. Each updated revision shall be reviewed and acknowledged by each security officer working the site.
- e. The Post Orders shall be reviewed and approved by the Oxnard Police Department prior to the issuance of the permit and shall be subject to revision as part of any inspection.
- f. A copy of the current approved version of the Post Orders shall be available on-site for review by any security officer assigned at the site or any representative of the City of Oxnard visiting the site.

Notifications

144. The permittee shall establish and maintain the following to facilitate communication and notifications between the permittee and the Oxnard Police Department:

- a. Identify two management level employees as points of contact 24-hours a day, 7-days a week available to respond to the site in the event of an emergency or unlawful entry at the site.
- b. A designated email address for the Oxnard Police Department to use for notifications pertaining to the business.

- c. The management “points of contact” and the email address for notifications shall be provided by an email to: specialprojects@oxnardpd.org and shall include the names of the point of contact managers, their positions within the business and their phone numbers.
- d. The Oxnard Police Department may establish additional staff members as points of contact for the permittee.

145. The Police Chief may temporarily suspend this permit pending a hearing as outlined in Article V of the Oxnard City Ordinance under any of the below circumstances:
- a. Discovery of any controlled substance or product classified in Schedules I, II, III and IV of the Uniform Controlled Substances Act of the Health and Safety Code and not identified as being permitted at the site within the scope of this permit or an authorizing permit issued by the State of California.
 - b. Failure to maintain security features at or above industry standards, failure to correct security deficiencies required in these conditions in a timely manner, and/or failure to accurately or timely report a loss or theft of product as required under this permit.
 - c. Any sales or transfer of cannabis products outside the restrictions, regulations and tracking mechanisms established through this permit or related cannabis permits issued by the State of California.
146. Bollards or similar barriers shall be placed in front of all windows that the bottom sill is lower than 30-inches above grade and the windows are in close proximity to a vehicle driving surface. Gaps between barriers or other structural features shall be no wider than 5-feet. These barriers shall be identified on the Security Site Plan.
147. All applications of window tinting shall be identified on submitted security site plans. “Black-out” tinting will not be allowed. Tinting that provides for clear outward viewing but blocks viewing from the outside is allowable.
148. Windows shall be protected by either of the following technologies:
- a. Interior mounted security screens that are 50% see through which allows the interior of the business to be seen during hours where the screen is secured.
 - b. A transparent material that can withstand the impact of a sledge hammer or similar impact tool without breaching the window sufficiently to create a puncture hole of any size.
149. All signage for the site shall require joint approval from authorized designees of the Planning Division and the Police Department.

Cannabis Deliveries

150. All deliveries of cannabis shall require the following:
- a. The persons making the delivery shall be a minimum of 21-years of age.
 - b. Cannabis products for delivery shall be locked in the truck of the vehicle or secured in a non-portable box or storage unit in the passenger compartment during transport.

- c. Each driver making a cannabis delivery shall check the identification of the person depicted on the identification is of age and is the person receiving the delivery. The driver shall ensure the recipient of the cannabis product is 21-years of age, or 18 years of age and possess a cannabis medical card. The driver shall photograph or scan the identification using an identification scanner to record and verify the age of the person taking record of the delivery.
- d. The permittee shall provide information on any website menu that clearly states that all deliveries that include cannabis will require the recipient of the cannabis products to present their government photo identification as proof of age. Recommended language for on-line menus: “ The City of Oxnard required the delivery driver to photograph and scan a government issued photo identification of the recipient of all deliveries of cannabis products.
- e. The permittee shall require that staff members taking phone orders for delivery of cannabis products shall advise customers of the requirements under subsection “(c)” of this condition.
- f. On-line orders for delivery which include cannabis products shall have a check box where the customer acknowledges that the recipient of the order must show a government issued photo identification at the time of delivery.

Police Special Conditions

- 151. The unit’s address “2320” shall be painted on the exterior of the rear door in numerals that are 3-inches in height.
- 152. The unit’s address “2320” shall be painted on the roof of the building above the unit in numerals that are 3-feet in height.
- 153. Bollards and enhanced security features are required for the storefront windows pursuant to general Police Conditions.
- 154. The property shall have and maintain at each vehicle entrance signs posted pursuant to 22658(a) CVC to prohibit unauthorized parking on private property.
- 155. One parking stall at the rear of the business shall be dedicated to applicant’s use for delivery vehicle parking only. The stall shall be in close proximity to the rear door of the business and shall be clearly marked with a sign posted on the wall. The sign shall be no less than 17-inches by 22-inches and the lettering shall be not less than one inch in height. The sign shall state: “Authorized Delivery Vehicle Parking Only All Others Subject To Tow Away. 22658(a) CVC.

FIRE DEPARTMENT STANDARD CONDITIONS

- 156. Applicant shall construct all vehicle access driveways on the project property to be at least 26 feet wide. The Applicant shall mark curbs adjacent to designated fire lanes in parking lots to prohibit stopping and parking in the fire lanes. The Applicant shall mark all designated fire lanes in accordance with the California Vehicle Code. (FD/B, F-1)

157. All roof covering materials on the project property shall be of non-combustible or fire retardant materials approved by the Fire Chief and in compliance with the City Code. (FD, F-2)
158. Before the City issues building permits, the Applicant shall obtain the Fire Chief's approval of a plan to ensure fire equipment access and the availability of water for fire combat operations to all areas of the project property. The Fire Chief shall determine whether or not the plan provides adequate fire protection. (FD/DS, F-3)
159. At the Applicant's expense, Applicant shall obtain two certified fire flow tests for the project property. The first test shall be completed before City approval of building plans and the second shall be completed after construction and prior to the issuance of a certificate of occupancy. A mechanical, civil, or fire protection engineer must certify the tests. The Applicant shall obtain permits for the tests from the Engineering Division. Applicant shall send the results of the tests to the Fire Chief and the City Engineer. (FD/DS, F-4)
160. All structures on the project property shall conform to the minimum standards prescribed in Title 19 of the California Code of Regulations. (FD, F-5)
161. The project shall meet the minimum requirements of the "Fire Protection Planning Guide" published by the Fire Department. (FD, F-6)
162. At all times during construction, the Applicant shall maintain paved surfaces capable of handling loads of 76,000 pounds which will provide access for fire fighting apparatus to all parts of the project property. (FD/DS, F-7)
163. The Applicant shall identify all hydrants, standpipes and other fire protection equipment on the project property as required by the Fire Chief. (FD, F-8)
164. The Applicant shall install security devices and measures, including walkway and vehicle control gates, entrance telephones, intercoms and similar features, subject to approval of the Police Chief and the Fire Chief. Vehicle control gates shall be operable by City approved radio equipment. (FD/PD, F-9)
165. The applicant shall provide central station monitoring of the fire sprinkler system and all control valves. (FD, F-10)
166. The turning radius of all project property driveways and turnaround areas used for emergency access shall be a minimum of 48 feet outside diameter for a semi-trailer. (FD, F-11)
167. The Applicant shall provide automatic fire sprinklers as required by the City Code and shall contact the Fire Chief to ascertain the location of all connections. (FD, F-12)
168. The Applicant shall install in each structure in the project a detection/alarm system with a central station monitor that will automatically notify the Fire Department in the event of a fire in the structure. The alarm system shall include a UL or State Fire Marshal approved device,

which shall not exceed design specifications, that reports the location of the fire and allows the central station monitor to inform the Fire Department of the point of entry into the structure that is nearest the fire. (FD, F-13)

169. The Applicant shall install in each structure in the project where automatic fire sprinklers are installed a system that automatically opens the skylights in areas affected by fire before the fire sprinklers are activated. (FD, F-14)
170. All signalized intersections shall be equipped with pre-emption equipment. (FD/TR, F-15)
171. The Applicant shall comply with Certified Unified Program Agency (CUPA) requirements regarding the storage, handling and generation of hazardous materials or waste. Prior to the issuance of building permits, Applicant shall contact the CUPA division of the Fire Department to ensure that such requirements are followed. (FD, F-16)
172. Fire sprinkler coverage is required for:
 - a. Patios, overhangs or any other projections that are 48” or more from the structure.
 - b. Open areas beneath stairs that serve a habitable space or when that area is accessible for storage or has mechanical equipment.
 - c. The protection of the forced air unit when located in the attic or other areas that are normally inaccessible.
173. Before the city issues a certificate of occupancy, the Applicant shall install a Knox key vault at a location to be determined by the Fire Department.
174. The Applicant shall allow installation of public safety radio equipment in the tower, steeple, roof or other elevated portion of the building. Such equipment shall not conflict with the architectural design of the building and shall comply with zoning and planning requirements and conditions.
175. The Applicant shall provide the City Manager or his/her designee(s) with the name, telephone number (both landline and mobile, if available) of an on-site employee or owner to whom emergency notice can be provided at any hour of the day. Each commercial cannabis business must have a fire evacuation plan, and plan to address robberies and other emergencies. Said plan shall be reviewed and approved annually by the Fire Department.

ENVIRONMENTAL RESOURCES DIVISION

176. Applicant shall arrange for materials collection during construction, demolition, and occupancy with the City's Environmental Resources Division or Applicant shall arrange for self-hauling.
177. FOR COMMERCIAL/INDUSTRIAL PROJECTS: To be in compliance with state law, Applicant shall make provisions to divert a minimum of 50%, with an aim of diverting 75% to achieve the new state diversion goal, of the waste material generated during occupancy through source reduction, recycling, reuse, and organics collection programs. Applicant shall

submit an “ Environmental Resources Division Occupancy Plan” (“Occupancy Plan”) to the City’s Environmental Resources Division. The Occupancy Plan must clearly state how recyclable and organic material will be managed on site to be in compliance with applicable state law, including what service provider(s) will manage/transport materials to appropriate facilities. An Occupancy Plan must be submitted and approved prior to issuance of a certificate of occupancy.

DEVELOPMENT SERVICES DIVISION STANDARD CONDITIONS

178. Applicant shall pay plan check and processing fees in effect at the time of construction plan submittal and shall pay development fees, encroachment permit fees, and other applicable fees in effect at permit issuance. (DS-1)
179. Applicant shall remove graffiti from the project, including graffiti on offsite public infrastructure under construction by Applicant, within 24 hours of its appearance. If Applicant fails to remove graffiti in accordance with this condition, the City may at the discretion of the Development Services Manager issue a stop work order until such time as the graffiti is removed. (DS-20)
180. The conditions of this Resolution shall prevail over all omissions, conflicting notations, specifications, dimensions, typical sections, and the like, that may or may not be shown on the improvement plans. (DS-21)
181. Applicant shall pay the cost of all inspections of onsite and offsite improvements. (DS-22)
182. Applicant shall be responsible for all project related actions of Applicant's employees, contractors, subcontractors, and agents until City accepts the improvements. (DS-23)
183. Applicant shall install City approved backflow prevention devices for water connections if so ordered by the City Engineer. (DS-45)
184. Developer shall install bike racks in accordance with City standards at locations approved by City Traffic Engineer. (TR-73)

DEVELOPMENT SERVICES DIVISION SPECIAL CONDITIONS

185. Developer shall verify that the existing sanitary sewer and water services are adequately sized to serve the proposed improvements and provide the information on the improvement plans. (DS)
186. Existing water services and meters serving the project not meeting City standards shall be upgraded. (DS)
187. Show all applicable existing and proposed utilities (sewer, water, storm, gas, elect.) affected by the proposed improvement on the site engineering plan. (DS)
188. The project shall comply with the latest California Building Code disabled access requirements. (DS)

189. The existing trash enclosure shall be retrofitted with a roof and shall include architectural screen mesh between the top of wall and roof to prevent unauthorized access and be sprinklered if required by the Fire Department. (DS)

PASSED AND ADOPTED by the City Council of the City of Oxnard on the 7th day of December 2021, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

RECUSED:

John C. Zaragoza, Mayor

ATTEST:

Rose Chaparro, City Clerk

APPROVED AS TO FORM:

Stephen M. Fischer, City Attorney

Appeal of the Planning Commission's Decision to Approve Special Use Permit No. 21-516-36 for FGH Retail Services, LLC

2320 North Rose Avenue (APN: 213-0-011-255)

Jose Coyotl, Associate Planner
 Scott Kolwitz, Planning & Environmental Services Manager
 Vyto Adomaitis, Community Development Director
 Community Development Department

City Council
 December 7, 2021



Project Location and Existing Conditions

2

Subject Site: 2320 North Rose Avenue

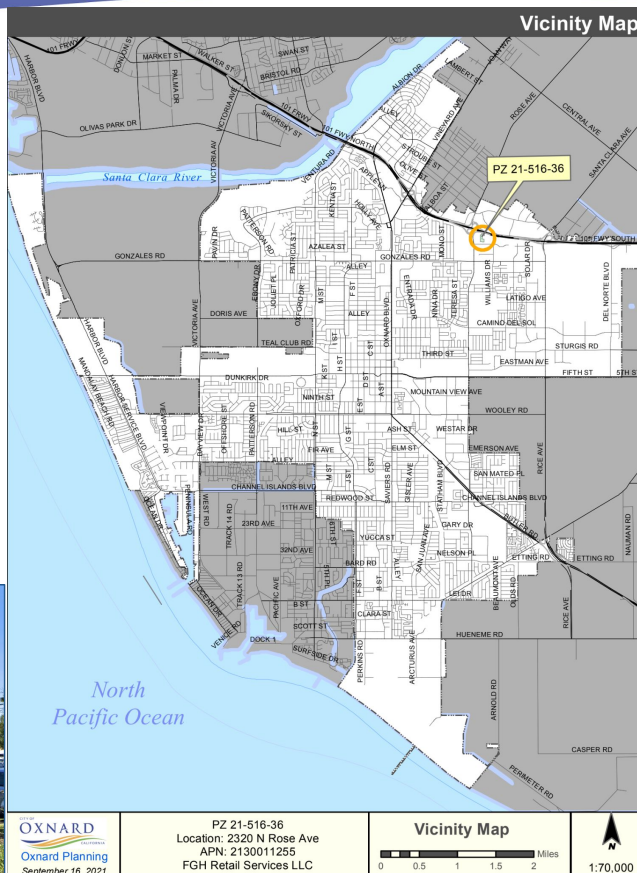
Designations

General Plan: Commercial General (CG)
 and Zoning: General Commercial (C-2)

Surroundings

Uses

the site and
 surrounding area
 are CG and C-2





FGH Retail Services Cannabis Permit Timeline

- On January 7, 2021, FGH Retail Services, LLC. filed for a request to obtain a Commercial Cannabis Business Permit for a cannabis retail facility during the open application period for a competitive selection process.
- On March 1, 2021, the City Manager approved a list of 13 retail cannabis applicants and three local equity applicants that were invited to apply for a Special Use Permit at specific locations based on the competitive selection process.
 - FGH Retail Services, LLC was one of the three local applicants invited to apply for a Special Use Permit.
 - In order to successfully commence and inaugurate the Commercial Cannabis Business Permit, FGH Retail Services, LLC. is required to receive approval of a SUP as specified within OCC Section 11-457.
- On October 13, 2021, the Planning Commission approved PZ No. 21-516-36, the request by FGH Retail Services, LLC to operate a commercial cannabis retail facility at 2320 North Rose Avenue within an existing 23,275 square-foot commercial building.

October 7, 2021:

- Public hearing held to consider Planning & Zoning Permit No. 21-516-36 requesting approval of a Special Use Permit.
- Staff recommended approval.
- At the public hearing, the Commission heard public testimony. Approximately 30-minutes of public verbal testimony was also provided by twelve individuals.
 - Verbal comments received from eight of the twelve individuals can generally be summarized as being supportive of the request.
 - Verbal comments from four of the twelve individuals can generally be summarized as postponing their comments to the continued hearing date.
- The public hearing was continued to October 13, 2021.

Background: Planning Commission Hearings

October 13, 2021:

- The Commission held the continued public hearing for PZ No. 21-516-36
- At the approximately a three-hour public hearing, the Commission heard public testimony.
- Approximately 75 minutes of public verbal testimony was also provided by twelve individuals.
 - Verbal comments received from nine of the twelve individuals can generally be summarized as being supportive of the request,
 - Verbal comments from three of the twelve individuals can generally be summarized as being unsupportive of the request.
- Following the public testimony and deliberations, the Commission voted 6-0, with one Commissioner abstaining, to adopt a resolution to approve the project.

On October 26, 2021

- The Appellant filed a timely Appeal application with the City.

November 17, 2021

- The Project applicant submitted a letter to the City in response of the Appeal.

The Appellant filed an appeal with nine grounds of appeal:

- 1) No notice was given to the public regarding proposed delivery use.
- 2) The proposed event space further violate the CC&Rs.
- 3) Background and correction of the incomplete record.
- 4) The City cannot make the required findings under Oxnard Zoning Code Section 16-531(A) (several components of this appeal were identified).
- 5) Approval of the application will be a waste of the City's time and resources.
- 6) FGH misrepresented facts in the presentation to the City.
- 7) The Project is subject to CEQA.
- 8) the Resolution itself is flawed, and it contains many errors that need to be corrected (several components of this appeal were identified).
- 9) Request to speak at October 7, 2021 hearing.

Appellant's Grounds of Appeal 1-2 and Staff Responses

8

Ground of Appeal 1: "NO NOTICE WAS GIVEN TO THE PUBLIC REGARDING PROPOSED DELIVERY USE"

Staff Response:

1. The Appellant does not provide any evidence in their Appeal application to back up this assertion.
2. FGH applied for a retail commercial cannabis license. State law allows licensed cannabis retailers to deliver cannabis products to customers.

Ground of Appeal 2: "THE PROPOSED EVENT SPACE FURTHER VIOLATE THE CC&RS"

Staff Response:

1. The City does not enforce private Covenants, Conditions and Restrictions (CC&Rs).

Grounds of Appeal 3: The Neighboring Owners submitted a letter to the City on June 15, 2021. The letter's purpose was twofold:

1) provide the City with the relevant information needed to properly analyze the "nature, condition and development of adjacent uses, buildings and structures," and to ensure the Project not "adversely affect or be materially detrimental to such adjacent uses, buildings or structures" as required by Code.

2) to put the City on notice that the Neighboring Owners will enforce the CC&Rs, which expressly prohibit adult uses, including cannabis businesses.

Staff Response:

- The Commission received notification of the submitted “Neighboring Owners” letters.
- The Project will allow cannabis retail within an existing building that is located within an existing commercial shopping center. This building is served by existing utilities and infrastructure.
- The Project is consistent with public health, safety and general welfare by City standards and pursuant to OCC Article XVII (Commercial Cannabis Activity) to ensure operational standards were met.
- The City does not enforce CC&Rs.

Grounds of Appeal 4A: “THE CITY CANNOT MAKE THE REQUIRED FINDINGS UNDER OXNARD ZONING CODE SECTION 16-531(A)” and Staff Response 10

Grounds of Appeal (several components were identified) 4A:

- The staff report packet before the Planning Commission for the October 7, 2021 hearing does not contain requirements of Oxnard Zoning Code Section 16-531(A) for issuance of a SUP.
- The Project "will adversely affect or be materially detrimental to such adjacent uses, buildings or structures." Because the Project will have an adverse effect on the neighboring uses, the Planning Commission should reject the application as it cannot make this required finding.”

Staff Response:

1. The Project's staff report, associated attachments, evidence in the record, and Resolution provided the basis for the Commission to find the intent of the Special Use Permit (SUP) requirements for granting the SUP as specified in the Oxnard City Code (OCC) Section 16-531 (Requirements For Granting) were made within Section 1 of the Resolution.
2. The Commission made the findings necessary to grant a Special Use Permit were made.

Grounds of Appeal 4B: Adverse Impacts on Neighboring Uses

There are several adverse impacts on the adjacent uses which include:

1. Future Tenant Restrictions and Future Tenant Hesitancy
2. Financing Issues with Lending Institutions
3. Traffic and Circulation Issues
4. Increase in Crime
5. Odors Issues
6. Issues with Loitering
7. Insurance Rate Hikes
8. Loss of Business

Staff Response 4B: (1,2,7,8):

1. The claims made by the Appellant lack factual evidence to support their claims.
2. The existing shopping center has been underutilized for years.
3. FGH proposes to revitalize the shopping center.

Staff Response 4B (3,4,5,6):

1. The project was reviewed for compliance with OCC and other City of Oxnard requirements prior to the Commission considering the project for approval.
2. The project was reviewed and conditionally approved to help mitigate any possible odors emitted.

Grounds of Appeal 4C - 5 and Staff Responses

Grounds of Appeal 4C: The site is governed by CC&Rs which prohibit the following uses:

1. Prohibition on adult uses
2. Prohibition on illegal uses

Staff Response:

The City does not enforce CC&Rs. Conversely, the OCC allows for cannabis uses with approval of a Special Use Permit provided findings can be made.

Grounds of Appeal 5: "Approval of the application will be a waste of the city's time and resources" - The Neighboring Owners will act to enforce the CC&Rs resulting in the Project not opening.

Staff Response:

1. The City of Oxnard does not enforce CC&Rs.
2. Additionally, the City has a responsibility to process permits that have been submitted for consideration, that are complete, comply with applicable codes and regulations and have paid the application processing fees.

Grounds of Appeal 6:

- The Project was not transparent with the City and disclose the strong opposition of the Neighboring Owners
- The staff report attached "petition" should have not been considered by the Commission.
- The Project violates the CC&Rs, has no arguments to rebut this violation, and has stubbornly proceeded with its application despite this context.”

Staff Response:

1. The City does not dictate the content of materials shown by any Applicant team at public or private meetings.
2. The Commission was given the petition in full so the Commissioners could review the material and make an independent assessment ahead of the hearing date.
3. City staff were fully aware of Appellant’s opposition.
4. Legal counsel for the Project had multiple communications with the City Attorney’s office in which the Project’s legal counsel disclosed Appellant’s opposition to the project.

Grounds of Appeal 7: “THE PROJECT IS SUBJECT TO CEQA” and Staff Response

Grounds of Appeal 7: The Project is not exempt from the CEQA process based on the following:

- The Project increases the square footage of the building
- Several unusual circumstances apply, rendering the categorical exemption inapplicable in any event
- Unusually large size
- Crime/loitering
- Odor/noise/traffic

Staff Response:

1. No building additions were approved as part of the project. The modification was for the increase in use of an additional 275 of existing retail floor area.
2. The CEQA Categorical Exemption Section 15301 (Existing Facilities) and Section 15300.2 (Exception to the Exemptions) apply to this project based on the following:
 - a) The Project involves a request to sell retail cannabis products within an existing commercial building previously used to sell retail goods.
 - b) The project request will not increase the square footage of the existing building.
 - c) None of the exceptions defeat the exemption.
 - d) Crime and loitering are not impact evaluated as part of CEQA review process.

Grounds of Appeal (several components were identified) 8A: The Commission needed to consider the following Resolution condition issues:

- Imposing a time limit on Conditions of Approval No. 48-49 relating to establishment of a community relations officer.

Staff Response:

1. Project's Condition of Approval Nos. 48 and 49 were modified in the Resolution to be considered by the City Council to include a time limit.
 - a) Condition of Approval 48: The Applicant shall provide to the City, the name, telephone number, and email address of a community relations contact (community relations officer) designated by Applicant. The community relations officer's information shall be provided to the City prior to issuance of a building permit. The community relations contact shall be responsible for responding to complaints, should they arise between the hours of 10:00 p.m. and 7:01 a.m. Complaints shall be addressed within fifteen minutes of receiving the initial complaint
 - b) Condition of Approval 49: The Applicant shall provide the name/phone number/email address for the business community relations officer to all businesses and residences located within six hundred (600) feet of the commercial cannabis business before operation of the business before issuance of a building permit. The contact name and number shall be prominently posted outside of the facility.

Grounds of Appeal 8B and Staff Response

Grounds of Appeal 8B: The Project's General Plan Consistency is not appropriate based on the following:

- The Project is not surrounded by cannabis uses which engage in similar retail business practices.
- The project was not reviewed for neighborhood compatibility, architectural design compatibility, security, and overall community benefits
- The staff report failed to attach the full set of neighboring owner's letters that was provided to the City in advance of the hearing, and did no analysis regarding neighborhood compatibility.

Staff Response:

1. Cannabis retail uses are allowed within the C-2 zone with approval of a Special Use Permit pursuant to OCC Section 11-473.
2. Zoning neighborhood compatibility:
 - a) The C-2 zone allows, by right, businesses which engage in general retail sales, department stores, pharmacies, restaurants, and many other uses.
 - b) The Project was evaluated for architectural and security as part of the SUP process.
 - c) The letter submitted on June 15, 2021 were made available prior to the Commission hearing.

Grounds of Appeal 8C: All references to cultivation exceptions should be stricken which include Condition of Approval No(s) 85-121 based on the Project not being evaluated for cannabis cultivation use.

Staff Response:

1. The Project's request is solely to allow cannabis retail
2. Conditions of Approval No(s). 85 and 121 are standard conditions for all cannabis uses so the existing language does not need to be rewritten as the allowed uses are well defined based on the cannabis use awarded.

Grounds of Appeal 8D: Condition of Approval No(s) 102-103 need to be changed to cover the entire shopping center complex instead of within 50 feet of the business to manage loitering,

Staff Response:

1. Cannabis retail uses have a standard condition drafted by the Police Department to limit the security perimeter to 50 feet.
2. The Project applicant has agreed to help mitigate possible loitering in the shopping center by extending the parameter of security and entering into a private agreement with the shopping center.

Grounds of Appeal 8E-9 and Staff Responses

Grounds of Appeal 8E:

5. Cannabis Deliveries Should be Prohibited due to there not being public notice of the delivery operation. Conditions of Approval referencing delivery should be stricken.

Staff Response:

1. In January 2019, the State legalized cannabis delivery by state-licensed firms and eliminated the City's ability to regulate cannabis delivery.
2. In addition, cannabis delivery is considered to be an accessory use to the cannabis retail facility.
3. No changes to the project conditions are proposed or necessary.

Grounds of Appeal 9: "Request to speak at October 7, 2021 hearing" - The Appellant and Neighborhood Owners were unable to be heard at the Planning Commission hearing.

Staff Response:

1. The "Neighboring Owners and their representatives" were able to participate in the October 7, 2021 Planning Commission hearing and provided verbal comments at both the October 7 and October 13, 2021 hearings.

That the City Council:

1. Conduct a public hearing;
2. Find the Project to be Categorically Exempt from environmental review pursuant to the California Environmental Quality Act (CEQA) Guidelines Section 15301 (Existing Facilities); and
3. Adopt a Resolution denying the appeal and upholding the Planning Commission's approval of Planning and Zoning Permit No. 21-516-36 (Special Use Permit- Cannabis Retail), subject to certain conditions and findings.



End of Presentation



CITY COUNCIL AGENDA REPORT

PUBLIC HEARINGS AGENDA ITEM NO. M.2

DATE: December 7, 2021

TO: City Council

FROM: Vyto Adomaitis, Community Development Director, (805) 385-7882, vyto.adomaitis@oxnard.org

SUBJECT: Planning & Zoning (PZ) Permit No. 21-580-05 Bed and Breakfast Parking Regulations (Zone Text Amendment) – Amendment to the Oxnard City Code Section 16-374 “Standards for Traditional Bed and Breakfast (Homestay)” allowing Bed and Breakfast Homestays (containing no more than two guest bedrooms) located on corner lots may credit the nonprimary street frontage toward the parking requirement, with 25 linear feet equal to one parking space, subject to approval of the decision maker associated with the underlying permit. (5/5/5)

RECOMMENDATION

That the City Council:

1. Conduct a public hearing;
2. Determine the Zone Text Amendment is exempt from environmental review pursuant to the California Environmental Quality Act (CEQA) Guidelines 15060(c)(2) and (3) and 15061(b)(3); and
3. Introduce an Ordinance for first reading (by title only, waiving further reading) allowing Bed and Breakfast Homestays (containing no more than two guest bedrooms) located on corner lots may credit the nonprimary street frontage toward the parking requirement, with 25 linear feet equal to one parking space, subject to approval of the decision maker associated with the underlying permit.

(Planning Commission recommend approval 7-0)

Please click the following link to view the required Measure M pre-recorded presentation video:

<https://youtu.be/NnnpkWA0Hiw>

BACKGROUND

On April 13, 2021, the Community Services, Public Safety and Housing and Development Committee (Committee) requested staff to prepare a presentation regarding the required off-street parking for bed and breakfast uses (B&B). The purpose of the report was to determine if the required off-street parking was adequate or if amendments were required since B&B uses are not common and their location is limited within the City.

On July 27, 2021, the Committee received a summary report on the off-street parking requirements for B&B uses contained within Chapter 16 of the OCC. The intent of the report was for the Committee to provide input on the required off-street parking for the B&B uses and determine if staff should pursue a Zone Text Amendment (ZTA) to modify the existing off-street parking requirement for B&B uses. During public comment, a resident of the Wilson Neighborhood, who is preparing to submit an application for a B&B use, spoke in favor of the ZTA. During deliberations, the Committee agreed to initiate a ZTA to provide additional flexibility to the required off-street parking regulations for B&B uses since these uses are limited in location within the City. The Committee directed staff to pursue a ZTA to allow homestays located on corner lots to be credited nonprimary street frontage towards the parking requirement consistent with what is currently allowed for B&B Inns. The Committee indicated that the proposed ZTA would have the least impact to the

community because it would only be applicable to corner lot properties.

On September 20, 2021, a Community Workshop meeting was held. A notice of this meeting was distributed Citywide to neighborhood chairs and to all property owners of the Wilson Neighborhood. One member of the public participated in the Community Workshop meeting. The member of the public expressed her support for the proposed ZTA.

On October 21, 2021, the Planning Commission conducted a public hearing to review the proposed ZTA. Staff mailed notice of this public hearing to all property owners of the Wilson Neighborhood. The Planning Commission unanimously voted to adopt Resolution No. 2021-33 (Attachment A), recommending that the City Council adopt the proposed ZTA as presented to allow homestays located on corner lots to be credited nonprimary street frontage towards the parking requirement consistent with what is currently allowed for B&B Inns. The October 21, 2021, Planning Commission Staff Report is attached to this staff report as Attachment B.

ANALYSIS AND DISCUSSION

Pursuant to Oxnard City Code (OCC) Section 16-372, “Traditional Bed and Breakfast” uses, containing no more than two guest bedrooms, and “Bed and Breakfast Inns” (generally referred to as “Bed and Breakfasts” or “B&Bs”), containing three to five guest bedrooms, shall be permitted only within the boundaries of the Wilson Neighborhood. However, the Planning Commission may also approve B&Bs within other areas of the City provided the Planning Commission makes the findings required for designation of a structure as a significant heritage feature. Additionally, B&Bs are to conform to the operational standards identified in OCC Section 16-374 and parking standards identified in OCC 16-375 (provided below). These standards are designed to maintain compatibility within and surrounding residential neighborhoods.

The Wilson Neighborhood is composed of approximately 690 properties. Please refer to Attachment C for a map of the Wilson Neighborhood that also includes boundary layers identifying the 1981 Historical Survey Area and the Henry T. Oxnard Historic District. Based on the existing properties located within the Wilson Neighborhood, there are 110 corner lot properties. The map identifies 88 “pre-qualified” properties which means that they meet the requirement for the proposed ZTA if adopted because they are located within the Wilson Neighborhood and on a corner lot; however, it is unknown if the properties contain a structure that might be designated with a heritage feature. The map also identifies 16 historically designated properties located on corner lots that would be eligible for the proposed ZTA if adopted because they contain a structure with a designated heritage feature and are located on a corner parcel. The map identifies 6 corner lot properties that required further investigation as to whether they would be eligible for consideration of a B&B use for a variety of reasons including that the structures located within the properties seem to be improved with commercial not residential structures.

The Henry T. Oxnard Historic District is a collection of 142 properties within the Wilson Neighborhood, and three of the 142 properties are officially designated as historic Landmarks (205 South F Street, 249 South F Street, and 155 South G Street). Please refer to Attachment D for a map identifying the Wilson Neighborhood and Henry T. Oxnard Historic District. According to City licensing records, no B&Bs are currently licensed to operate within the City.

B&B Parking Standards

Pursuant to OCC Section 16-375(J), the Parking Requirements for B&Bs Inns are as follows:

- A. Parking shall be provided at the rate of one off-street parking space per guest room plus parking for the owner as required at the time of original construction of the structure. Parking surfaces may include, but are not limited to: brick, pavers, cobblestones, stamped colored concrete, and grass-cell pavement. Excessive amounts of paving to meet parking requirements shall not be allowed.
- B. Inns (not Homestays) located on corner lots may credit the nonprimary street frontage toward the parking requirement, with 25 linear feet equal to one parking space, subject to approval of the Planning Commission (The OCC does not provide any parking space credits for Homestays (B&Bs with up to 2 guest bedrooms for rent) located on corner lots subject to approval of a decisionmaker).

The intent of the B&B standards is to retain the character of primarily low density residential neighborhoods by requiring, among other standards, an owner occupancy requirement. Additionally, existing parking regulations guard

against parking becoming an issue by requiring parking for both the residential use and B&B use.

Committee Direction & Planning Commission Review

The Committee agreed to initiate a ZTA to provide additional flexibility to the required off-street parking regulations for B&B uses since these uses are limited in location within the City. The Committee directed staff to pursue a ZTA to allow Homestays located on corner lots to be credited nonprimary street frontage towards the parking requirement consistent with what is currently allowed for B&B Inns. The Committee indicated that the proposed ZTA would have the least impact to the community because it would only be applicable to corner lot properties.

Based on the direction of the Committee, staff prepared and presented the proposed ZTA to allow Homestays located on corner lots to be credited nonprimary street frontage towards the parking requirement consistent with what is currently allowed for B&B Inns. The Planning Commission reviewed the City's existing regulations, a comparison of B&B parking requirements for Oxnard and surrounding jurisdictions, a comparison of required off-street parking requirement comparison between various uses, and provisions within the Oxnard City Code which provide options to seek relief from parking requirements. Ultimately, the Planning Commission unanimously recommended that the City Council adopt the proposed ZTA as presented to allow homestays located on corner lots to be credited nonprimary street frontage towards the parking requirement consistent with what is currently allowed for B&B Inns. A draft City Council Ordinance has been included as Attachment E within this staff report. The ZTA is proposed to read as follows:

Oxnard City Code Chapter 16, Section 16-374 "STANDARDS FOR TRADITIONAL BED AND BREAKFAST (HOMESTAY)".

Existing City Code Section 16-374 shall be amended as shown below (Only underlined portions are to be added):

SEC. 16-374. STANDARDS FOR TRADITIONAL BED AND BREAKFAST (HOMESTAY).

The standards for traditional bed and breakfast are:

- (A) The maximum number of guest bedrooms for rent shall not exceed two.
- (B) The owner of the homestay shall live on the premises and operate the homestay.
- (C) No cooking facilities shall be provided in individual guest bedrooms.
- (D) No exterior advertising signs shall be permitted.
- (E) Parking requirements -
 - (1) Parking shall be provided at the rate of one off-street parking space per guest room plus parking for the owner as required at the time of original construction of the structure. Parking surfaces may include, but are not limited to: brick, pavers, cobblestones, stamped colored concrete, and grass-cell pavement. Excessive amounts of paving to meet parking requirements shall not be allowed.
 - (2) Homestays located on corner lots may credit the nonprimary street frontage toward the parking requirement, with 25 linear feet equal to one parking space, subject to approval of a Development Design Review permit.

ENVIRONMENTAL REVIEW

Pursuant to Sections 15060(c)(2) and (3) and 15061(b)(3) of the California Environmental Quality Act (CEQA), regulatory actions which will not result in direct or reasonably foreseeable indirect physical change in the environment and 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 are not subject to CEQA. The proposed ZTA is a regulatory action. Therefore, staff has determined that there is no possibility that the project will have a significant effect on the environment. A Notice of Exemption (Attachment F) will be filed upon approval of the ZTA by the City Council.

STRATEGIC PRIORITIES

This agenda item supports Economic Development strategy. The purpose of Economic Development strategy is to focus on the retention and expansion of Oxnard businesses by increasing the skills and employability of our local workforce, invite new business investments, and target site-based redevelopment opportunities.

This agenda item supports the Quality of Life strategy. The purpose of the Quality of Life strategy is to restore and increase quality services and programs that enrich Oxnard's diverse community, promotes safe neighborhoods, encourages community engagement, and supports our residents in their efforts to improve their quality of life.

FINANCIAL IMPACT

No financial impacts to the City are associated with the proposed Zone Text Amendment.

COMMITTEE OUTCOME

On July 27, 2021, the Community Services, Public Safety and Housing and Development Committee (Committee) received a summary report and provided input on the required off-street parking for B&B uses. The Committee determined staff should pursue a Zone Text Amendment (ZTA) allowing Bed and Breakfast Homestays (containing no more than two guest bedrooms, located on corner lots) may credit the nonprimary street frontage toward the parking requirement, with 25 linear feet equal to one parking space, subject to approval of the decision maker associated with the underlying permit. The Committee did not review any specific ZTA language.

The specific ZTA language was heard by the Planning Commission during a public hearing; therefore, the specific ZTA language did not originate in Committee.

Prepared by: Isidro Figueroa, Principal Planner

ATTACHMENTS

1. Attachment 1 - Planning Commission Resolution 2021-33
2. Attachment 2 - Planning Commission Staff Report dated October 21, 2021 (without attachments)
3. Attachment 3 - Wilson Neighborhood Corner Lot Properties
4. Attachment 4 - Wilson Neighborhood Map/Henry T. Oxnard Historic District Map
5. Attachment 5 - City Council Draft Ordinance
6. Attachment 6 - Notice of Exemption
7. Attachment 7 - Presentation

RESOLUTION NO. 2021-33

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF OXNARD RECOMMENDING TO THE CITY COUNCIL THE ADOPTION OF ZONE TEXT AMENDMENT NO. PZ 21-580-05 TO AMEND OXNARD CITY CODE (OCC) CHAPTER 16 (ZONING CODE), ARTICLE V, SECTION 16-374 “STANDARDS FOR TRADITIONAL BED AND BREAKFAST (HOMESTAY)” ALLOWING BED AND BREAKFAST HOMESTAYS (CONTAINING NO MORE THAN TWO GUEST BEDROOMS) LOCATED ON CORNER LOTS MAY CREDIT THE NONPRIMARY STREET FRONTAGE TOWARD THE PARKING REQUIREMENT WITH 25 LINEAR FEET EQUAL TO ONE PARKING SPACE, SUBJECT TO APPROVAL OF A DEVELOPMENT DESIGN REVIEW PERMIT. THE PROPOSED REGULATIONS WOULD APPLY CITYWIDE (INLAND ZONE). FILED BY THE CITY OF OXNARD, COMMUNITY DEVELOPMENT DEPARTMENT, 214 SOUTH C STREET, OXNARD, CALIFORNIA 93030.

WHEREAS, the Planning Commission of the City of Oxnard has considered Zone Text Amendment (ZTA) PZ No. 21-580-05, filed by the City of Oxnard Community Development Department, to amend Oxnard City Code, Article V, Section 16-374 “Standards for Traditional Bed and Breakfast (Homestay)” allowing Bed and Breakfast Homestays (containing no more than two guest bedrooms) located on corner lots may credit the nonprimary street frontage toward the parking requirement, with 25 linear feet equal to one parking space, subject to approval of the decision maker; and

WHEREAS, On April 13, 2021, Community Services, Public Safety, Housing & Development Committee requested staff prepare a presentation regarding the required off-street parking for bed and breakfast uses (B&B’s). The purpose of the report was to determine if the required off-street parking was adequate or if amendments were required since B&B uses are not common and their location is limited within the City; and

WHEREAS, On July 15, 2021, Community Services, Public Safety, Housing & Development Committee unanimously determined staff should pursue a ZTA to amend Oxnard City Code, Article V, Section 16-374 “Standards for Traditional Bed and Breakfast (Homestay)” allowing Bed and Breakfast Homestays (containing no more than two guest bedrooms) located on corner lots may credit the nonprimary street frontage toward the parking requirement, with 25 linear feet equal to one parking space, subject to approval of the decision maker associated with the underlying permit; and

WHEREAS, on September 20, 2021, a public Community Workshop meeting was held for the community and the general public to receive community input on the proposed ZTA; and

WHEREAS, on October 21, 2021, the Planning Commission of the City of Oxnard conducted a duly noticed public hearing to consider Planning and Zoning Permit No. 21-580-05 (Zone Text Amendment) (the “Project”) in accordance with the OCC; and

WHEREAS, the Planning Commission received written and verbal comments from the public; and

WHEREAS, the Planning Commission finds that the proposed ZTA is in the public interest and reflects the input from residents, stakeholders in the community, and decision-makers. There are no changes recommended under the proposed ZTA that would reduce or compromise existing standards that protect the health, safety or general welfare of the City; and

WHEREAS, the proposed ZTA does not involve any direct physical changes to the environment. There are no changes in landforms or an intensification of land uses as a part of the proposed ZTA, and all public services for existing land uses will remain as-is, with no changes and no diminishment of service or safety; and

WHEREAS, the proposed ZTA to Chapter 16 of the OCC, herein attached as Exhibit 1, would establish specific provisions consistent with the action items and policy directives in the 2030 General Plan; and

WHEREAS, the adoption of ZTA would be a reasonable exercise of the City's police powers to ensure the continued health, safety, and welfare of the public by modifying regulations related to flexible Bed & Breakfast parking regulations to facilitate the development of Bed & Breakfast establishments and promote historical tourism within the City of Oxnard; and

WHEREAS, the Planning Commission determined that this action is exempt from environmental review pursuant to California Environmental Quality Act (CEQA) Guidelines Sections 15060(c)(2) and (3) and 15061(b)(3) as this ZTA is a regulatory action which will not result in direct or reasonably foreseeable indirect physical change in the environment and 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 are not subject to CEQA; and

WHEREAS, it is in the public interest, consistent with the 2030 General Plan and will further protect the public health, safety, and general welfare to establish special zoning regulations governing firearm and ammunition sales and firearm ranges.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Oxnard hereby recommends to the City Council adoption of the ordinance attached hereto as Exhibit 1.

Section 1. The foregoing recitals are true and correct and are hereby incorporated into the operative provisions of this Resolution.

Section 2. Based upon the foregoing recitals, the Planning Commission finds, for the above stated reasons, and the reasons set forth in the staff report, that the proposed ZTA presented as Exhibit 1 herein will not result in any new significant environmental impacts that were not addressed in the 2030 General Plan Program EIR, will not increase the severity of any previously identified impacts, and is exempt from CEQA under Guidelines Sections 15060(c)(2) and (3) and 15061(b)(3).

Section 3. The Planning Commission, based on the findings set forth herein, recommends that the City Council of the City of Oxnard adopt ZTA PZ No. 21-580-05 attached hereto as Exhibit 1 and incorporated herein by this reference to this Resolution.

Section 4. The Secretary shall certify the adoption of this Resolution.

PASSED, APPROVED, AND ADOPTED by the Planning Commission of the City of Oxnard on this 21st day of October, 2021.

Daniel Chavez Jr., Chair

I hereby certify that the foregoing is a true copy of a Resolution adopted by the Planning Commission of the City of Oxnard at a meeting held on the 21st day of September, 2021, and carried by the following vote:

AYES: Commissioner(s): Chavez Jr.; Arruejo; Connelly; Dr. Lopez; Meyer; Nash; Sanchez

NOES: Commissioner(s):

ABSENT: Commissioner(s):

ABSTAIN: Commissioner(s):

RECUSED: Commissioner(s):

ATTEST:

Scott Kolwitz, Secretary

**PLANNING COMMISSION
STAFF REPORT**

TO: Planning Commission

FROM: Isidro Figueroa, Principal Planner

DATE October 21, 2021

SUBJECT: **Project Name: Bed and Breakfast Parking Regulations;** Planning & Zoning (PZ) Permit No. 21-580-05 (Zone Text Amendment) – An Amendment to the to Oxnard City Code Section 16-374 “Standards for Traditional Bed and Breakfast (Homestay)” allowing Bed and Breakfast Homestays (containing no more than two guest bedrooms) located on corner lots may credit the nonprimary street frontage toward the parking requirement, with 25 linear feet equal to one parking space, subject to approval of the decision maker associated with the underlying permit. The proposed regulations would apply Citywide (Inland Zone).

1) Recommendation: That the Planning Commission (“**Commission**”):

- a) Find the Project to be exempt from environmental review pursuant to the California Environmental Quality Act (CEQA) Guidelines 15060(c)(2) and (3) and 15061(b)(3); and
- b) Adopt Resolution 2021-XX recommending that the City Council approve Planning & Zoning Permit No. 21-580-05 (Zone Text Amendment) allowing Bed and Breakfast Homestays (containing no more than two guest bedrooms) located on corner lots may credit the nonprimary street frontage toward the parking requirement, with 25 linear feet equal to one parking space.

2) Project Description and Applicant: The proposed Zone Text Amendment (ZTA) modifies Oxnard City Code (OCC) Chapter 16 (Zoning Code), Article V (Special Use Requirements), Section 16-374 pertaining to “Standards for Traditional Bed and Breakfast (Homestay)” allowing Bed and Breakfast Homestays (containing no more than two guest bedrooms) located on corner lots may credit the nonprimary street frontage toward the parking requirement, with 25 linear feet equal to one parking space, subject to approval of the decision maker associated with the underlying permit. Filed by the City of Oxnard, Community Development Department, 214 South C Street, Oxnard, California 93030.

3) Background: On April 13, 2021, the Community Services, Public Safety and Housing and Development Committee (Committee) requested staff to prepare a presentation regarding the required off-street parking for bed and breakfast uses (B&B). The purpose of the report was to determine if the required off-street parking was adequate or if amendments were required since B&B uses are not common and their location is limited within the City.

On July 27, 2021, the Committee received a summary report on the off-street parking requirements for B&B uses contained within Chapter 16 of the OCC. The intent of the report

was for the Committee to provide input on the required off-street parking for the B&B uses and determine if staff should pursue a ZTA to modify the existing off-street parking requirement for B&B uses. The summary report provided the following analysis:

1. Summary of existing required off-street parking standards for B&B uses as identified in the OCC;
2. Comparison of off-street parking requirements to the surrounding jurisdictions;
3. Required off-street parking comparison between B&B, short-term rentals (STRs) and accessory dwelling units (ADUs); and
4. Relief from parking requirement options

During public comment, a resident of the Wilson Neighborhood, who is preparing to submit an application for a B&B use, spoke in favor of the ZTA. During deliberations, the Committee unanimously agreed to initiate a ZTA to provide additional flexibility to the required off-street parking regulations for B&B uses since these uses are limited in location within the City. The Committee directed staff to pursue a ZTA to allow homestays located on corner lots to be credited non-primary street frontage towards the parking requirement consistent with what is currently allowed for B&B Inns. The Committee indicated that the proposed ZTA would have the least impact to the community because it would only be applicable to corner lot properties.

- 4) Environmental Determination:** Pursuant to Sections 15060(c)(2) and (3) and 15061(b)(3) of the California Environmental Quality Act (CEQA), regulatory actions which will not result in direct or reasonably foreseeable indirect physical change in the environment and 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 are not subject to CEQA. The proposed ZTA is a regulatory action. Therefore, staff has determined that there is no possibility that the project will have a significant effect on the environment. A Notice of Exemption (Attachment A) will be filed upon approval of the ZTA by the City Council.

5) Analysis:

- a) General Discussion:** Pursuant to Oxnard City Code (OCC) Section 16-372, “Traditional Bed and Breakfast” uses and “Bed and Breakfast Inns” (generally referred to as “Bed and Breakfasts” or “B&Bs”) shall be permitted only within the boundaries of the Wilson Neighborhood. However, the Planning Commission may also approve B&Bs within other areas of the City provided the Planning Commission makes the findings required for designation of a structure as a significant heritage feature. Additionally, B&Bs are to conform to the standards identified in OCC Sections 16-374 and 16-375 (provided below). These standards are designed to maintain compatibility within and surrounding residential neighborhoods. As such, it is the intent of this report to inform the Planning Commission of the existing off-street parking requirements for B&Bs.

Pursuant to Section Chapter 16, Section 16-471 the following findings are required for designation of a structure as a significant heritage feature:

- A. The architecture or design of the feature is unique or of a style unique to the area;
- B. The architecture or design of the feature exemplifies a significant or unique architectural style; and

- C. The feature was the site of a significant historical or cultural event, or was owned by a person or group of persons who were significantly involved in the historical or cultural development of the city.

The Wilson Neighborhood is composed of approximately 690 properties. Please refer to Attachment B for a map of the Wilson Neighborhood that also includes boundary layers identifying the 1981 Historical Survey Area and the Henry T. Oxnard Historic District. Based on the existing properties located within the Wilson Neighborhood, there are 110 corner lot properties. The map identifies 88 “pre-qualified” properties which means that they meet the requirement for the proposed ZTA if adopted because they are located within the Wilson Neighborhood and on a corner lot; however, it is unknown if the properties contain a structure that might be designated with a heritage feature. The map also identifies 16 historically designated properties located on corner lots that would be eligible for the proposed ZTA if adopted because they contain a structure with a designated heritage feature and are located on a corner parcel. The map identifies 6 corner lot properties that required further investigation as to whether they would be eligible for consideration of a B&B use for a variety of reasons including the the structures located within the properties seem to be improved with commercial not residential structures.

The Henry T. Oxnard Historic District is a collection of 142 properties within the Wilson Neighborhood, and three of the 142 properties are officially designated as historic Landmarks (205 South F Street, 249 South F Street, and 155 South G Street). Please refer to Attachment C for a map identifying the Wilson Neighborhood and Henry T. Oxnard Historic District. According to City licensing records, no B&Bs are currently licensed to operate within the City.

The Committee directed staff to pursue a ZTA to modify the existing off-street parking requirement for B&B uses by allowing B&B Homestays located on corner lots may credit the nonprimary street frontage toward the parking requirement similar to what the OCC currently allows B&B Inns. The Committee arrived at this conclusion by analyzing existing OCC requirements for B&Bs and a comprehensive analysis of options available for consideration.

This report identifies those options by first defining B&Bs, review Oxnard’s operational and parking B&B standards, summarizes B&B parking standards in surrounding jurisdictions, provides a comparison of off-street parking standards between B&Bs, STRs and ADUs, and then concludes with provisions which potentially allow relief from parking requirements.

B&B Definitions

Pursuant to OCC Section 16-371, B&B uses are defined as follows:

- A. **Bed and Breakfast Inn:** An establishment, originally built as a single-family residence, operated by a resident owner, and containing three to five guest bedrooms, each of which is available for rent to the general public for up to 29 consecutive days.
- B. **Traditional Bed and Breakfast (Homestay):** A traditional bed and breakfast is an establishment which contains no more than two guest bedrooms, each of which is available for rent to the general public for up to 29 consecutive days. Traditional bed and breakfast facilities are also referred to as “homestays.”

B&B Operational and Parking Standards

A **Bed and Breakfast Inn** use is allowed with approval of a Special Use Permit which requires a public hearing and is reviewed by the Planning Commission and must comply with the following operational standards (Section 16-375):

- A. The maximum number of guest bedrooms for rent shall not exceed five. The Planning Commission may approve more bedrooms provided adequate parking and interior yard space are available.
- B. The owner of the bed and breakfast inn shall live on the premises and operate the inn.
- C. Meal service shall be limited to breakfast and evening snacks for overnight guests of the inn.
- D. No cooking facilities shall be provided in individual guest bedrooms.
- E. Any alterations proposed to the inn shall be consistent with the materials, color, and architectural style of the original construction, as determined by the commission, based on a recommendation from the Ventura County Cultural Heritage Commission, or an architect or other design professional specializing in period architecture.
- F. The proposed bed and breakfast inn shall have some historical significance in the establishment and development of the city, as determined by the commission, based on the findings required for designation of a structure as a significant heritage feature.

A **Traditional Bed and Breakfast (Homestay)** use is allowed with approval of a Development Review Permit which requires a public hearing and is reviewed by the Community Development Director and must comply with the following operational standards (Section 16-374):

- A. The maximum number of guest bedrooms for rent shall not exceed two.
- B. The owner of the homestay shall live on the premises and operate the homestay.
- C. No cooking facilities shall be provided in individual guest bedrooms.
- D. No exterior advertising signs shall be permitted.

Pursuant to OCC Section 16-375(J), the **Parking Requirements** for B&Bs is as follows:

- A. Parking shall be provided at the rate of one off-street parking space per guest room plus parking for the owner as required at the time of original construction of the

structure. Parking surfaces may include, but are not limited to: brick, pavers, cobblestones, stamped colored concrete, and grass-cell pavement. Excessive amounts of paving to meet parking requirements shall not be allowed.

- B. Inns (not Homestays) located on corner lots may credit the non-primary street frontage toward the parking requirement, with 25 linear feet equal to one parking space, subject to approval of the Planning Commission (The OCC does not provide any parking space credits for Homestays (B&Bs with up to 2 guest bedrooms for rent) located on corner lots subject to approval of a decisionmaker).

The intent of the B&B standards is to retain the character of primarily low density residential neighborhoods by requiring, among other standards, an owner occupancy requirement. Additionally, existing parking regulations guard against parking becoming an issue by requiring parking for both the residential use and B&B use.

A Comparison of B&B Parking Requirements for Oxnard and Surrounding Cities

In order to assist the Planning Commission in discussing the required off-street parking for B&Bs, staff has compiled the off-street parking requirements from surrounding jurisdictions to provide the Planning Commission a perspective of best practices used to regulate off-street parking for B&Bs. The following chart provides the Planning Commission a comparison between the City's B&B off-street parking requirements and those of surrounding cities.

Local Jurisdiction	B&B Parking Requirement
Oxnard	1 off-street parking per guest room; plus parking for owner (as required at the time of original construction of the structure)
Camarillo	1 off-street parking per guest room; plus parking for residential use
Ojai	1 off-street parking per guest room; plus 2 spaces for the resident use
Simi Valley	Determined through the (Special) Use Permit Process; a parking study could be required to determine appropriate parking.
Ventura	1 open or covered space for each guest room; plus 2 spaces within a garage. However, the City of Ventura allows for an existing 2-car garage to satisfy both the existing residential parking requirement and provides for 1 off-street parking space for a B&B. In this scenario, the off-street parking requirement for a single-room B&B room would be satisfied by using an existing 2-car garage.

Ventura County	1 off-street parking per guest room; plus parking for residential use
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The City's off-street parking requirement of one space per guest room is generally consistent with the off-street parking requirement for B&Bs in surrounding jurisdictions except for the City of Simi Valley. The City of Simi Valley does not have an off-street requirement; however, the off-street parking requirement is determined through the Conditional Use Permit process and a parking study might be required in order to determine the appropriate off-street requirement.

Required Off-Street Parking Comparison Between B&B, Short-Term Rentals and Accessory Dwelling Units

Short-Term Rentals

The City Council adopted STR regulations on November 5, 2019, which mandated that off-street parking was to be based on the number of bedrooms provided onsite. Specifically, OCC Section 16-667.3 requires STRs to provide a minimum of one parking space for STRs in a studio or one bedroom, a minimum of two parking spaces for STRs with two to four bedrooms; and a minimum of three parking spaces for STRs with five or more bedrooms. Additionally, the STR regulations require permitted garages and driveways on the property to be unobstructed which may be made available for renter parking.

Accessory Dwelling Units

In 2019, the state of California enacted a group of housing laws aimed at addressing the housing crisis that, among other things, amended Government Code sections 65852.2 and 65852.22 to impose new limits on the City's ability to regulate ADUs and Junior Accessory Dwelling Units (JADUs). Specifically, based on State law, the City amended the OCC to require one off-street parking space for an ADU (JADUs are not required to provide a parking space). Additionally, the City was required to waive the ADU off-street parking space requirement in the following circumstances:

- A. The accessory dwelling unit is located within one-half mile of public transit, including transit stations and bus stations.
- B. The accessory dwelling unit is located within an architecturally and historically significant historic district.
- C. The accessory dwelling unit is constructed entirely within the proposed or existing primary dwelling unit or an accessory structure.
- D. When on-street parking permits are required by the city but not offered to the occupant of the accessory dwelling unit.
- E. When there is a car share vehicle located within one block of the accessory dwelling unit.
- F. If a required garage, carport, or covered parking structure for the primary unit is demolished or converted in conjunction with the construction of an accessory dwelling unit, required parking for the primary unit shall be provided on the property, outside of the front yard setback, and on a city-approved pad or structure.

The following chart compares the parking requirements between B&Bs; STRs; and ADUs.

	Rental Durations	Rental Days a Year	Parking Requirements
B&Bs	Less than 30 days	365	One space per guest room; plus parking for residential use
STRs	Less than 30 days	Up to 100	One space per studio or one-bedroom Two parking spaces for two to four bedrooms Three parking spaces for five or more bedrooms
ADUs	More than 30 days	365	One space, unless qualifies for waived requirements; Plus parking for residential use

Staff does not find that B&Bs and ADUs are readily comparable; however, staff does find that B&Bs and Short-Term Rentals (STRs) are more equivalent as B&Bs and STRs are rented for short stays (less than 30 days) while ADUs are rented for longer stays (30 days or longer). B&Bs and STRs, while both rented for short durations, also have differences in that B&Bs may be rented out for 365 days a year while STRs may be rented out for a maximum of 100 days a year.

The ADU State law was designed as a “one size fit all” solution and did not allow local governments to design ADU requirements that would attempt to address the housing shortage while balancing community needs and concerns. City Council members voiced concern and displeasure when staff presented amendments to the City’s ADU regulations, including parking reductions, that were required to be consistent with State mandates.

Relief from Parking Requirement Options

OCC Section 16-651 “Administrative Relief from Parking Provisions,” provides the Planning Commission the following methods to grant relief from parking requirements on a case-by-case basis.

1. Off-site Parking Agreements

Off-site Parking Agreements may be used to allow required parking spaces to be located on a different property provided the property is not located more than 500 feet away from the property which is generating the required parking, and provided that travel to and from the off-site property would not expose pedestrians to hazardous traffic safety conditions.

2. Parking Studies

A parking study is used to determine if the total parking demand for a particular use does or does not exceed the total supply of available parking spaces on a subject site or surrounding area. The use of parking studies are typically not utilized for smaller projects, such as a B&B request, as a single parking study could cost thousands of dollars to generate and to be peer reviewed by City staff. All costs associated with processing technical studies, such as a parking study, would be the responsibility of the applicant.

The following provides additional flexibility to the required off-street parking regulations for B&B uses.

Homestays on Corner Lots to be Credited Non-Primary Street Frontage Toward Parking Requirement

Currently, the OCC allows for B&B Inns (containing three to five guest bedrooms), but not B&B Homestays (containing no more than two guest bedrooms) located on corner lots, to be credited the non-primary street frontage toward the parking requirement, with 25 linear feet equal to one parking space, subject to approval of the Planning Commission. A modification to the OCC could be made to allow both Homestays and Inns located on corner lots to be credited the non-primary street frontage toward the parking requirement, with 25 linear feet equal to one parking space, subject to approval of the decision maker associated with the underlying permit.

The Committee unanimously agreed to initiate a ZTA to provide additional flexibility to the required off-street parking regulations for B&B uses since these uses are limited in location within the City. The Committee directed staff to pursue a ZTA to allow Homestays located on corner lots to be credited non-primary street frontage towards the parking requirement consistent with what is currently allowed for B&B Inns. The Committee indicated that the proposed ZTA would have the least impact to the community because it would only be applicable to corner lot properties.

Based on the direction of the Committee, staff prepared the proposed ZTA to allow Homestays located on corner lots to be credited non-primary street frontage towards the parking requirement consistent with what is currently allowed for B&B Inns. A draft City Council Ordinance has been included as Exhibit 1 within the proposed Planning Commission Resolution included in this staff report as Attachment D. The ZTA is proposed to read as follows:

Oxnard City Code Chapter 16, Section 16-374 “STANDARDS FOR TRADITIONAL BED AND BREAKFAST (HOMESTAY)”.

Existing City Code Section 16-374 shall be amended as shown below (Only underlined portions are to be added):

SEC. 16-374. STANDARDS FOR TRADITIONAL BED AND BREAKFAST (HOMESTAY).

The standards for traditional bed and breakfast are:

- (A) The maximum number of guest bedrooms for rent shall not exceed two.
- (B) The owner of the homestay shall live on the premises and operate the homestay.
- (C) No cooking facilities shall be provided in individual guest bedrooms.
- (D) No exterior advertising signs shall be permitted.
- (E) Parking requirements -
 - (1) Parking shall be provided at the rate of one off-street parking space per guest room plus parking for the owner as required at the time of original construction of the structure. Parking surfaces may include, but are not limited to: brick, pavers, cobblestones, stamped colored concrete, and grass-cell pavement. Excessive amounts of paving to meet parking requirements shall not be allowed.
 - (2) Homestays located on corner lots may credit the nonprimary street frontage toward the parking requirement, with 25 linear feet equal to one parking space, subject to approval of a Development Design Review permit.

6) **General Plan Consistency:** The proposed ZTA is consistent with a number of goals and policies included in the 2030 General Plan. Consistency with the 2030 General Plan is defined by the relationship between 2030 General Plan policies and the proposed Project. The three consistency classification levels are:

- I. Direct Applicability to a Proposed Project or Program (full text of the policy and an explanation).
- II. Related or Indirect Applicability to the Proposed Project or Program (policy title and an explanation for each or groups of related or indirectly related policies).
- III. No or Distant Applicability to the Proposed Project or Program (all policies not listed as Level I and II are assumed to be consistent).

POLICY	LEVEL	POLICY OR TITLE	EXPLANATION
CD-9.1	I	Neighborhood Identity	The proposed ZTA will continue to require that any B&B use be limited to the Wilson Neighborhood or any new B&B use outside of the Wilson Neighborhood must demonstrate a significant heritage feature in order for the Planning Commission to approve the B&B use. The ZTA will only permit corner lots that propose a B&B use to use the non-primary frontage for one parking space preserving the identity of the neighborhood.
CD-11.1	I	Promote Existing Historic Areas	The proposed ZTA will continue to require that any B&B use be limited to the Wilson Neighborhood or any new B&B use outside of the Wilson Neighborhood must demonstrate a significant heritage feature in order for the Planning Commission to approve the B&B use. B&B uses have the ability to provide onsite signage and newly designated historic structures have the ability to install

			signage identifying their historic designations. Additionally, B&B uses allow guests to have a first-hand historical tourism experience within a structure with a designated historic feature.
CD-11.3	I	Protect and Enhance Cultural Resources	The proposed ZTA will facilitate corner lot parcels to comply with the required off-street parking in order to establish B&B uses allowing for a revenue stream that will assist in protecting and enhancing the cultural resources.
CD-15.6	I	Share of Regional Taxable Sales	The proposed ZTA will facilitate approval of B&B uses which will assist in generating transient tax occupancy tax revenue for the City.
ER-11.4	I	Historic Preservation	The proposed ZTA will facilitate the approval of B&B uses that will help generate revenue for property owners to protect, rehabilitate, enhance and continue to use historic structures.
CD-3.1	II	Neighborhood Preservation	The proposed ZTA will not amend any regulations that are in place to protect and enhance historic resources.
CD-9.5	II	Unique Character Preservation	The proposed ZTA will preserve regulations which ensure the unique historical character is preserved while allowing flexible B&B parking standards for corner properties.
CD-11.2	II	Historical District Expansion	The proposed ZTA will facilitate B&B uses which help promote existing historic structures and provide a revenue stream for property owners to maintain and enhance existing structures. Additional flexibility would provide opportunities for other property owners to consider B&B uses as a way to maintain and enhance their historic structures.
CD-15.1	II	Quality of Life	The proposed ZTA intends to facilitate approval of B&B uses to provide a revenue stream for property owners to enhance and protect historical structures and assist in promoting historic resources to visitors and residents.
CD-18.2	II	Small business	The proposed ZTA will assist property owners to consider B&B uses to create self-employed business opportunities and hospitality opportunities for visitors to the City.
CD-19.1	II	Unique Downtown Identity	The proposed ZTA will allow for B&B uses to be located near Downtown allowing visitors to visit and enjoy the entertainment, restaurants and services offered in Downtown.
ALL OTHERS	III	All policies not listed above	No or Distant Applicability to the Proposed Project.

- 7) **Community Outreach:** A Community Workshop meeting was held on September 20, 2021. A notice of this meeting was distributed Citywide to neighborhood chairs. One member of the public participated in the Community Workshop meeting. The member of the public expressed her support for the proposed ZTA.
- 8) **Next Steps:** The Planning Commission's action on this matter is advisory to the City Council. The Planning Commission's recommendation will be forwarded to the City Council for consideration.

Attachments:

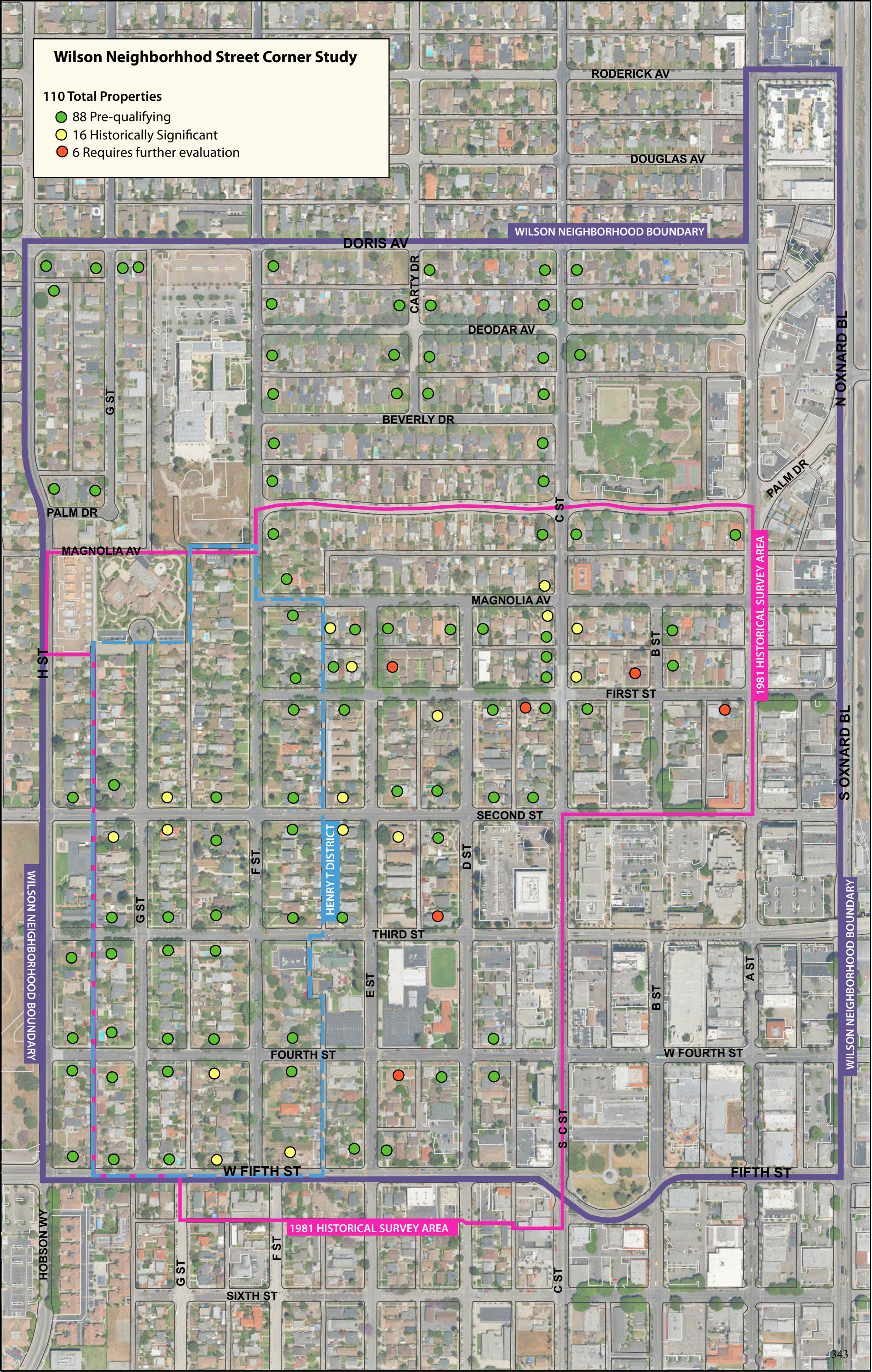
- A. Notice of Exemption

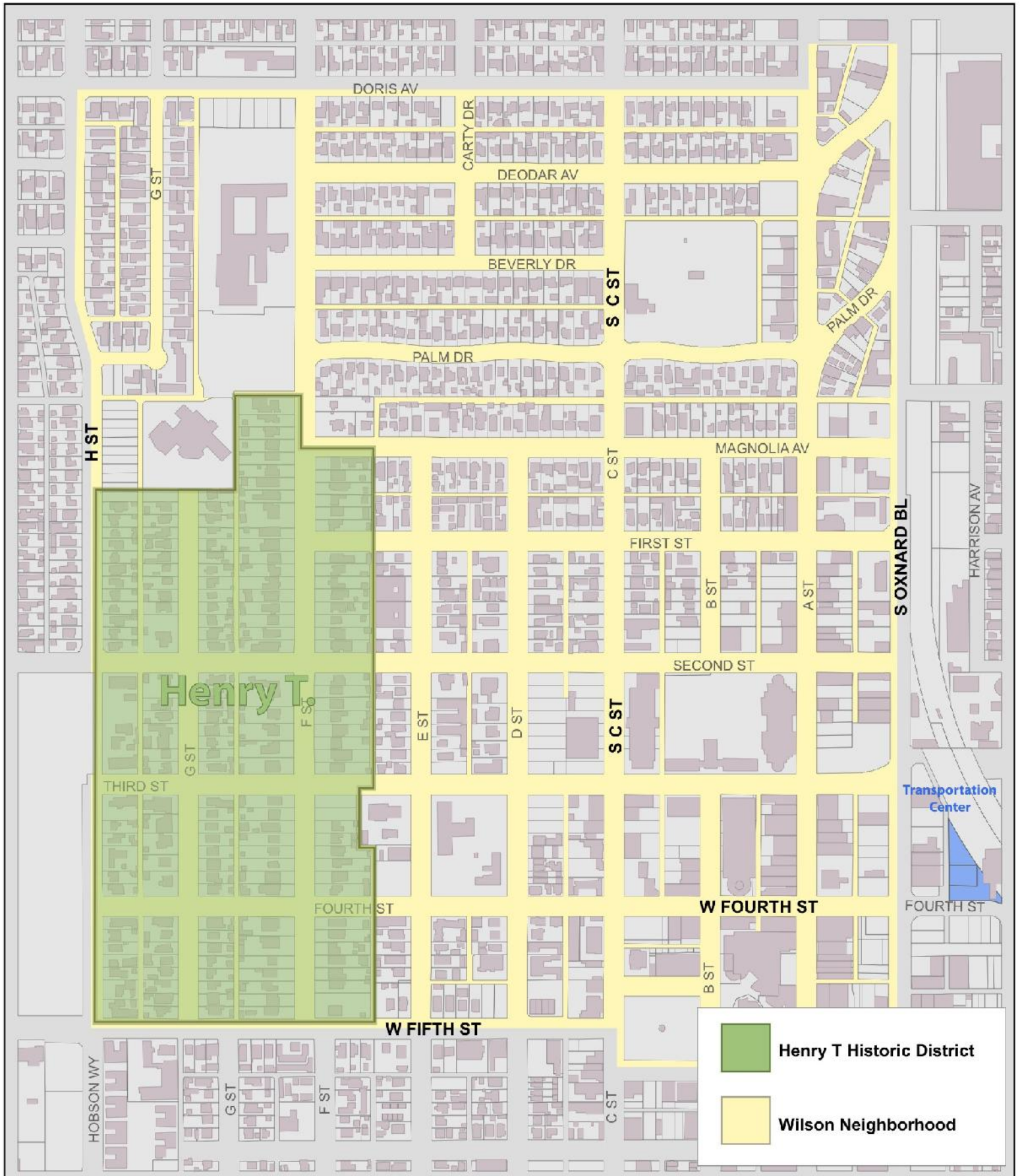
- B. Wilson Neighborhood Corner Lot Properties
- C. Wilson Neighborhood Map/Henry T. Oxnard Historic District Map
- D. Planning Commission Resolution
Exhibit 1 Draft City Council Ordinance
- E. Staff Presentation

Wilson Neighborhood Street Corner Study

110 Total Properties

- 88 Pre-qualifying
- 16 Historically Significant
- 6 Requires further evaluation





ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OXNARD AMENDING OXNARD CITY CODE CHAPTER 16, ARTICLE V, SECTION 16-374 “STANDARDS FOR TRADITIONAL BED AND BREAKFAST (HOMESTAY)” ALLOWING BED AND BREAKFAST HOMESTAYS (CONTAINING NO MORE THAN TWO GUEST BEDROOMS) LOCATED ON CORNER LOTS TO CREDIT THE NONPRIMARY STREET FRONTAGE TOWARD THE PARKING REQUIREMENT WITH 25 LINEAR FEET EQUAL TO ONE PARKING SPACE, SUBJECT TO APPROVAL OF A DEVELOPMENT DESIGN REVIEW PERMIT. THE PROPOSED REGULATIONS WOULD APPLY CITYWIDE (INLAND ZONE). FILED BY THE CITY OF OXNARD, COMMUNITY DEVELOPMENT DEPARTMENT, 214 SOUTH C STREET, OXNARD, CALIFORNIA 93030.

WHEREAS, the Planning Commission of the City of Oxnard has considered Zone Text Amendment (ZTA) PZ No. 21-580-05, filed by the City of Oxnard Community Development Department, to amend Oxnard City Code, Article V, Section 16-374 “Standards for Traditional Bed and Breakfast (Homestay)” allowing Bed and Breakfast Homestays (containing no more than two guest bedrooms) located on corner lots may credit the nonprimary street frontage toward the parking requirement, with 25 linear feet equal to one parking space, subject to approval of the decision maker; and

WHEREAS, On April 13, 2021, Community Services, Public Safety, Housing & Development Committee requested staff prepare a presentation regarding the required off-street parking for bed and breakfast uses (B&B’s). The purpose of the report was to determine if the required off-street parking was adequate or if amendments were required since B&B uses are not common and their location is limited within the City; and

WHEREAS, On July 15, 2021, Community Services, Public Safety, Housing & Development Committee unanimously determined staff should pursue a ZTA to amend Oxnard City Code, Article V, Section 16-374 “Standards for Traditional Bed and Breakfast (Homestay)” allowing Bed and Breakfast Homestays (containing no more than two guest bedrooms) located on corner lots may credit the nonprimary street frontage toward the parking requirement, with 25 linear feet equal to one parking space, subject to approval of the decision maker associated with the underlying permit; and

WHEREAS, on September 20, 2021, a public Community Workshop meeting was held for the community and the general public to receive community input on the proposed ZTA; and

WHEREAS, on October 21, 2021, the Planning Commission of the City of Oxnard conducted a duly noticed public hearing to consider Planning and Zoning Permit No. 21-580-05 (Zone Text Amendment) (the “**Project**”) in accordance with the Oxnard City Code and recommended approval to the City Council; and

WHEREAS, the Planning Commission received written and verbal comments from the public for the October 21, 2021 public hearing; and

WHEREAS, the Planning Commission recommended that the City Council find the Project to be Categorically Exempt from environmental review pursuant to the California Environmental Quality Act (CEQA) Guidelines 15060(c)(2) and (3) and 15061(b)(3); and

WHEREAS, the Planning Commission adopted Resolution 2021-33 recommending that the City Council approve Planning & Zoning Permit No. 21-580-05 (Zone Text Amendment) allowing Bed and Breakfast Homestays (containing no more than two guest bedrooms) located on corner lots may credit the nonprimary street frontage toward the parking requirement, with 25 linear feet equal to one parking space, subject to approval of the decision maker associated with the underlying permit; and

WHEREAS, on December 7, 2021, the City Council of the City of Oxnard conducted a duly noticed public hearing to consider the Applicant's request to approve Planning and Zoning Permit No. 21-580-05 (Zone Text Amendment) in accordance with the OCC, and

WHEREAS, the City Council received written and verbal comments from the public; and

WHEREAS, the City Council finds the proposed Zoning Text Amendment is in the public interest and reflects the input from residents, stakeholders in the community, and decision-makers. There are no changes recommended under the proposed ZTA that would reduce or compromise existing standards that protect the health, safety or general welfare of the City; and

WHEREAS, the proposed ZTA does not involve any direct physical changes to the environment. There are no changes in landforms or an intensification of land uses as a part of the proposed ZTA and all public services for existing land uses will remain as-is, with no changes and no diminishment of service or safety; and

WHEREAS, the proposed ZTA to Chapter 16 of the OCC would establish specific provisions consistent with the action items and policy directives in the 2030 General Plan; and

WHEREAS, the adoption of ZTA would be a reasonable exercise of the City's police powers to ensure the continued health, safety, and welfare of the public by modifying regulations related to flexible Bed & Breakfast parking regulations to facilitate the development of Bed & Breakfast establishments and promote historical tourism within the City of Oxnard; and

WHEREAS, the City Council determined that this action is exempt from environmental review pursuant to the California Environmental Quality Act (CEQA) Guidelines Sections 15060(c)(2) and (3) and 15061(b)(3) as this ZTA is a regulatory action which will not result in direct or reasonably foreseeable indirect physical change in the

environment and 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 are not subject to CEQA; and

WHEREAS, it is in the public interest, consistent with the 2030 General Plan and will further protect the public health, safety, and general welfare to establish special zoning regulations governing Bed & Breakfast parking requirements.

NOW, THEREFORE, the City Council of the City of Oxnard does ordain as follows:

Section 1. Amend Oxnard City Code Chapter 16, Article V, Section 16-374 “STANDARDS FOR TRADITIONAL BED AND BREAKFAST (HOMESTAY)”. Existing City Code Section 16-374 shall be amended as shown below (**Only underlined portions are to be added**):

SEC. 16-374. STANDARDS FOR TRADITIONAL BED AND BREAKFAST (HOMESTAY).

The standards for traditional bed and breakfast are:

- (A) The maximum number of guest bedrooms for rent shall not exceed two.
- (B) The owner of the homestay shall live on the premises and operate the homestay.
- (C) No cooking facilities shall be provided in individual guest bedrooms.
- (D) No exterior advertising signs shall be permitted.
- (E) Parking requirements -

- (1) Parking shall be provided at the rate of one off-street parking space per guest room plus parking for the owner as required at the time of original construction of the structure. Parking surfaces may include, but are not limited to: brick, pavers, cobblestones, stamped colored concrete, and grass-cell pavement. Excessive amounts of paving to meet parking requirements shall not be allowed.
 - (2) Homestays located on corner lots may credit the nonprimary street frontage toward the parking requirement, with 25 linear feet equal to one parking space, subject to approval of a development design review permit.

Section 2. If any section, sentence, clause or phrase of this Ordinance is determined to be invalid, illegal or unconstitutional by a decision or order of any court of competent jurisdiction, then decision or order shall not affect the validity and enforceability of the remaining portions of this Ordinance. The City Council declares that it would have passed and adopted this Ordinance, and each section, sentence, subsection, clause, phrase, part or portion thereof, regardless of the fact that any one or more sections, sentences, subsections, clauses, phrases, be declared invalid or unconstitutional.

Section 3. Cumulative Ordinance. Nothing in this Ordinance shall be interpreted to allow any land use which is not expressly listed as permitted or conditionally permitted within the City’s Zoning Code.

Section 4. Exempt from CEQA. The City Council determines and finds that the adoption of this Ordinance is exempt from review under the California Environmental Quality Act (“CEQA”) pursuant to Sections 15060(c)(2) and (3) and 15061(b)(3) of the Guidelines to the California Environmental Quality Act because the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where 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 activity is not subject to CEQA. Therefore, CEQA does not apply to this action.

Section 5. Pursuant to Government Code Section 36933(c)(1), the City Attorney was designated to prepare, and the City Clerk published, a summary of this Ordinance, and a certified copy the Ordinance was posted in the Office of the City Clerk a minimum of five days before the City Council’s adoption of the Ordinance.

Section 6. The City Clerk shall certify as to the adoption of this Ordinance and shall cause summary thereof to be published within fifteen calendar (15) days of the adoption and shall post a certified copy of this Ordinance, including for and against the same, in the office of the City Clerk, in accordance with Government Code Section 36933. Ordinance No. _____ was first read on _____, 2021, to become effective thirty (30) days thereafter.

PASSED AND ADOPTED this 7th day of December, 2021 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

RECUSED:

John Zaragoza, Mayor

ATTEST:

Rose Chaparro, City Clerk

APPROVED AS TO FORM:

Stephen M. Fischer, City Attorney

NOTICE OF EXEMPTION

Project Description: Bed and Breakfast Parking Regulations

Planning & Zoning (PZ) Permit No. 21-580-05 (Zone Text Amendment) – A request to amend Oxnard City Code Chapter 16 (Zoning Code), Article V (Special Use Requirements), Section 16-374 pertaining to “Standards for Traditional Bed and Breakfast (Homestay)” allowing Bed and Breakfast Homestays (containing no more than two guest bedrooms) located on corner lots may credit the nonprimary street frontage toward the parking requirement, with 25 linear feet equal to one parking space, subject to approval of the decision maker associated with the underlying permit. Filed by the City of Oxnard, Community Development Department, 214 South C Street, Oxnard, California 93030.

Finding:

The Planning Division of the Community Development Department of the City of Oxnard has reviewed the 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. 15060(c)(2) and (3), and 15061(b)(3)]

Supporting Reasons: Pursuant to Sections 15060(c)(2) and (3) and 15061(b)(3) of the California Environmental Quality Act (CEQA), regulatory actions which will not result in direct or reasonably foreseeable indirect physical change in the environment and 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 are not subject to CEQA. The proposed ZTA is a regulatory action. Therefore, staff has determined that there is no possibility that the project will have a significant effect on the environment. Therefore, the Planning Commission has determined that there is no possibility that the project will have a significant effect on the environment.

(Date)

Scott Kolwitz, Planning & Environmental
Services Manager

Ordinance Amendment for Bed and Breakfast Homestay Uses Off-Street Parking Requirements PZ No. 21-580-05 (Zone Text Amendment - Inland Zone)

Isidro Figueroa, Principal Planner
Scott Kolwitz, Planning Manager
Vyto Adomaitis, Community Development Director
Community Development Department

City Council
December 7, 2021



Background

2

- April 13, 2021, the Community Services, Public Safety and Housing and Development Committee (Committee) requested staff to prepare a presentation regarding required off-street parking for bed and breakfast uses (B&B's)
- City license records do not indicate any current B&B operations
- July 27, 2021, the Committee received a summary report on the off-street parking requirements for B&B uses, and Committee provided input on;
 - Summary of existing City Code required off-street parking for B&B uses;
 - Comparison of off-street parking requirements to the surrounding jurisdictions;
 - Required off-street parking comparison between B&B, short-term rentals and accessory dwelling units; and
 - Relief from parking requirement options

- A resident of the Wilson Neighborhood, who is preparing to submit an application for a B&B use, spoke in favor of the ZTA
- Committee to initiate a ZTA
- Committee directed staff to pursue a ZTA to allow homestays located on corner lots to be credited nonprimary street frontage towards the parking requirement consistent with what is currently allowed for B&B Inns
 - ZTA would have the least impact to the community because it would only be applicable to corner lot properties

Community Workshop

- A Community Workshop meeting was held on September 20, 2021
- One member of the public participated in the Community Workshop meeting.
 - The member of the public expressed her support for the proposed ZTA

- Planning Commission conducted a public hearing to review the proposed ZTA
- Staff mailed notice of this public hearing to all property owners of the Wilson Neighborhood
- The Planning Commission reviewed
 - The City's existing regulations,
 - A comparison of B&B parking requirements of surrounding jurisdictions,
 - Required street parking requirements between various uses, and
 - Options for applicants to seek relief from parking requirements.
- Planning Commission *unanimously* voted to adopt Resolution No. 2021-33 recommending that the City Council adopt the ZTA

Definitions (OCC Section 16-371)

- **Bed and Breakfast Inn:** An establishment, originally built as a single-family residence, operated by a resident owner, and containing three to five guest bedrooms, each of which is available for rent to the general public for up to 29 consecutive days
 - Special Use Permit (SUP)
 - Planning Commission Approval
- **Traditional Bed and Breakfast (Homestay):** An establishment which contains no more than two guest bedrooms, each of which is available for rent to the general public for up to 29 consecutive days.
 - Development Design Review Permit (DDR)
 - Community Development Director Approval

- Pursuant to Oxnard City Code (OCC) Section 16-372, B&Bs shall be permitted only within:
 - Boundaries of the Wilson Neighborhood
 - Planning Commission may also approve B&Bs within other areas of the City provided the Planning Commission makes the findings required for designation of a structure as a significant heritage feature
 - Henry T. Oxnard Historic District would be an area within the City that includes a number of residences that the Planning Commission could potentially designate as a significant heritage feature

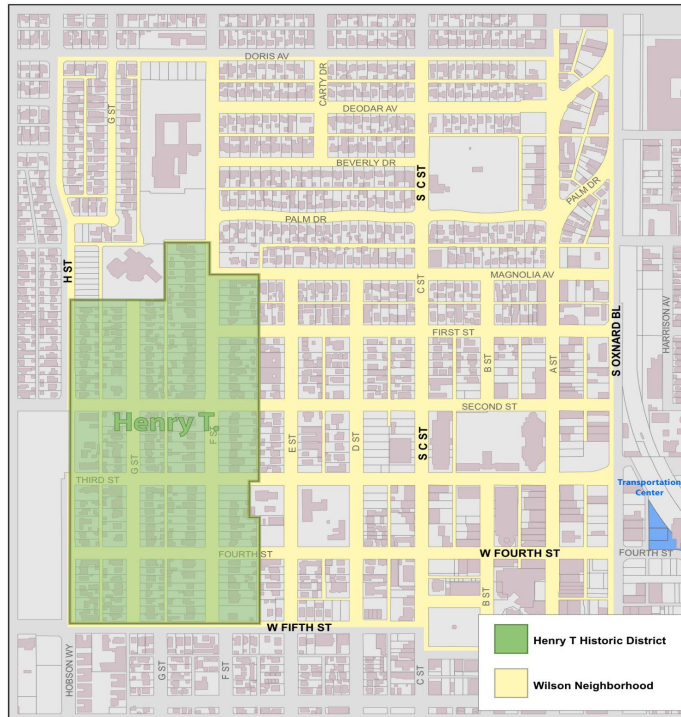
Significant Heritage Feature

SEC. 16-471. FINDINGS NECESSARY FOR DESIGNATION AS SIGNIFICANT HERITAGE FEATURE.

In order to designate significant heritage features, the approval body shall find that one of the following circumstances exist:

- (A) The architecture or design of the feature is unique or of a style unique to the area;
- (B) The architecture or design of the feature exemplifies a significant or unique architectural style; and
- (C) The feature was the site of a significant historical or cultural event, or was owned by a person or group of persons who were significantly involved in the historical or cultural development of the city.

Wilson/Henry T. Oxnard Historic District



B&B Parking Requirements

10

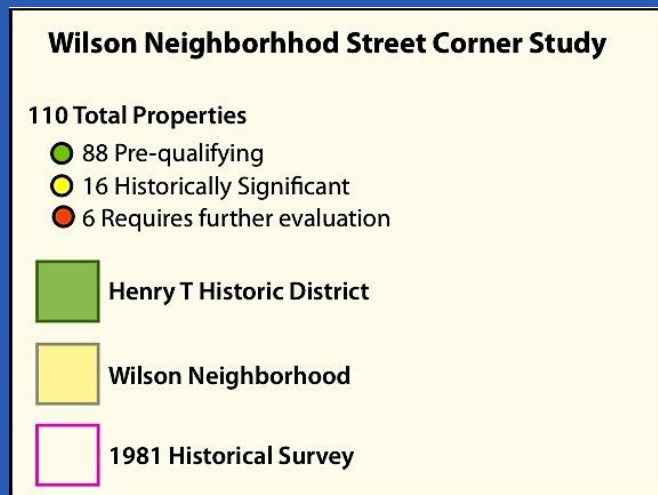
- One off-street parking space per guest room plus parking for the owner as required at the time of original construction of the structure.
 - Parking surfaces may include, but are not limited to: brick, pavers, cobblestones, stamped colored concrete, and grass-cell pavement. Excessive amounts of paving to meet parking requirements shall not be allowed.
- Inns located on corner lots may credit the nonprimary street frontage toward the parking requirement
 - 25 linear feet equal to one parking space
 - Subject to approval of the Planning Commission.

Local Jurisdiction	B&B Parking Requirement
Oxnard	1 off-street parking per guest room; plus parking for owner (as required at the time of original construction of the structure)
Camarillo	1 off-street parking per guest room; plus parking for residential use
Ojai	1 off-street parking per guest room; plus 2 spaces for the resident use
Simi Valley	Determined through the (Special) Use Permit Process; a parking study could be required to determine appropriate parking.
Ventura	1 open or covered space for each guest room; plus 2 spaces within a garage. However, the City of Ventura allows for an existing 2-car garage to satisfy both the existing residential parking requirement and provides for 1 off-street parking space for a B&B. In this scenario, the off-street parking requirement for a single-room B&B room would be satisfied by using an existing 2-car garage.
Ventura County	1 off-street parking per guest room; plus parking for residential use

Committee's Direction

- Committee agreed to provide additional flexibility to the required off-street parking regulations for B&B uses
 - B&B uses are limited in location within the City
- Committee directed staff to pursue a ZTA to allow Homestays located on corner lots to be credited nonprimary street frontage towards the parking requirement consistent with what is currently allowed for B&B Inns
 - Proposed ZTA would have the least impact to the community because it would only be applicable to corner lot properties

- Composed of approximately 690 properties
- There are 110 corner lot properties
 - 88 “pre-qualified” properties
 - 16 historically designated properties
 - 6 properties that required further investigation



SEC. 16-374. STANDARDS FOR TRADITIONAL BED AND BREAKFAST (HOMESTAY). (Only underlined portions are to be added):

The standards for traditional bed and breakfast are:

- (A) The maximum number of guest bedrooms for rent shall not exceed two.
- (B) The owner of the homestay shall live on the premises and operate the homestay.
- (C) No cooking facilities shall be provided in individual guest bedrooms.
- (D) No exterior advertising signs shall be permitted.
- (E) Parking requirements -
 - (1) Parking shall be provided at the rate of one off-street parking space per guest room plus parking for the owner as required at the time of original construction of the structure. Parking surfaces may include, but are not limited to: brick, pavers, cobblestones, stamped colored concrete, and grass-cell pavement. Excessive amounts of paving to meet parking requirements shall not be allowed.
 - (2) Homestays located on corner lots may credit the nonprimary street frontage toward the parking requirement, with 25 linear feet equal to one parking space, subject to approval of a development design review permit.

Environmental Review

- ZTA is exempt pursuant to Sections 15060(c)(2) and (3) and 15061(b)(3) of the California Environmental Quality Act (CEQA), regulatory actions which will not result in direct or reasonably foreseeable indirect physical change in the environment and 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 are not subject to CEQA.

That the City Council:

1. Conduct a public hearing;
2. Determine the Zone Text Amendment is exempt from environmental review pursuant to the California Environmental Quality Act (CEQA) Guidelines 15060(c)(2) and (3) and 15061(b)(3); and
3. Introduce an Ordinance for first reading (by title only, waiving further reading) allowing Bed and Breakfast Homestays (containing no more than two guest bedrooms) located on corner lots may credit the nonprimary street frontage toward the parking requirement, with 25 linear feet equal to one parking space, subject to approval of the decision maker associated with the underlying permit.



End of Presentation



CITY COUNCIL AGENDA REPORT

REPORTS AGENDA ITEM NO. N.1

DATE: December 7, 2021

TO: City Council

FROM: Vyto Adomaitis, Community Development Director, (805) 385-7882, vyto.adomaitis@oxnard.org

SUBJECT: DMV Oxnard Field Office Drainage Easement Vacation; Planning and Zoning (PZ) Permit No. 21-660-02 (Easement Vacation); A Resolution of Intention to vacate two forty (40) foot wide drainage easements, totaling approximately 24,600 square feet, located at 4050 South Saviers Road. (0/5/5)

RECOMMENDATION

That the City Council:

1. Find the project exempt from environmental review pursuant to the California Environmental Quality Act (CEQA) Guidelines Section 15061(b)(3);
2. Adopt a Resolution declaring its intention to vacate its right, title and interest in two forty (40) foot wide drainage easements, totaling approximately 24,600 square feet, crossing the two parcels located at 4050 South Saviers Road; and
3. Direct the City Clerk to schedule a public hearing in accordance with the vacation procedures contained in California Streets and Highway Code Section 8300 et seq to be held on Tuesday, January 4, 2022 at 6:00 p.m. at the at the City Council Chambers of the City of Oxnard located at 305 West Third Street in Oxnard, California.

Please click the following link to view the required Measure M pre-recorded presentation video:

<https://youtu.be/JRals4Gx1VU>

BACKGROUND

The property located at 4050 South Saviers Road consists of two parcels that are currently developed with a 12,153 square foot DMV office, with associated parking area and landscaping, as shown in Attachment 1. The two easements, as shown in Attachment 2 and 3, were initially granted to the Oxnard Drainage District No. 3 on July 24, 1940, for the purpose of drainage tile line, pipe, conduit and other works necessary to facilitate drainage. On October 23, 1984, the County of Ventura and the City of Oxnard approved a Resolution ordering the dissolution of Oxnard Drainage District No. 3 (Attachment 4). Pursuant to the Resolution, the City of Oxnard was designated the successor agency, with the City receiving the easements and all the rights incidental thereto.

On April 15, 2021, the Planning Commission reviewed the request to vacate the two forty (40) foot wide drainage easements, totaling approximately 24,600 square feet, located at 4050 South Saviers Road for General Plan conformance as required by California Government Code Section 65402(a). The Planning Commission unanimously determined the proposed vacation would be consistent with the goals, policies and objectives of the City's adopted 2030 General Plan and adopted Planning Commission Resolution 2021-07 which has been included as Attachment 5 and 6.

DISCUSSION

The process for a right-of-way vacation is outlined in Streets and Highways Code Section 8320. Pursuant to Streets and

Highways Code Section 8320, a vacation request involves a two-step process. The first step involves City Council review of the easement vacation request and adoption of a resolution of intention to vacate the easement. The second step involves a noticed public hearing and the adoption of a resolution to vacate the easement by the City Council. In accordance with Streets and Highways Code Section 8320(b)(2), the date of the public hearing shall not be less than 15 days after the initiation of proceedings which means that the earliest the City Council can schedule a public hearing to consider the easement vacation at a regular City Council meeting is January 4, 2022.

The easement vacation map is included as Attachment 7, Exhibit A. Vacating the two forty (40) foot wide drainage easements, totaling approximately 24,600 square feet, located at 4050 South Saviers Road will not alter public safety, convenience, and public welfare. As this area has been developed over the intervening years, modern drainage systems have been installed within the public right-of-way. As a result, these drainage easements are no longer needed to provide adequate drainage as required pursuant to the 2030 General Plan policies, such as ICS-13.2 which requires the provision of adequate storm drain facilities. Lastly, the proposal for the vacation of these easements were reviewed by the Public Works staff and the easements were found to no longer be needed.

The proposed vacation should be reviewed in the interest of safety, convenience, and public welfare, and not for the sole benefit of the property owner. Additionally, all property vacations are to be reviewed for conformance with the General Plan. As previously mentioned, the easement vacation was reviewed by the Planning Commission who determined the appropriateness of the easement vacation on April 15, 2021

ENVIRONMENTAL REVIEW

Pursuant to California Environmental Quality Act (Public Resources Code Sections 21000 et seq., “CEQA”) and the regulations promulgated thereunder (14 California Code of Regulations Sections 15000 et seq., the “CEQA Guidelines”), it can be seen with certainty that there is no possibility that the proposed vacation of the two forty (40) foot wide drainage easements, totaling approximately 24,600 square feet, located at 4050 South Saviers Road would have a significant effect on the environment (CEQA Guidelines Section 15061(b)(3), and staff recommends that the City Council accept a Notice of Exemption as part of the noticed public hearing and the adoption of a resolution to vacate the property by the City Council. Any subsequent improvement to the property will be separately examined in accordance with CEQA.

STRATEGIC PRIORITIES

This agenda item is a routine operational item or does not relate to the five strategic priorities adopted by City Council on March 16, 2021.

FINANCIAL IMPACT

There is no fiscal impact associated with the vacation of these easements.

COMMITTEE OUTCOME

This item did not originate in Committee as this item was originated at the request of the State of California-General Services Department, and as the DMV Oxnard Field Office Easement Vacation General Plan Conformity Determination was reviewed by and a recommendation was forwarded by the Planning Commission on April 15, 2021.

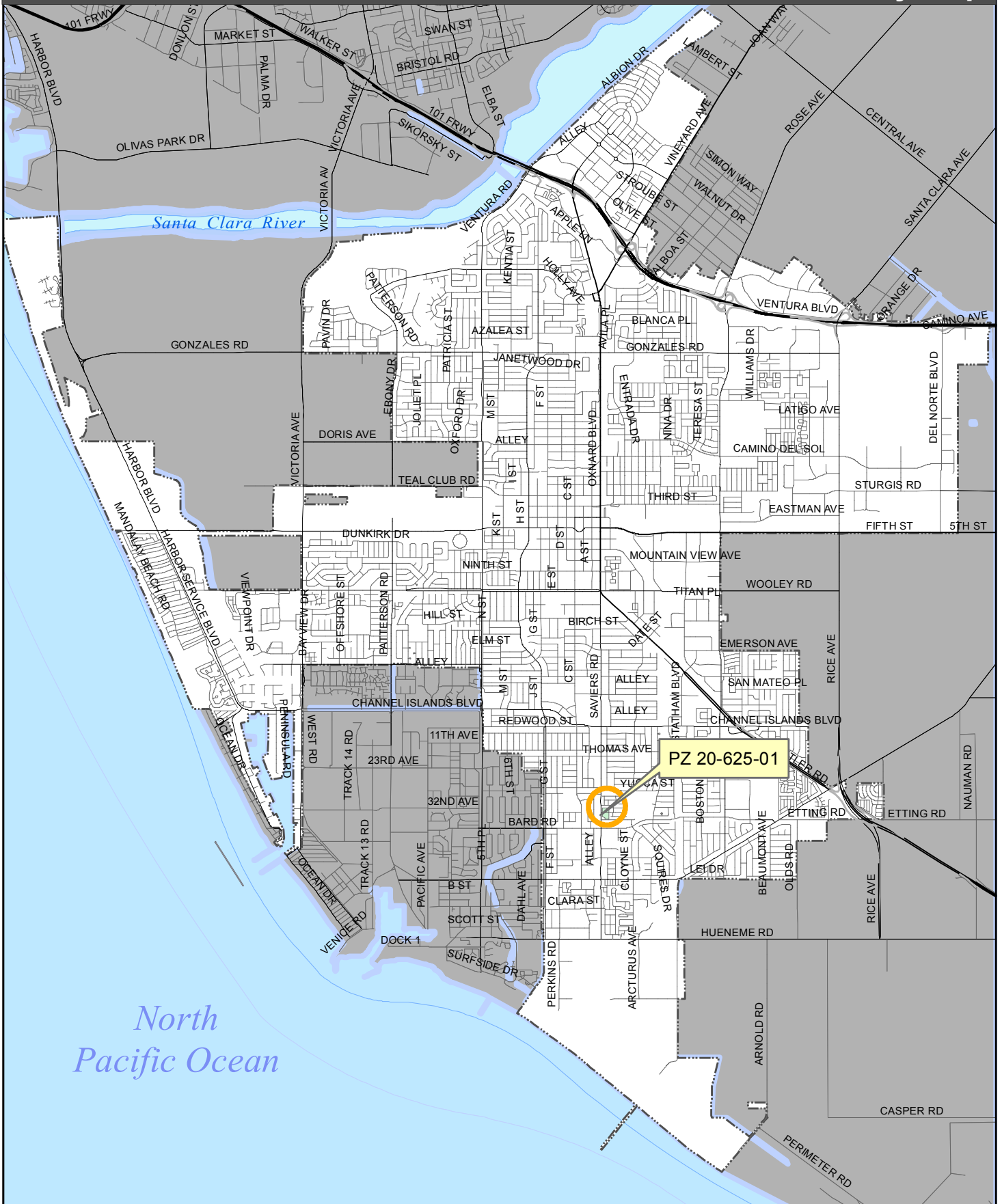
Prepared by: Joe Pearson II, Senior Planner

ATTACHMENTS

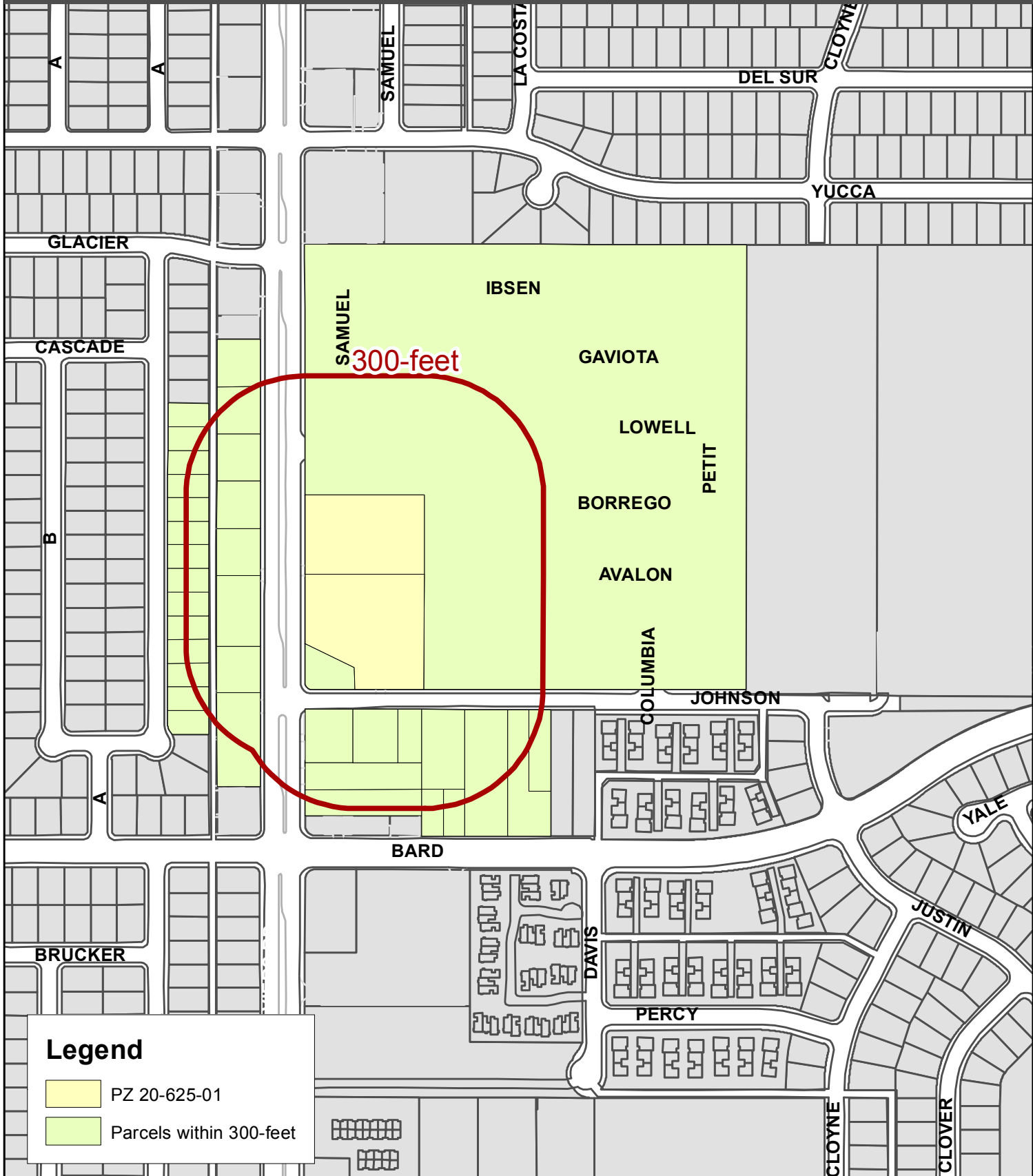
1. Attachment 1 - Maps
2. Attachment 2 - Drainage Easement Grant Deed
3. Attachment 3 - Access and Utility Map
4. Attachment 4 - County of Ventura Resolution Ordering the Dissolution of Drainage District No. 3
5. Attachment 5 - April 15, 2021 Planning Commission Staff Report
6. Attachment 6 - Planning Commission Resolution 2021-07
7. Attachment 7 - City Council Resolution
8. Attachment 7, Exhibit A - Map of Drainage Easements

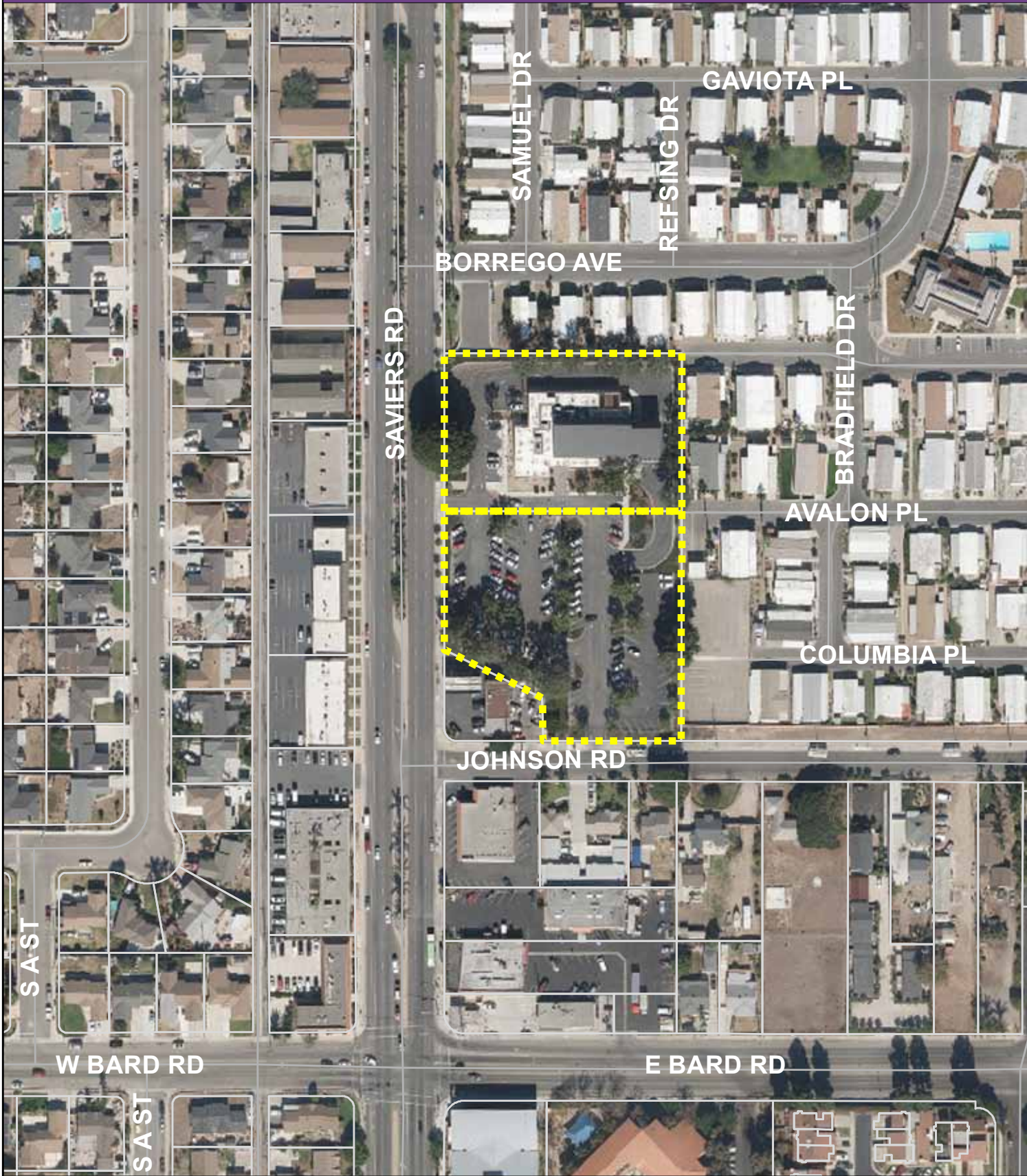
9. Attachment 8 - Presentation

Vicinity Map



Radius Map





Zoning/Specific Plan Map



Oxnard Planning

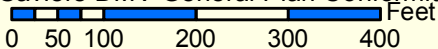
April 1, 2021

PZ 20-625-01

Location: 4050 Saviers Rd

APN: 2190110355, 2190110405

Saviers DMV General Plan Conformity



Zoning/Specific Plan Map



1:2,500

THIS INDENTURE, Made and entered into this 28th day of February, 1939, by and between FRANK FRITSCHLE and MAUDE H. FRITSCHLE, husband and wife, of Ventura County, California, herein called parties of the first part, and OXNARD DRAINAGE DISTRICT NO. 3, in the County of Ventura, State of California, a district organized under the provisions of an act of the legislature of the State of California, approved March 20, 1903, entitled, "An act to provide for the organization and government of drainage districts for the drainage of agricultural lands other than swamp and overflowed lands, and to provide for the acquisition or construction thereby of works for the drainage of the lands embraced within such districts," as the title to said act was amended by an act of said legislature, approved March 23, 1935, to read as follows: "An act to provide for the organization and government of drainage districts, for the drainage of agricultural lands other than swamp and overflowed lands, to provide for the acquisition or construction of works for the drainage of the lands embraced within such districts, and to provide for the borrowing or procuring of money from the United States or any agency thereof and entering into contracts, and for the issuance of bonds, warrants or other evidence of indebtedness for the re-payment thereof, and all acts and laws amendatory thereof, herein called the party of the second part or district,

W I T N E S S E T H

That, for a valuable consideration, the receipt whereof is hereby acknowledged, said parties of the first part do hereby grant unto said party of the second part, and to its successors and assigns for drainage purposes only, all those certain rights, privileges and easements particularly described as follows:

The perpetual right, privilege and easement to lay, install, construct, maintain and operate a drain tile line, pipe, conduit and other works necessary for the purpose of drainage in, through, across, on or over those three parcels of land, situate in the County of Ventura, State of California, hereinafter described as "Parcel A", "Parcel B" and "Parcel C" as follows:

PARCEL A:

A portion of Lot three (3) of Subdivision Forty-four (44) of Rancho El Rio de Santa Clara o' La Colonia, in said County, California, described as follows:

A parcel of land forty (40) feet wide, lying equally on each side of a line running parallel to and distant East 200 feet from the east line of Saviers Road, and extending, from the north line of Johnson Road, North 1,174 feet to a point.

PARCEL B:

A portion of said Lot Three (3) of said Subdivision Forty-four (44) described as follows:

A parcel of land forty (40) feet wide, lying equally on each side of a line running parallel to and distant North 200 feet from the North line of Johnson Road, and extending, from the east line of Saviers Road, East 2,200 feet to a point.

PARCEL C:

A portion of Subdivision Seventy-two (72) of said Rancho El Rio de Santa Clara o' La Colonia, described as follows:

A strip of land forty (40) feet wide, lying equally on each side of a line described as follows:

Beginning at a point on the north line of Etting Road, distant 600.00 feet easterly thereon from the prolongation northerly of the east line of Olds Road; and running, thence,

1st: North 25.00 feet; and thence,

2nd: West, parallel to the north line of Etting Road, 200.00 feet, more or less, to the land of H. S. Philbrook.

TO HAVE AND TO HOLD said rights, privileges and easements unto said party of the second part, its successors and assigns, forever.

IN WITNESS WHEREOF said parties of the first part have hereunto set their hands as of the day and year hereinabove first written.

FRANK FRITSCHLE
MAUDE H. FRITSCHLE

STATE OF CALIFORNIA) ss
County of Ventura)

On this 11th day of March, 1939, before me, the undersigned, a Notary Public in and for said County and State, residing therein, duly commissioned and sworn, personally appeared FRANK FRITSCHLE and MAUDE H. FRITSCHLE, husband and wife, personally known to me to be the persons described in, and whose names are

subscribed to the within instrument and acknowledged to me that they executed the same.
IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Official
Seal, the day and year first above written.

(NOTARIAL SEAL)
(VENTURA CO.)

EMERSON TUCKER
NOTARY PUBLIC
in and for said County and State.

RESOLUTION

RESOLVED by the Board of Directors of Oxnard Drainage District No. 3, Ventura County, California, that the foregoing right of way deed, made by FRANK FRITSCHLE, et ux., and dated February 28, 1939, be, and the same hereby is, accepted by said District, and that the same be recorded in the office of the County Recorder of Ventura County, California.

STATE OF CALIFORNIA)
County of Ventura) ss

I, HENRY C. DOWNES, do hereby certify as follows:

That at all times mentioned in the foregoing resolution, and at all times since the organization of Oxnard Drainage District No. 3, Ventura County, California, I have been, and now am, the duly qualified and acting secretary of said District, and of the Board of Directors thereof;

That the foregoing is a full, true and correct copy of resolution which was adopted by the Board of Directors of said District at a special meeting held by said board duly called for, convened and held on Saturday, the 8th day of June, 1940; and,

That said resolution was adopted by the unanimous vote of all of the directors of said District, present at said meeting, and that the same has not been revoked or modified in any manner whatsoever, and the same now remains in full force and effect;

IN WITNESS WHEREOF, I have hereunto set my hand as Secretary of said District and of said Board of Directors, and have hereto affixed the seal of said District, this 12th day of June, 1940.

(SEAL OF OXNARD DRAINAGE)
(DISTRICT)

HENRY C. DOWNES
Secretary of OXNARD DRAINAGE DISTRICT NO. 3,
and of the Board of Directors thereof

RECORDED AT REQUEST OF OXNARD DRAINAGE DIST. NO. 3, JUL 24, 1940 at 5 Min. past 9 A.M.

NO: 5886

JOHN S. LOCKE.....Recorder

I.W.

Compared by E.P.

By Olivia Montano.....Sentry

-----000-----

	DISTRICT	COUNTY	ROUTE	No. 50 SECTION
SW'y side: Sta. 111+20 to 112+00	VII	VEN	2	A
approx.				

5-12-36

Written by WOH

Checked by HST

Compared by: WOH

GRANT DEED

I, EARNY JAMES THOMPSON, who acquired title as an unmarried man, in consideration of ONE and NO/100 Dollars to me in hand paid, receipt of which is hereby acknowledged, do hereby GRANT TO the STATE OF CALIFORNIA all that real property in the County of Ventura State of California, described as:

Those portions of Lots 7 and 8 in Block 27 of Thousand Oaks Tract, shown on map thereof recorded in Book 8 at pages 73 to 79 inclusive, of Miscellaneous Records (Maps) in the office of the Recorder of said Ventura County, described as a whole as follows:

10/31/84

BOARD OF SUPERVISORS, COUNTY OF VENTURA, STATE OF CALIFORNIA

TUESDAY, OCTOBER 23, 1984, AT 8:30 O'CLOCK A. M.

402.3 ALL MEMBERS PRESENT
After holding public hearing and no persons appear to be heard,
upon motion of Supervisor Flynn, seconded by Supervisor Erickson,
and duly carried, the Board hereby approves the following matter:

county of ventura

CHIEF ADMINISTRATIVE OFFICE
Richard Wittenberg
Chief Administrative Officer

October 23, 1984

Robert C. Hirtensteiner
Assistant Chief Administrative Officer

Board of Supervisors
County of Ventura
800 South Victoria Avenue
Ventura, California 93009

Dissolution of Oxnard Drainage District No. 3

RECOMMENDATION:

It is recommended the Board:

1. Hear and receive any oral or written protests, objections or evidence made, presented or filed;
2. After consideration of any oral or written testimony, adopt the resolution ordering the dissolution of Oxnard Drainage District No. 3 without election; and
3. Direct the Clerk of the Board to provide the Local Agency Formation Commission with two certified copies of the resolution.

DISCUSSION:

The Board of Supervisors on September 25, 1984, set a public hearing for this time and place to consider the proposed dissolution of Oxnard Drainage District No. 3. The dissolution was jointly initiated by the Board of Directors of the District and the City Council of the City of Oxnard.

Board of Supervisors
October 23, 1984
Page Two

Subsequently, the Local Agency Formation Commission found the dissolution to be categorically exempt under the State CEQA Guidelines, conditionally approved the dissolution and authorized the Board of Supervisors to proceed. Provided there is no majority protest filed, the dissolution may be completed pursuant to Government Code 56360 et seq. without an election.

The LAFCO staff report is attached for the Board's information, as is a letter from William D. Fairfield, the Secretary to the Board of Directors of the District.

If you have any questions regarding this item, please call me at extension 2681.



RICHARD WITTENBERG
Chief Administrative Officer

de

cc: City of Oxnard
Oxnard Drainage District No. 3
Local Agency Formation Commission

COPIES TO:

LAFCO (2)
City of Oxnard
Auditor *Appropriator*
Board of Equalization
Recorder
Oxnard Drainage Dist.
Files (2)
Item 5
10/23/84 fw

BOARD OF SUPERVISORS, COUNTY OF VENTURA, STATE OF CALIFORNIA

TUESDAY, OCTOBER 23, 1984, AT 8:30 O'CLOCK A. M.

402.3

RESOLUTION OF THE BOARD OF SUPERVISORS OF THE
COUNTY OF VENTURA ORDERING THE DISSOLUTION,
WITHOUT ELECTION, OF OXNARD DRAINAGE DISTRICT NO. 3

WHEREAS, the Board of Directors of the District and the City Council of the City of Oxnard in August 1984 jointly initiated proceedings to dissolve Oxnard Drainage District No. 3; and

WHEREAS, the Local Agency Formation Commission (LAFCO) on September 19, 1984 approved the proposed dissolution; and

WHEREAS, the Board of Supervisors on October 23, 1984 held a duly noticed public hearing as required by the District Reorganization Act, commencing at Government Code Section 56000; and

WHEREAS, at the hearing the Board heard and received all oral or written protests, objections or evidence which were presented or filed, including LAFCO Resolution 84-34 making determinations and the Executive Officer's staff report; and

WHEREAS, the Board of Supervisors finds the dissolution to be in the best interest of the landowners and inhabitants within the District to be dissolved and the total organization of local governmental agencies within Ventura County; and

WHEREAS, the Board of Directors of Oxnard Drainage District No. 3 has unanimously consented by resolution to the dissolution of the District;

NOW, THEREFORE, BE IT RESOLVED, DETERMINED AND ORDERED as follows:

(1) The proposal has been reviewed and found to be categorically exempt from the California Environmental Quality Act.

(2) Said dissolution is hereby ordered without election.

(3) The District is found to be inhabited and this proceeding is assigned the following designation:

DISSOLUTION OF OXNARD DRAINAGE DISTRICT NO. 3

(4) The dissolution is subject to the following terms and conditions:

- (a) The City of Oxnard shall be designated as the successor agency for the purpose of succeeding to all of the rights, duties and obligations of the District being dissolved.
- (b) All monetary assets and other interests of the District (including monies due but uncollected) shall be transferred to the successor agency.
- (c) The provisions of the joint Board of Supervisors/Oxnard City Council resolution shall govern the reallocation of property tax revenues for this dissolution proceeding.

ADOPTED ON October 23, 1984

ATTEST:

RICHARD D. DEAN, County Clerk
County of Ventura, State of
California, and ex-officio
Clerk of the Board of Super-
visors thereof.

By *Ray Hillard*
Deputy Clerk

COUNTY OF VENTURA

Lisa K. Lacey
Chair, Board of Supervisors

COPIES TO:

LAFCO (2)
City of Oxnard
Auditor
Board of Equalization
Recorder
Oxnard Drainage Dist.
Files (2)
Item 5
10/23/84 fw



**PLANNING COMMISSION
STAFF REPORT**

TO: Planning Commission

FROM: Joe Pearson II, Senior Planner

DATE: April 15, 2021

SUBJECT: **Project Name: DMV Oxnard Field Office Easement Vacation General Plan Conformity;** Planning and Zoning Permit No. PZ 20-625-01 (General Plan Conformity Determination) - Request for 2030 General Plan Conformity Determination for Vacation of Real Property Located at 4050 South Saviers Road (Assessor's Parcel Number 219-0-110-355 and 219-0-110-405).

- 1) **Recommendation:** That the Planning Commission:
 - a) Find the project Exempt from environmental review pursuant to the California Environmental Quality Act (CEQA) Guidelines Section 15061(b)(3) and Section 15378(b)(5); and
 - b) Adopt Resolution 2021-XX affirming that the City of Oxnard's proposed vacation of easements located at 4050 South Saviers Road is in conformance with the City of Oxnard 2030 General Plan and recommending that the City Council order the vacation.
- 2) **Project Description and Applicant:** At the request of the State of California ("Applicant"), the City of Oxnard ("City") is considering vacation of easements located at 4050 South Saviers Road. The easements to be vacated consist of two forty (40) foot wide drainage easements, totaling approximately 24,600 square feet, crossing the two parcels. For purposes of this Staff Report, the foregoing project description shall be referred to as the "**Project**". Filed by Alfredo Palomar, on behalf of the State of California, 707 Third Street, West Sacramento, CA 95605, on behalf of the property owner which is the State of California-General Services Department.
- 3) **Existing & Surrounding Land Uses:** The subject site currently consists of two parcels totalling approximately 3-acres and contains a 12,153 square-foot California Department of Motor Vehicles DMV office, and associated parking and landscaping located at 4050 South Saviers Road. The Zoning and General Plan land use designations, and existing land uses are as follows (see Attachment A):

LOCATION	GENERAL PLAN	ZONING	EXISTING LAND
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			USE
Project Site	Commercial General (CG)	General Commercial (C-2-PD)	DMV Office
North	Commercial General (CG)	Mobile Home Park - (MH-PD)	Residential
South	Commercial General (CG)	General Commercial (C-2-PD)	Commercial/ Residential
East	Mobile Home Park (MHP)	Mobile Home Park - (MH-PD)	Residential
West	Commercial General (CG)	General Commercial (C-2-PD)	Shopping Center

- 4) **Background Information:** On October 26, 2020, the City received an application from the State of California Department of General Services requesting that the City of Oxnard vacate two drainage easement.

The two parcels are currently developed with a 12,153 square foot DMV office, and associated parking area, and landscaping . The two easements, as shown in Attachment B and C, were initially granted to the Oxnard Drainage District No. 3 on July 24, 1940, for the purpose of drainage tile line, pipe, conduit and other works necessary to facilitate drainage. On October 23, 1984, the County of Ventura and the City of Oxnard approved a Resolution ordering the dissolution of Oxnard Drainage District No. 3 (Attachment D). Pursuant to the Resolution, the City of Oxnard was designated the successor agency, which transferred the easements and all the rights incidental thereto to the City of Oxnard.

- 5) **Environmental Determination:** Pursuant to California Environmental Quality Act (Public Resources Code Sections 21000 et seq., “CEQA”) and the regulations promulgated thereunder (14 California Code of Regulations Sections 15000 et seq., the “CEQA Guidelines”), the proposed General Plan Conformity Determination does not constitute a “project” for the purposes of CEQA because the determination will not result in direct or indirect physical changes in the environment and there is no possibility it will have a significant effect on the environment (CEQA Guidelines Section 15061(b)(3) and Section 15378(b)(5).), and staff recommends that the Planning Commission accept the Notice of Exemption (Attachment E), attached to the staff report. The proposed determination simply fulfills the City’s obligation under Government Code Section 65402 to find disposal of any real property in conformance with the City’s General Plan. Any subsequent improvement to the property will be separately examined in accordance with CEQA.

- 6) **Analysis:**

- a) **Government Code:** California Government Code Section 65402(a) requires that a Finding of General Plan Conformity be made by the Planning Commission and reported to the City Council prior to any acquisition, disposition, vacation, or abandonment of any real City property by the City. Specifically, the Planning Commission is to determine as to whether the location, purpose, and extent of such proposed real property transaction is in conformance with the 2030 General Plan.
- b) **General Plan Consistency:** The City's 2030 General Plan land use designation for 4050 South Saviers Road is Commercial General (CG) and the zoning designation is General Commercial Planned Development (C-2-PD), which allows for the existing DMV office. The proposed vacation of these easements would conform to the City's 2030 General Plan land use designation because it would allow an existing office use to continue to be used as an office, in compliance with Section 3.5 - Land Use Designation and Standards of the 2030 General Plan. Any future land use changes would be subject to compliance with applicable uses allowed under the Oxnard City Code, which is consistent with the 2030 General Plan. The State is not currently proposing to make any modifications to the site.

As previously noted above, the drainage easements were created in the 1940's. Since that time, the property site and surrounding area have been developed with various residential and commercial uses, and infrastructure improvements. The drainage easements were created prior to the development of the site, and the purpose of the Drainage District and easements at that time were "to provide for the organization and government of drainage districts for the drainage of agricultural lands other than swamp and overflowed lands, and to provide for the acquisition or construction of works for the drainage of the lands embraced within such districts...". As this area has been developed over the intervening years, modern drainage systems have been installed within the Public Right-of-Way, and as a result these drainage easements are no longer needed to provide adequate drainage as required pursuant to the 2030 General Plan policies, such as ICS-13.2 which requires the provision of adequate storm drain facilities. Lastly, the proposal for the vacation of these easements were reviewed by the Public Works staff and the easements were found to no longer be needed.

7) **Summary and Conclusion:**

The vacation of the drainage easements located at 4050 South Saviers Road to remove an unnecessary easement and to allow the continuation of the site being used as a DMV office is consistent with the City's 2030 General Plan. Therefore, after review of the proposed vacation of these easements, staff recommends that the Planning Commission adopt the attached Resolution memorializing the Planning Commission's determination that the proposed vacation conforms with the 2030 General Plan.

Attachments:

- A. Maps (Vicinity, General Plan, Zoning)
- B. Drainage Easement Grant Deed
- C. Access and Utilities Map
- D. County of Ventura Resolution Ordering the Dissolution of Drainage District No. 3
- E. Notice of Exemption
- F. Draft Planning Commission Resolution
 - Exhibit 1. Map of Drainage Easements
- G. Presentation

RESOLUTION NO. 2021-07

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF OXNARD DETERMINING THAT THE CITY OF OXNARD'S PROPOSED VACATION OF EASEMENTS LOCATED AT 4050 SOUTH SAVIERS ROAD IS IN CONFORMANCE WITH THE OXNARD 2030 GENERAL PLAN PURSUANT TO SECTION 65402 OF THE GOVERNMENT CODE. FILED BY ALFREDO PALOMAR, ON BEHALF OF THE STATE OF CALIFORNIA., 707 THIRD STREET, WEST SACRAMENTO, CA 95605, ON BEHALF OF THE PROPERTY OWNER WHICH IS THE STATE OF CALIFORNIA-GENERAL SERVICES DEPARTMENT.

WHEREAS, The State of California General Services Department ("**Applicant**") submitted a request for the vacation of two drainage easements located at 4050 South Saviers Road (the "**Property**"), as shown in Exhibit 1 of this resolution, and incorporated by reference; and

WHEREAS, The City of Oxnard is the owner of record of these two easements; and

WHEREAS, The 2030 General Plan in a comprehensive, long term plan that guides land use and physical development of land within the City of Oxnard and provides policy direction regarding land uses that are intended to serve the community; and

WHEREAS, Whenever a public agency proposes to acquire, dispose, vacate or abandon any real property, California Government Code Section 65402 requires a report on conformity with the General Plan; and

WHEREAS, The subject property is designated Commercial General (CG) by the City's 2030 General Plan and is zoned General Commercial / Planned Development (C-2-PD); and

WHEREAS, The proposed vacation of these easements would conform to the City's 2030 General Plan land use designation because it is an existing office space/parking lot that will continue to be used as such. The applicant is not proposing to make any modifications to the site; and

WHEREAS, The vacation of these easements, as documented in the staff report, would be consistent General Plan policies regarding the use of the sites and would not adversely impact General Plan policies related to the provision of adequate drainage; and

WHEREAS, The vacation of these easements and the ultimate use of the parcel for office use is consistent with the land use designation on the subject site. Future use of the parcel will be required to comply with all City codes and regulations; and

WHEREAS, on April 15, 2021, the Planning Commission considered proposed vacation of real property located at 4050 South Saviers Road in light of the Oxnard 2030 General Plan and the requirements of Government Code section 65402.

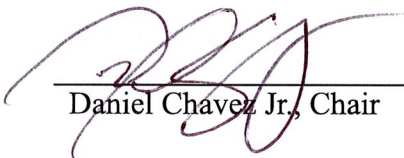
NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF OXNARD:

SECTION 1. The Planning Commission, in accordance with Section 21065 of the California Environmental Quality Act (CEQA), finds that its determination of whether the City's proposed vacation of these easements is consistent with the Oxnard 2030 General Plan is not a "Project" for purposes of CEQA and State CEQA Guidelines since the determination does not result in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment (CEQA Guidelines Section 15061(b)(3) and Section 15378(b)(5)).

SECTION 2. Based on the findings set forth herein, and on the entire record before the Planning Commission and all written and oral evidence presented, including the Planning Commission Staff Report and all attachments thereto, the Planning Commission hereby determines that the proposed City's vacation of the subject easements is in conformity with the Oxnard 2030 General Plan.

SECTION 3. The Secretary shall certify the adoption of this Resolution.

PASSED, APPROVED, AND ADOPTED by the Planning Commission of the City of Oxnard on this 15th day of April, 2021.



Daniel Chavez Jr., Chair

I hereby certify that the foregoing is a true copy of a Resolution adopted by the Planning Commission of the City of Oxnard at a meeting held on the 15th day of April, 2021, and carried by the following vote:

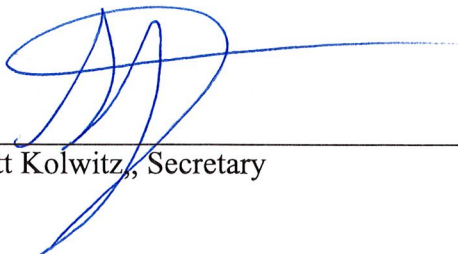
AYES: Commissioner(s): Chavez, Arruejo, Connelly, Lopez, Meyer, Sanchez

NOES: Commissioner(s):

ABSENT: Commissioner(s):

ABSTAIN: Commissioner(s):

RECUSED: Commissioner(s):



Scott Kolwitz, Secretary

ATTACHMENT F

EXHIBIT 1

MAP OF DRAINAGE EASEMENTS

THIS SURVEY HAS BEEN PREPARED FOR DESIGN PURPOSES

THIS SURVEY HAS BEEN PREPARED FOR DESIGN PURPOSES

1. BEFORE USING THIS MAP FOR DESIGN PURPOSES, ALL EXISTENT RECORD AND SETBACK LINES DEFINED IN COVENANTS, CONDITIONS, AND RESTRICTIONS OF RECORD AFFECTING THIS PROPERTY SHOULD BE PLOTTED ON THIS MAP FROM A CURRENT TITLE REPORT. IF NO TITLE REPORT WAS FURNISHED, OUR CLIENT IS URGED TO FURNISH A CURRENT TITLE REPORT SO THAT THESE EXISTENT AND SETBACK LINES OF RECORD CAN BE PLOTTED ON THIS MAP.
2. THIS MAP SHOULD BE EXPANDED TO MEET ALTA REQUIREMENTS IF FINANCING IS TO BE OBTAINED FOR THE PROJECT, REQUIRING AN ALTA SURVEY. THIS MAP DOES NOT MEET ALTA REQUIREMENTS.

- [illegible]

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF ONAWD, IN THE COUNTY OF MONTEIRA, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

THAT PORTION OF LOT 3, SUBDIVISION NO. 44, RANCHO EL BEO DE SANTA CLARA O'LA COLONIA, IN THE CITY OF ONAWD, COUNTY OF MONTEIRA, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 3 PAGE 14 OF MAPS, IN THE OFFICE OF THE COUNTY CLERK OF SAID COUNTY, CALIFORNIA, WHICH MAP FILED IN BOOK 3 PAGE 14 OF MAPS, IN THE OFFICE OF THE COUNTY CLERK OF SAID COUNTY, CALIFORNIA, AS SHOWN ON THE PARCEL MAP FILED IN BOOK 3 PAGE 14 OF MAPS, IN THE OFFICE OF THE COUNTY CLERK OF SAID COUNTY, CALIFORNIA, BEING THE EFFECT OF THE COUNTY RECORDER OF SAID COUNTY.

PARCEL 1: PARCEL 7* IN THE CITY OF OYARD, COUNTY OF VENTURA, STATE OF CALIFORNIA, AS SHOWN ON THE PARCEL MAP FILED IN BOOK 11 PAGE 23 OF PARCEL MAPS IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, EXCEPT THE SOUTHERLY 290.26 FEET MEASURED ALONG THE EASTERLY LINE, ALSO EXCEPT THE INTEREST IN THE OIL AND MINERALS, AS RESERVED BY FRANK FRITSCHLE, A MARRIED MAN, IN DEED RECORDED JULY 7, 1959 IN BOOK 1754 PAGE 570, OF THE OFFICIAL RECORDS.

[illegible][illegible]

BASIS OF BEARINGS

INDICATES TITLE REPORT EXCEPTION NUMBER

THE BEARING N 00°03'31" W OF THE CENTERLINE OF SAVERS ROAD AS SHOWN ON PARCEL MAP 77-39, RECORDED IN BOOK 11, PAGE 23 INCLUSIVE, OF MAPS, RECORDS OF LOS ANGELES COUNTY, WAS TAKEN AS THE BASIS OF BEARINGS FOR THIS SURVEY, AS SHOWN ON THE PARCEL MAP FILED IN BOOK 11 PAGE 23

AREA BASED UPON MEASURED BEARINGS AND DISTANCES AS SHOWN HEREON, THE AREA IS:
131,742.4 SQUARE FEET OR 3.02 ACRES

TOPOGRAPHY BY GROUND SURVEY METHODS AND COMPLE'S WITH NATIONAL MAP ACCURACY STANDARDS

CONTOUR INTERVAL 1 FOOT

UTILITIES

THE INVESTIGATION OF SUBSURFACE UTILITIES HAS BEEN PERFORMED UTILIZING ELECTRO-MAGNETIC RADIO DETECTION ROBOTIC

10 WATT TRANSMITTER & RECEIVER, 300' 5/16" TRACEABLE JAMESON RODDER, A GSSI GROUND PENETRATING RADAR UNIT

WITH A 400MHZ ANTENNA AND A SCD-52X MARIETOMETER. THOSE DETECTED UTILITIES WILL GENERALLY

COMPLY WITH QUALITY LEVEL B AS DEFINED IN ASCE 38-02, STANDARD GUIDELINE FOR THE COLLECTION AND DETECTION OF EXISTING SUBSURFACE UTILITY DATA. PAINT MARKS INDICATING THOSE LOCATIONS HAVE BEEN MAAPPED ON THIS SURVEY.

EFFECT OF AN EASEMENT GRANTED TO ORNARD DRAINAGE DISTRICT NO. 3 FOR DRAIN TILE LINE, PIPE, CONDUIT AND OTHER WORKS NECESSARY FOR THE PURPOSE OF DRAINAGE AND RIGHTS INCIDENTAL THERETO, AS GRANTED IN A DOCUMENT RECORDED IN BOOK 34, PAGE 33, SUBORDINATE TO THE DEED AND THE ORIGINAL RELEVANT EFFECTS, AS STATED ON SAID JOINTLY MADE AGREEMENT.

JULY 24, 1940 IN BOOK 376 PAGE 486, AN OFFICIAL RECORDS ATTACHE, A STRIP OF LAND 40 FEET WIDE ACROSS A PORTION OF SAND LAND.

2 PLOTTED HEREON.

EFFECT OF
 WAIVER OF ANY CLAIMS FOR DAMAGES TO LAND AND BY REASON OF THE LOCATION, CONSTRUCTION, MAINTENANCE OR
 MAINTENANCE OF THE STREET OR HIGHWAY ADJOINING SAID LAND, AS CONTAINED IN THE DEED TO STATE OF CALIFORNIA
 RECORDED APRIL 13, 1961 RECORDING NO: 14 BOOK 1986 PAGE 34, OF OFFICIAL RECORDS AFFECTS: PARCEL 1.

3 NOT PLOTTABLE

EFFECT OF WAIVER OF ANY CLAIMS FOR DAMAGES TO SAID LAND BY REASON OF THE LOCATION, CONSTRUCTION, LANDSCAPING OR MAINTENANCE OF THE STREET OR HIGHWAY ADJOINING SAID LAND, AS CONTAINED IN THE DEED TO COUNTY/CITY/STATE:

STATE OF CALIFORNIA RECORDING DATE: JUNE 27, 1981 RECORDING NO: IN BOOK 2015 PAGE 351, OF OFFICIAL RECORDS AFFECTS: PARCEL 11

④ NOT PLOTTABLE

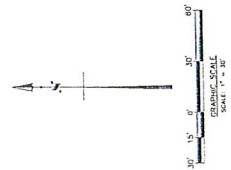
EASEMENT(S) GRANTED TO SOUTHERN CALIFORNIA EDISON COMPANY FOR THE PURPOSE(S) SHOWN BELOW AND RIGHTS INCIDENTAL THEREOF, AS GRANTED IN A DOCUMENT: PURPOSE: PUBLIC UTILITIES RECORDING DATE: JUNE 27, 1978

RECORDING NO. 86302 IN BOOK 3140 PAGE 244, OF OFFICIAL RECORDS AFFECTS THE EASTERLY 8 FEET OF THE SOUTHERLY 420 FEET OF SAID LAND. LIMITATIONS ON THE USE, BY THE OWNERS OF SAID LAND, OF THE EASEMENT AREA AS SET FORTH IN THE EASEMENT DOCUMENT SHOWN HEREIN ABOVE. REFERENCE IS HEREBY MADE TO SAID DOCUMENT FOR FULL

PARTICULARS. **DI ATTEN MEDON**

5. EFFECT OF
 (c) PLOTTED HEREON.
 MATTERS CONTAINED IN THAT CERTAIN DOCUMENT ENTITLED: NOTICE OF LAND USE RESTRICTIONS AND CONDITIONS

RECORDING DATE: NOVEMBER 8, 1989 RECORDING NO: 89-178848, OF OFFICIAL RECORDS REFERENCE IS HEREBY MADE TO SAID DOCUMENT FOR FULL PARTICULARS.



PERSONAS

IN THE CITY OF OXNARD

COUNTY OF VENTURA

STATE OF CALIFORNIA

1

JUL 09, 2018

 $1^\circ = 30'$

489

JULY 10, 2018

CITY COUNCIL OF THE CITY OF OXNARD

RESOLUTION NO. 2021_____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OXNARD DECLARING ITS INTENTION TO VACATE TWO FORTY (40) FOOT WIDE DRAINAGE EASEMENTS, TOTALING APPROXIMATELY 24,600 SQUARE FEET, LOCATED AT 4050 SOUTH SAVIERS ROAD, AND DIRECTING THE CITY CLERK TO SET A TIME AND PLACE FOR A PUBLIC HEARING PURSUANT TO CHAPTER 3, PART 3, DIVISION 9 OF THE STREETS AND HIGHWAYS CODE FOR THE CITY COUNCIL TO CONSIDER THE PROPOSED EASEMENT VACATION. FILED BY ALFREDO PALOMAR, ON BEHALF OF THE STATE OF CALIFORNIA., 707 THIRD STREET, WEST SACRAMENTO, CA 95605, ON BEHALF OF THE PROPERTY OWNER WHICH IS THE STATE OF CALIFORNIA-GENERAL SERVICES DEPARTMENT.

WHEREAS, the State of California General Services Department (“Applicant”) submitted a request for the vacation of two drainage easements located at 4050 South Saviers Road (the “Property”), as shown in Exhibit A of this resolution, and incorporated by reference; and

WHEREAS, the 2030 General Plan in a comprehensive, long term plan that guides land use and physical development of land within the City of Oxnard and provides policy direction regarding land uses that are intended to serve the community; and

WHEREAS, whenever a public agency proposes to acquire, dispose, vacate or abandon any real property, California Government Code Section 65402 requires a report on conformity with the General Plan; and

WHEREAS, the subject property is designated Commercial General (CG) by the City’s 2030 General Plan and is zoned General Commercial / Planned Development (C-2-PD); and

WHEREAS, the proposed vacation of two drainage easements located at 4050 South Saviers Road, as documented in the Planning Commission’s staff report dated April 15, 2021, would conform to the City’s 2030 General Plan land use designation because it is an existing office space/parking lot that will continue to be used as such. The applicant is not proposing to make any modifications to the site; and

WHEREAS, the proposed vacation of two drainage easements located at 4050 South Saviers Road, and the ultimate use of the parcel for office use is consistent with the land use designation on the subject site. Future use of the parcel will be required to comply with all City codes and regulations; and

WHEREAS, the Planning Commission of the City of Oxnard reviewed the vacation request at its regular meeting of April 15, 2021 in accordance with Government Code section 65402 and determined that the vacation is consistent with the goals and policies of the City’s adopted General Plan and recommended that the City Council consider and approve the easement vacation request.

WHEREAS, on December 7, 2021, the City Council of the City of Oxnard reviewed the right-of-way vacation request in accordance with the general vacation procedures contained in the Streets and Highways Code Section 8320 and adopted Resolution 15-484 to declare its intention to vacate the subject right-of-way. The City Council set the request for a public hearing on Tuesday, January 4, 2022 at 6:00 p.m. at the City Council Chambers of the City of Oxnard located at 305 West Third Street in Oxnard, California.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF OXNARD:

SECTION 1. The City Council, pursuant to California Environmental Quality Act (Public Resources Code Sections 21000 et seq., “CEQA”) and the regulations promulgated thereunder (14 California Code of Regulations Sections 15000 et seq., the “CEQA Guidelines”), finds that it can be seen with certainty that there is no possibility that the proposed vacation of the two forty (40) foot wide drainage easements, totaling approximately 24,600 square feet, located at 4050 South Saviers Road would have a significant effect on the environment (CEQA Guidelines Section 15061(b)(3)).

SECTION 2. It is the intention of the City Council of the City of Oxnard to vacate two forty (40) foot wide drainage easements, totaling approximately 24,600 square feet, located at 4050 South Saviers Road. The City Council hereby directs the City Clerk to schedule a public hearing in accordance with the vacation procedures contained in California Streets and Highway Code Section 8300 *et seq.* to be held on Tuesday, January 4, 2022, at 6:00 p.m. at the at the City Council Chambers of the City of Oxnard located at 305 West Third Street in Oxnard, California. At this hearing, all interested parties may introduce evidence and testimony pertaining to the proposed street vacation.

SECTION 3. The map attached hereto as Exhibit “A” shows the approximate area to be vacated and shall be on file in the office of the City Clerk located at 300 West Third Street, Fourth Floor, Oxnard, California 93030.

SECTION 4. The City Clerk shall schedule and notice a public hearing in compliance with Streets and Highway Code sections 8320, 8322 and 8323, at which time all persons interested in or objecting to the proposed vacation may be heard and present evidence.

SECTION 5. The City Clerk’s office is directed to publish and post notice of this proposed vacation in accordance with sections 8322 and 8323 of the California Streets and Highways Code.

SECTION 6. The City Clerk shall certify the adoption of this Resolution.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of Oxnard on this 7th day of December, 2021, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

RECUSE:

John Zaragoza, Mayor

ATTEST: _____
Rose Chaparro, City Clerk

APPROVED AS TO FORM:

Stephen M. Fischer, City Attorney

EXHIBIT

A Street Vacation Maps

DMV Oxnard Field Office Drainage Easement Vacation Initiation for 4050 South Saviers Road

Applicant: Alfredo Palomar on behalf of the State of California-General
Services Department, Property Owner.

Joe Pearson II, Senior Planner
Scott Kolwitz, Planning Manager
Jeff Pengilley, P.E., Assistant Director
Vyto Adomaitis, Community Development Director

City Council
December 7, 2021

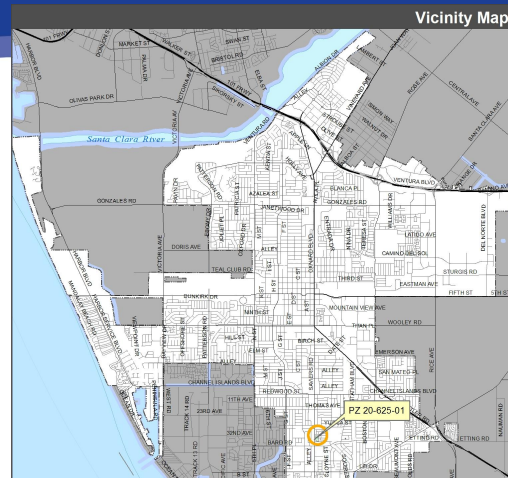


PROJECT LOCATION

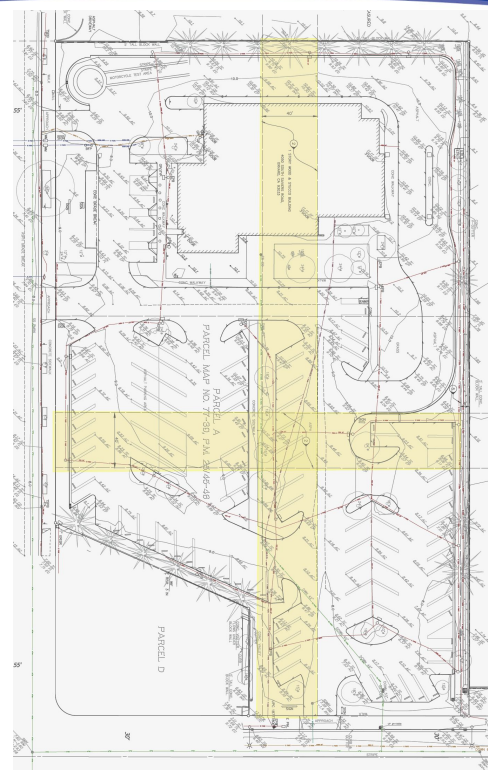
2

Subject Site: 4050 South Saviers Road

Existing DMV Office



- Proposed vacation of two forty (40) foot wide drainage easements, totaling approximately 24,600 square feet, crossing the two parcels



GENERAL PLAN & ZONING MAPS

General Plan Land Use Designation



Commercial General (CG)

Zoning Designation



General Commercial-Planned Development (C-2-PD)

- The two parcels are currently developed with a 12,153 square-foot DMV office and associated parking area.
- The two easements were initially granted to the Oxnard Drainage District No. 3 on July 24, 1940, for the purpose of drainage tile line, pipe, conduit and other works necessary to facilitate drainage.
- On October 23, 1984, the County of Ventura and the City of Oxnard approved a Resolution ordering the dissolution of Oxnard Drainage District No. 3
- City of Oxnard was designated the successor agency, which transferred the easements and all the rights incidental thereto to the City of Oxnard.

Planning Commission 65402 Determination

Government Code Section 65402, requires that real property acquisition or disposition, street vacation or abandonment, public building or structure construction be consistent with the General Plan and Local Coastal Land Use Plan as to location, purpose and extent.

The Planning Commission review and verification is documented through a resolution finding the Vacation of the Easements is in conformity with the 2030 General Plan.

- On April 15, 2021, The Planning Commission held a public hearing consistent with Government Code Section **65402** and found the easement vacation consistent with:
 - 2030 General Plan
- Unanimously (6-0) adopted Resolution 2021-07:
 - Finding the easement vacation in conformance with the 2030 General Plan; and
 - Recommending that the City Council order the easement vacation.

Environmental Determination

Pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15061(b)(3), it can be seen with certainty that there is no possibility that the proposed vacation of the drainage easements would have a significant effect on the environment.

That the City Council:

1. Find the project Exempt from environmental review pursuant to the California Environmental Quality Act (CEQA) Guidelines Section 15061(b)(3).
2. Adopt a Resolution declaring its intention to vacate its right, title and interest in the two forty (40) foot wide drainage easements, totaling approximately 24,600 square feet, located at 4050 South Saviers Road.
3. Direct the City Clerk to schedule a public hearing in accordance with the vacation procedures contained in California Streets and Highway Code Section 8300 et seq to be held on Tuesday, January 4, 2022 at 6:00 p.m. at the at the City Council Chambers of the City of Oxnard located at 305 West Third Street in Oxnard, California.



End of Presentation



CITY COUNCIL AGENDA REPORT

REPORTS AGENDA ITEM NO. N.2

DATE: December 7, 2021

TO: City Council

FROM: Betsy George, Chief Financial Officer, 805-200-5400, betsy.george@oxnard.org

SUBJECT: Update on Corrective Action Plan (CAP). (0/5/5)

RECOMMENDATION

That the City Council receive an update on the Corrective Action Plan (CAP).

(Finance and Governance Committee approved 3-0)

Please click the following link to view the required Measure M pre-recorded presentation video: <https://youtu.be/HBu5eAtGz88>

BACKGROUND

The City's annual audit for FY 2014-15 produced 111 single-audit findings. These findings primarily concerned the City's policies and procedures (or lack thereof) for accounting and financial management. During the FY 2015-16 audit, there were an additional 5 audit findings. For FY 2016-17, an additional 19 audit findings occurred, of which 9 were repeat findings from the two prior audits. For FY 2017-18, an additional 37 audit findings occurred, of which 13 were repeat findings from the prior three audits. For FY 2018-19, there were an additional 11 findings, of which 3 were repeat findings from the prior four audits. Through FY 2018-19 there were a total of 183 audit findings.

The FY 2019-20 audit resulted in one additional finding related to Information Technology General Controls; this finding is a repeat from the prior five audits. The Information Technology (IT) related findings are communicated to City Council via separate confidential written reports (as the disclosure of those reports would reveal vulnerabilities to the City's IT system). There were no new findings for accounting and financial management, although four earlier audit findings remain unresolved.

In order to correct the various accounting and financial management audit findings, the City was required to produce a Corrective Action Plan, or CAP. This plan, updated annually, addresses all unresolved findings, and the steps and timeline to correct them.

In the Spring of 2017, after the 2015 and 2016 single audits were released simultaneously by Eadie + Payne, staff in the Finance Department and other departments began to address the first 111 audit findings. During the remainder of 2017 and throughout 2018, they made significant progress in executing the CAP and addressing the findings. They resolved more than 30 material weaknesses, for example.

In the meantime, however, new unique audit findings continued to pile up -- 39 more, as re-capped above. Therefore, at the beginning of 2019, staff created a detailed audit scorecard, and began presenting it to the Finance and Governance Committee, and to City Council, every six months.

In April 2021, staff provided an update of the audit scorecard to the Finance and Governance Committee (and, later, to

City Council) indicating that the total number of unresolved, unique (non-repeat) findings last spring was 6. There was a minor correction made to the information presented in April. The FY 2019-20 Information Technology related finding is a repeated finding and, therefore, the original finding from the prior year's audit should have been reflected as closed in the Single Audit Report's Schedule of Prior Years Findings. The correction was confirmed by Eadie + Payne and the unresolved unique (non-repeat) findings as of last spring has been adjusted to five. The corrected scorecard appears on slide 5 of the accompanying PowerPoint presentation from staff.

As shown on the new audit scorecard (slide 6 of the accompanying staff PowerPoint presentation) – the count of unresolved findings remains unchanged. Of the 184 total audit findings (of which 158 were unique, non-repeat), five remain outstanding. Slide 7 lists them. These last few audit findings are in the process of being resolved. Last spring, staff had three of the outstanding findings at the "To Be Tested" phase, and Eadie + Payne will test them between now and January 2022.

Staff will continue to present to the Finance and Governance Committee the CAP and the progress the City has made in addressing outstanding findings.

STRATEGIC PRIORITIES

This agenda item supports the Organizational Effectiveness strategy. The purpose of the Organizational Effectiveness strategy is to reinforce, stabilize, improve, and strengthen the organizational foundation of the City in order to build a modern, high-functioning City government that effectively and efficiently supports the operating departments in providing high-quality services and programs for our residents and businesses.

FINANCIAL IMPACT

There is no financial impact.

COMMITTEE OUTCOME

The Finance and Governance Committee approved 3-0 on November 9, 2021, to approve the staff recommendation and to forward the item for Council approval.

Prepared by: Jennifer Hiraoka, Senior Manager Internal Controls/Acting Controller, Betsy George, Chief Financial Officer

ATTACHMENTS

1. 12.07.21 Corrective Action Plan Update Presentation for City Council

UPDATE ON CORRECTIVE ACTION PLAN FISCAL YEARS 2015 – 2020 SINGLE AUDITS

Presentation to City Council

Jennifer Hiraoka, Senior Manager Internal Controls/Interim Controller
Betsy George, Chief Financial Officer

December 7, 2021



AGENDA

2

- Status of Corrective Action Plan
- Continued progress

CAP STATUS DEFINITIONS

3

Complete – Auditors have tested and determined that corrective action for the finding has been effectively implemented

To Be Tested – Policies and Procedures (P&P) approved (if applicable), training completed and corrective action ready for auditors to test during the next single audit

P&P Draft – P&P drafted but not yet approved by CFO and/or training not yet provided.

In Progress – Staff has taken steps towards implementation, but not yet drafted P&P or completed training

Not Started – Staff has not initiated mitigations, implemented resolutions or provided training

Passed/No Longer Required – Staff disagrees with the finding and/or auditors have determined corrective action is no longer required

FY 2020 SINGLE AUDIT RESULTED IN ONE ADDITIONAL FINDING, 4 PREVIOUS FINDINGS REMAIN UNRESOLVED – NO MATERIAL WEAKNESSES

4

FINDINGS STATUS (2015-2020) (as of March '21)	MATERIAL WEAKNESS	SIGNIFICANT DEFICIENCY	Non- Compliance	Best Practice	TOTAL
TOTAL Findings	72	76	17	19	184
Repeat Findings	(7)	(11)	(4)	(4)	(26)
TOTAL Unique Findings	65	65	13	15	158
COMPLETE	63	57	7	12	139
Passed / No Longer Required	2	3	6	3	14
TO BE TESTED	0	3	0	0	3
P&P DRAFT	0	0	0	0	0
IN PROGRESS	0	2	0	0	2
NOT STARTED	0	0	0	0	0
TOTAL Unresolved Findings	0	5	0	0	5

CORRECTIVE ACTION PLAN STATUS THROUGH OCTOBER 2021

5

FINDINGS STATUS (2015-2020) (as of October '21)	MATERIAL WEAKNESS	SIGNIFICANT DEFICIENCY	Non- Compliance	Best Practice	TOTAL
TOTAL Findings	72	76	17	19	184
Repeat Findings	(7)	(11)	(4)	(4)	(26)
TOTAL Unique Findings	65	65	13	15	158
COMPLETE	63	57	7	12	139
Passed / No Longer Required	2	3	6	3	14
TO BE TESTED	0	3	0	0	3
P&P DRAFT	0	0	0	0	0
IN PROGRESS	0	2	0	0	2
NOT STARTED	0	0	0	0	0
TOTAL Unresolved Unique Findings	0	5	0	0	5

REMAINING AUDIT FINDINGS

6

The five (5) outstanding remaining findings:

To Be Tested by External Auditors (Eadie & Payne)

- Notes Receivable: Develop and implement policies and procedures to collect payments from developers based on residual revenues [Housing Department]
- Lease Agreements: Develop a process to identify and evaluate lease agreements [Finance Department]
- Pension Plans: Develop and implement a process to review the CalPERS and PARS census data used in pension plan valuation [Human Resources Department-Payroll]

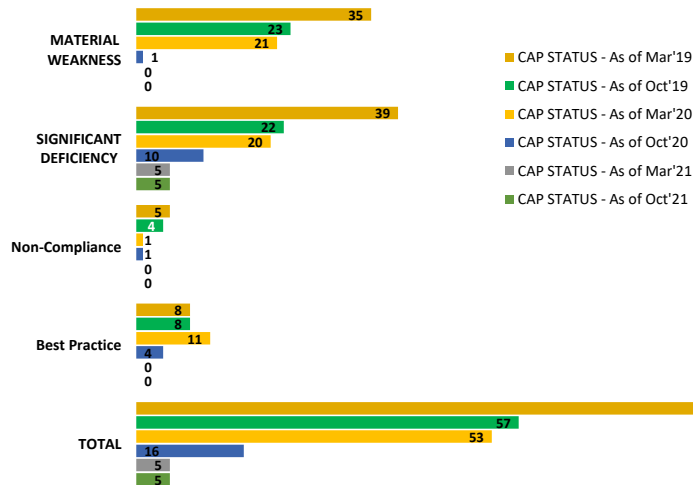
City Staff In Progress of Developing or Implementing Policies & Procedures to Resolve Finding

- Update to Indirect Cost Allocation Plan [Finance Department]
- Information Technology (IT) General Controls [IT Department]

HISTORY OF PROGRESS

7

COUNT OF UNRESOLVED* FINDINGS 2015-2020



*Includes all unique findings excluding "Complete" or "Passed/No Longer Required" status

PROGRESS CONTINUES

8

- New Senior Manager, Internal Controls started May 3, 2021 – currently working as Acting Controller.
- Internal Control Integrated Framework (ICIF) Policies
 - Seven policies implemented through March 2021
 - Eighth policy implemented June 2021
 - Ninth – and final – policy to be implemented December 2021
- On-going Training
 - Staff
 - Finance and Governance Committee serving as audit committee
 - Session completed September 14, 2021
 - Additional session scheduled for November 9, 2021
- ERP implementation project on-going
 - Numerous financial and process controls to be enhanced in conjunction with Munis implementation (go-live July 2022)

RECOMMENDATION

9

That the City Council receive an update on the Corrective Action Plan (CAP).



CITY COUNCIL AGENDA REPORT

REPORTS AGENDA ITEM NO. N.3

DATE: December 7, 2021

TO: City Council

FROM: Alexander Nguyen, City Manager, (805) 385-7430, alexander.nguyen@oxnard.org

SUBJECT: American Rescue Plan Act budget appropriation, authorization of new FTEs for ARPA projects, and delegation of ARPA contract awarding and executing authority to the City Manager. (0/5/5)

RECOMMENDATION

That the City Council:

1. Approve a budget appropriation recognizing \$16,192,200 in federal grant revenue and appropriating \$48,192,200 for the Council approved City's American Rescue Plan Act (ARPA) funding of projects and programs that will respond to the COVID-19 pandemic, address its economic fallout, and lay the foundation for a strong and equitable recovery in the City of Oxnard;
2. Adopt a resolution approving an amendment to the classification and salary range resolution for the Senior Project Manager classification to implement ARPA projects;
3. Adopt a resolution approving an amendment to the position control resolution to add four (4) Full-time Equivalent employees to implement ARPA projects; and
4. Adopt a resolution delegating contract awarding and executing authority to City Manager for non-public projects, and for subrecipient agreements funded in whole or in part by ARPA.

Please click the following link to view the required Measure M pre-recorded presentation video: <https://youtu.be/V9EKteDKEMY>

BACKGROUND

On March 11, 2021, President Biden signed ARPA into law. As part of the federal stimulus package, the City has been allocated \$59,540,662 in ARPA funding from the federal government, of which half, \$29,770,331, was received in May 2021. The remaining \$29,770,331 is expected in May 2022.

On September 21, 2021, after the July 13th Council Committee meetings, the July 29th City Council meeting, and the August 4th Inter-Neighborhood Council Organization meeting, City Council began making final decisions on ARPA project and program investments. The initial total ARPA project investments Council selected on September 21 totaled \$48,192,200 (Attachment 1).

ARPA costs must be incurred or encumbered by December 31, 2024, and all projects must be completed by December 31, 2026.

Approval of Budget Appropriation

Staff recommends that Council approve the \$48,192,200 budget appropriation for the 72 projects Council selected on September 21, 2021 (Attachment 2). This appropriation will pave the way to allow ARPA funds to be used to respond to

the COVID-19 pandemic, address its economic fallout, and lay the foundation for a strong and equitable recovery in the City of Oxnard. As indicated in the September 21, 2021, ARPA staff report, many of these projects are tranche 2 projects and will not start until FY 2022.

New Full-Time Equivalent Employees (FTE)

Due to ARPA project deadlines (ARPA funds must be incurred or encumbered by December 31, 2024, and all projects must be completed by December 31, 2026), many of the ARPA projects that Council selected will likely cause delay of many of the City's currently-funded projects. This is due to the ARPA funds' federal spending deadline and existing staff workload and project capacity, especially in the Engineering Division of Public Works.

US Treasury's preliminary ARPA guidance states that recipients may use funds to cover the portion of payroll and benefits of employees corresponding to time spent on administrative work necessary due to the COVID-19 public health emergency and its negative economic impacts.

The City Manager has authority from time to time to revise the number of positions or recommend to the City Council the creation of new or additional positions under new classifications as conditions and needs change in the administration of the City.

FTEs for Public Works Department

Currently, the Public Works Engineering Division (Division) is managing over one hundred (100) funded capital projects. Council has approved approximately forty (40) new capital projects through ARPA, resulting in a roughly 40% increase in project management workload for the Division.

Staff recommends that two (2) new Senior Project Manager positions be added to the existing Division structure to manage the more complex projects and provide oversight of the existing Project Managers (Attachment 4). Also, due to the increase in projects resulting from ARPA funds, there is a need for one (1) additional Construction Project Coordinator position to assist with the public project bidding process and subsequent project coordination and documentation.

The current Division staffing level consists of:

- one (1) Supervising Civil Engineer;
- five (5) Project Managers;
- one (1) Senior Construction Inspector;
- four (4) Construction Inspectors; and
- two (2) Construction Project Coordinators.

The new Senior Project Manager position will receive a yearly salary between \$89,120 - \$147,276, while the Construction Project Coordinator will receive a yearly salary between \$52,401 - \$81,291.

Attachment 5 lists Public Works ARPA projects that would be aided by this enhanced staffing.

FTE for City Manager's Office

Staff recommends that the City Manager's office receive an additional Project Manager to handle the complex quarterly expenditure reporting requirements of ARPA and directly manage a few ARPA projects. In addition, this new Project Manager will serve as staff liaison between the City Manager's office and the departments implementing and completing ARPA projects on time.

The new Project Manager position will receive a yearly salary between \$74,448 - \$123,802.

Attachment 6 lists the City Manager's office-led ARPA projects that would be directly aided by the additional Project Manager.

Delegation of ARPA Contract Authority

City Code Chapter 4, which governs purchasing and contracting, limits the City Manager's procurement contract awarding and execution authority to \$200,000. As the City continues its ongoing recovery from the pandemic, staff recommends that the Council delegate some of its procurement contract awarding and execution authority by resolution to the City Manager for ARPA projects over the \$200,000 authority (Attachment 7). This action will ensure that select ARPA projects are streamlined to move at a speedy pace, meet federal deadlines, and deploy much-needed support to the community. This delegation of authority does not affect the bidding requirements or process.

This tailored approach to deploying ARPA funds would include authority for only ARPA-funded procurement contracts (including amendments), purchase orders, trade and professional services agreements, and ARPA agreements where we grant funds to outside entities (sub-recipient agreements).

The delegation of authority would **not** apply to:

1. Construction, reconstruction, erection, alteration, renovation, improvement, demolition, and repair work involving any publicly owned, leased, or operated facility; and
2. The rental, lease, purchase, or license of real property.

Additionally, some of the ARPA funded projects and programs the Council approved require subrecipient agreements, which are agreements with other entities or individuals to disseminate ARPA funds for particular purposes. Item 21, funding to Visit Oxnard for \$436,000, is an example of a subrecipient agreement. The City Manager does not currently have authority with the City Code to execute such agreements. This resolution allows the City Manager to execute these agreements to more quickly deploy the much needed funding to the affected sectors and individuals.

The City Manager will report back to the City Council with routine, semi-regular updates on ARPA project progress during the City Manager's Report section of City Council meetings.

Attachment 8 lists the thirteen (13) ARPA projects that would fall under this resolution. As ARPA project scopes are developed, additional projects may be covered by this resolution.

STRATEGIC PRIORITIES

This agenda item supports Economic Development strategy. The purpose of Economic Development strategy is to focus on the retention and expansion of Oxnard businesses by increasing the skills and employability of our local workforce, invite new business investments, and target site-based redevelopment opportunities.

This agenda item supports the Organizational Effectiveness strategy. The purpose of the Organizational Effectiveness strategy is to reinforce, stabilize, improve, and strengthen the organizational foundation of the City in order to build a modern, high-functioning City government that effectively and efficiently supports the operating departments in providing high-quality services and programs for our residents and businesses.

This agenda item supports the Infrastructure and Natural Resources strategy. The purpose of the Infrastructure and Natural Resources strategy is to preserve and improve our roads, utilities, parks, trees, water supply and natural resources through effective planning, prioritization, and an equitable and efficient use of available funding.

This agenda item supports the Quality of Life strategy. The purpose of the Quality of Life strategy is to restore and increase quality services and programs that enrich Oxnard's diverse community, promotes safe neighborhoods, encourages community engagement, and supports our residents in their efforts to improve their quality of life.

This agenda item supports Public Safety strategy. The purpose of the Public Safety strategy is to restore and modernize the delivery of public safety services to provide for the safety of our neighborhoods and health of our community.

FINANCIAL IMPACT

The City has been allocated \$59,540,662 in ARPA funding from the federal government, of which half, \$29,770,331, was received in May 2021 and deposited into Fund 276-1001-531-7201 (Federal Grant Revenue). The remaining \$29,770,331 is expected in May 2022.

The Fiscal Year 2021-22 Adopted Budget included \$32 million in ARPA federal grant revenue. Approval of the recommended action will recognize an additional \$16,192,200 in federal grant revenue, bringing the revised total federal grant revenue budget to \$48,192,200. In addition, this action will appropriate a total of \$48,192,200 to the assigned projects Council selected on September 21, 2021. A project number has been assigned to each specific ARPA project for tracking and federal reporting purposes.

Based on the September 21, 2021 project selections, there is \$11,348,462 remaining in ARPA funds for additional projects. In Spring 2022, the Council will have the ability to select additional projects or refine the already ARPA projects.

COMMITTEE OUTCOME

This item did not originate in Committee.

Prepared by: Adam Smith, Project Manager, Tanya Williams, Financial Analyst III, Ashley Golden, Assistant City Manager

ATTACHMENTS

1. ARPA Investment List - Councilmember Selections - September 24, 2021
2. Budget Appropriation - ARPA Investment Projects
3. ARPA Amended Salary Resolution
4. ARPA Amended Position Resolution
5. Public Works ARPA Projects
6. City Manager's Office ARPA Projects
7. ARPA Resolution Delegating Select Contract Authority
8. ARPA Contract Authority Projects
9. ARPA Presentation - December 7, 2021

American Rescue Plan Act (ARPA) Investments
\$59,540,662 Total
Tranche 1 = \$29,770,331 - Tranche 2 = \$29,770,331

a) Tranche 1 was received May 2021. Tranche 2 expected in May 2022
b) Non-infrastructure projects and programs are required to be completed by December 31, 2024
c) Funds for Infrastructure projects are required to be encumbered by December 31, 2024, and projects completed by December 31, 2026
d) Items in **blue** indicate projects added by councilmembers
e) Items in **green** indicate staff's final project recommendations
f) As of September 24, 2021, US Treasury has not released the Final Rule on the APRA Program

Item No.	Investment Idea	ARPA Category	ARPA Sub-Category, Federal Register page	Estimated Cost	Council Priority	Tranche	Notes	Picked by Council - 9/21/21	Tabled until spring 2022
1	Gratitude program for grocery store workers *City Council approved June 1, 2021, Resolution No. 15,443	Premium Pay for Essential Workers	Premium Pay, pg 26797	\$2,500,000	Y	1		\$2,500,000	
2	Premium pay for City employees working on the front-line during the pandemic	Premium Pay for Essential Workers	Premium Pay, pg 26797	\$2,000,000	Y	1		\$2,000,000	
3	Refreshing school crosswalks and Safe Routes planning	Address Negative Economic Impacts	Promoting Healthy Childhood Environments, pg 26796	\$600,000	Y	1		\$600,000	
4	Safe Sleep Program - Capital improvements to support up to 14 RVs in City-owned parking lot at former Oxnard National Guard Armory	Address Negative Economic Impacts	Assistance to Households, pg 26794	\$700,000	Y	1		\$700,000	
6	Carnegie Art Museum: architectural and seismic study (New)	Address Negative Economic Impacts	Aid to Impacted Industries: Tourism, pg 26795	\$160,000	Y	1		\$160,000	
7	Seed money for park equipment repair, replacement, and consideration of all-access equipment. Specific park locations will be determined based on safety and need	Address Negative Economic Impacts	Promoting Healthy Childhood Environments, pg 26796	\$3,000,000	Y	2		\$3,000,000	
8	Seed money for 10 park playground shade structures. Specific park locations based on parks receiving replacement of playground equipment (not in Parks & Rec Master Plan)	Address Negative Economic Impacts	Promoting Healthy Childhood Environments, pg 26796	\$1,000,000	Y	2		\$1,000,000	
9	Pleasant Valley Park: repair and replacement of playground equipment (not in Parks & Rec Master Plan)	Address Negative Economic Impacts	Promoting Healthy Childhood Environments, pg 26796	\$600,000	Y	2		\$600,000	
New	YARA program	Address Negative Economic Impacts	Assistance to Unemployed Workers, Households, pg 26794; Promoting Healthy Childhood Environments, pg 26796	\$75,000			Added by Mayor Zaragoza	\$75,000	
New	Painting City Hall & Annex	Replacing Public Revenue Loss	Government Services, pg 26801	\$600,000			Added by Mayor Zaragoza	\$600,000	
New	USPS mailbox replacement	Replacing Public Revenue Loss	Government Services, pg 26801				Added by Mayor Pro Tem MacDonald		
10	Oxnard festivals - "Comeback Year" grants	Address Negative Economic Impacts	Aid to Impacted Industries: Tourism, pg 26795	\$200,000	N	1		\$200,000	
11	Community Assessment to determine transitions to adulthood among Oxnard Youth Post Covid-19	Address Negative Economic Impacts	Expenses to Improve Efficacy of Economic Relief Programs, pg 26794	\$300,000	N	1		\$300,000	
12	Community Assessment report on Oxnard's business attractions assets and gap analysis	Address Negative Economic Impacts	Small Business and Nonprofits/Expenses to Improve Efficacy of Economic Relief Programs, pg 26794	\$100,000	Y	1		\$100,000	
13	Relocate COVID-19 shelter from PAL to the Armory and costs to repair and clean PAL	Address Negative Economic Impacts	Assistance to Households, pg 26794	\$15,000	Y	1		\$15,000	
14	Revitalize Corridors: site-based development in downtown and Hueneme corridor, including land acquisition and plan development	Address Negative Economic Impacts	Building Stronger Communities through Investments in Housing & Neighborhoods, pg 26795	\$3,000,000	Y	1		\$3,000,000	
15	Saviers Rd Corridor: conceptual plan for widening sidewalks, landscape, lighting.	Address Negative Economic Impacts	Small Businesses & Nonprofits, pg 26794	\$140,000	Y	2		\$140,000	
16	Saviers Rd Corridor: formation of South Oxnard Property Business Improvement District (PBID)	Address Negative Economic Impacts	Small Businesses & Nonprofits, pg 26794	\$100,000	Y	1		\$100,000	
17	River Ridge Playing Fields: parking improvements & permanent power (not in Parks & Rec Master Plan)	Address Negative Economic Impacts	Aid to Impacted Industries: Tourism, pg 26795	\$325,000	N	1		\$325,000	
18	River Ridge Golf Course: Event space for golf course to expand wedding business (not in Parks & Rec Master Plan)	Address Negative Economic Impacts	Aid to Impacted Industries: Tourism, pg 26795	\$600,000	N	1		\$600,000	
19	PACC - upgraded marquee with new digital sign	Address Negative Economic Impacts	Aid to Impacted Industries: Tourism, pg 26795	\$85,000	N	1		\$85,000	
20	City-wide wayfinding program	Address Negative Economic Impacts	Aid to Impacted Industries: Hotels and Tourism, pg 26795	\$1,000,000	N	1	Move to spring discussion		\$1,000,000
21	Visit Oxnard: Branding & publications, destination management, digital advertising	Address Negative Economic Impacts	Aid to Impacted Industries: Hotels and Tourism, pg 26795	\$436,000	N	1		\$436,000	
22	Sports Park: Baseball and softball complex, lawns spaces w/ walking trails, inclusive playgrounds (Parks & Rec Master Plan, pgs 140, 158, 214, 217)	Address Negative Economic Impacts	Aid to Impacted Industries: Tourism, pg 26795	\$6,500,000	Y	2	Reduced by \$5 million	\$1,500,000	

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23	Homeless/Housing: Temporary staffing (over 2 years) to support the administration of Mainstream and Emergency Housing Vouchers	Address Negative Economic Impacts	Assistance to Households, pg 26794	\$400,000	Y	1		\$400,000	
24	Colonia Park: repair and resurface pool, renovation of locker rooms, construction of new public restrooms, basketball court resurfacing (resurfacing project, Parks & Rec Master Plan, pg 215)	Address Negative Economic Impacts	Promoting Healthy Childhood Environments, pg 26796	\$1,200,000	Y	2		\$1,200,000	
25	Johnson Creek Park: renovation of snack bar, restrooms, and baseball fields (not in Parks & Rec Master Plan)	Address Negative Economic Impacts	Promoting Healthy Childhood Environments, pg 26796	\$600,000	Y	2		\$600,000	
26	Durley Park: repair baseball fields (Parks & Rec Master Plan, pg 158)	Address Negative Economic Impacts	Promoting Healthy Childhood Environments, pg 26796	\$75,000	Y	1		\$75,000	
27	River Ridge Playing Fields: permanent bleachers & stage area; 50% of \$200,000 total cost (not in Parks & Rec Master Plan)	Address Negative Economic Impacts	Aid to Impacted Industries: Tourism, pg 26795	\$100,000	N	2		\$100,000	
28	Youth Facilities (PAL): sports equipment, youth center supplies, vehicle	Address Negative Economic Impacts	Promoting Healthy Childhood Environments, pg 26796	\$130,000	Y	1		\$130,000	
29	Youth Centers (Colonia Park, Durley Park, Southwinds Park, S. Oxnard Center): Sports equipment, youth center supplies, furniture, computer centers	Address Negative Economic Impacts	Promoting Healthy Childhood Environments, pg 26796	\$190,000	Y	1		\$190,000	
30	Wilson Arts Building: reconstruct the ADA ramp at Wilson Art Building to serve youth classes and the Special Populations program	Address Negative Economic Impacts	Promoting Healthy Childhood Environments, pg 26796	\$20,000	Y	1		\$20,000	
31	Oxnard Senior Centers (Wilson, South Oxnard, and Colonia): replacement of furniture in the social spaces	Address Negative Economic Impacts	Assistance to Households, pg 26794	\$100,000	Y	1	Discuss additional investments in spring	\$100,000	
32	PACC CIP - remove and replace roofing material and metal flashing on the Ventura and Oxnard room roofs	Address Negative Economic Impacts	Aid to Impacted Industries: Tourism, pg 26795	\$545,000	N	2		\$545,000	
33	Olympic Skatepark in Colonia	Address Negative Economic Impacts	Aid to Impacted Industries: Tourism, pg 26795	\$3,000,000	N	2		\$3,000,000	
34	Main and S. Oxnard branch libraries technology purchases, laptops, security systems, and upgrades; conversion of computer labs with up to 100 Chromebooks for City's three libraries (includes Colonia)	Address Negative Economic Impacts	Promoting Healthy Childhood Environments, pg 26796	\$830,000	Y	1		\$830,000	
35	Oxnard Arts Academy: portable classrooms, instruments, tablets, music stands, chairs, tables	Address Negative Economic Impacts	Addressing Education Disparities, pg 26796	\$450,000	Y	2		\$450,000	
36	Downtown: 50 trash receptacles, acquisition of water trailer for DOIA, marketing funds, acquisition of movable/lockable tables and chairs, public art, removable bollards, & reader boards.	Address Negative Economic Impacts	Small Businesses & Nonprofits, pg 26794	\$775,000	Y	1		\$775,000	
37	Downtown: implement outdoor venues on City owned properties (A St and 5th St)	Address Negative Economic Impacts	Small Businesses & Nonprofits, pg 26794	\$250,000	Y	1		\$250,000	
38	Heritage Square building & site enhancements, repairs, and event support	Address Negative Economic Impacts	Aid to Impacted Industries: Tourism, pg 26795	\$1,000,000	N	1	Move to spring discussion		\$1,000,000
43	Permanent Outdoor Patio Program Fund: provide grants for restaurants to create permanent attractive and safe outdoor dining spaces.	Address Negative Economic Impacts	Small Businesses & Nonprofits, pg 26794	\$1,000,000	Y	1	Added by Councilmember Teran	\$1,000,000	
45	Oxnard Employee Pipeline and Homeless Vocational programs	Address Negative Economic Impacts	Assistance to Unemployed Workers, Households, pg 26794; Services to address homelessness pg 26796	\$200,000	Y	1	Move to spring discussion		\$200,000
46	Oxnard Tennis Center: replace the foundation and resurface the tennis courts	Address Negative Economic Impacts	Promoting Healthy Childhood Environments, pg 26796	\$500,000	Y	2	Added by Councilmember Madrigal	\$500,000	
49	Libraries (Main, S. Oxnard, and Colonia branch): upgrade of Wifi systems with Bluesocket Access Points with omnidirectional antennas	Broadband Infrastructure	Broadband Infrastructure, pg 26804	\$17,000	N	1		\$17,000	
50	Youth Recreation Centers: Installation of Fiber Lines for South Oxnard Center, Southwinds Center, Colonia Center, Durley Park Center - requires an internet service provider to provide service	Broadband Infrastructure	Promoting Healthy Childhood Environments, pg 26796; Broadband Infrastructure, pg 26804	\$675,000	N	2		\$675,000	
51	City-wide painting of curbs red next to fire hydrants	Replace Public Sector Revenue Loss	Government Services, pg 26801	\$250,000	N	2	Move to spring discussion		\$250,000
52	Bike / Pedestrian project: Path along the SCR-3 levee road north of the River Ridge Golf Course between Ventura Rd and Victoria Rd	Replace Public Sector Revenue Loss	Government Services pg 26801	\$3,800,000	N	2	Move to spring discussion		\$3,800,000

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53	City-wide ADA tree and sidewalk improvements	Replace Public Sector Revenue Loss	Government Services pg 26801	\$1,000,000	Y	2		\$1,000,000	
54	Fire station architectural design for Oxnard Fire Stations 2, 3, 5	Replace Public Sector Revenue Loss	Government Services, pg 26801	\$1,000,000	Y	1		\$1,000,000	
55	Fire Department Vehicle for 2-person paramedic squad	Replace Public Sector Revenue Loss	Government Services, pg 26801	\$80,000	Y	2		\$80,000	
56	Police Department radio communications: upgrade City-wide radio infrastructure to a P25 system	Replace Public Sector Revenue Loss	Government Services, pg 26801	\$4,000,000	Y	2		\$4,000,000	
57	Howell Rd lighting and safety improvements	Replace Public Sector Revenue Loss	Government Services, pg 26801	\$250,000	Y	2		\$250,000	
58	Intelligent Transportation Systems (ITS) Traffic Signal Retiming Safety Project – Phase 1	Replace Public Sector Revenue Loss	Government Services, pg 26801	\$750,000	Y	2		\$750,000	
59	Bike / Pedestrian project: Wooley Rd Protected Bike Lanes	Replace Public Sector Revenue Loss	Government Services pg 26801	\$1,500,000	N	2	Added by Councilmembers Teran & Madrigal	\$1,500,000	
60	Contactless payment kiosk for utility payments, installed at location to be determined	Support Public Health Response	COVID-19 Mitigation & Prevention, pg 26790	\$80,000	N	1		\$80,000	
61	Fire Department Supplied Air Respirators replacement and multi-band radios	Support Public Health Response	COVID-19 Mitigation & Prevention, pg 26790	\$1,700,000	Y	1		\$1,700,000	
62	Police Department Covid Response: Polaris ATV for PD beach patrols, equipment decontamination software, additional car wash cleaning, social distancing COVID compliance materials	Support Public Health Response	COVID-19 Mitigation & Prevention, pg 26790	\$40,000	Y	1		\$40,000	
63	Code Compliance: Tablet purchases for field reporting, access to information, inspections, and video	Support Public Health Response	COVID-19 Response & Prevention, pg 26821	\$12,600	Y	1		\$12,600	
64	PPE Purchase - 1 year supply for City employees	Support Public Health Response	COVID-19 Response & Prevention, pg 26821	\$160,000	Y	1		\$160,000	
65	Zoom license bundles - 1 year	Support Public Health Response	COVID-19 Response & Prevention, pg 26821	\$6,600	N	1		\$6,600	
66	Fire Catch-up Academy: cost of six recruits	Support Public Health Response	Public Health & Safety Staff, pg 26791	\$580,000	Y	1		\$580,000	
67	305 W 3rd St - West Wing repair and asbestos abatement, capital investment to meet pandemic operational needs	Support Public Health Response	COVID-19 Mitigation & Prevention, pg 26790	\$3,000,000	N	2		\$3,000,000	
68	Contactless payment kiosk for utility payments, installed at the South Oxnard Center	Support Public Health Response	COVID-19 Mitigation & Prevention, pg 26790	\$80,000	N	1		\$80,000	
69	Senior Nutrition Program: commercial freezers, cookware, thermal insulated bags, industrial pressure cookers, vehicle	Support Public Health Response	COVID-19 Response & Prevention, pg 26821	\$350,000	Y	1		\$350,000	
71	Electrical Plant Water Quality Capture Project	Water & Sewer Infrastructure	Stormwater, pg 26802	\$400,000	N	2		\$400,000	
72	Phase 1 Design: College Park-Oxnard Regional Stormwater Capture Project	Water & Sewer Infrastructure	Stormwater, pg 26802	\$100,000	Y	2		\$100,000	
73	Phase 1 Design: Drifhill Elementary School-Oxnard Regional Stormwater Capture Project	Water & Sewer Infrastructure	Stormwater, pg 26802	\$100,000	Y	2		\$100,000	
74	Phase 1 Design: Frank Intermediate School-Oxnard Regional Stormwater Capture Project	Water & Sewer Infrastructure	Stormwater, pg 26802	\$100,000	Y	2		\$100,000	
75	Stormwater Conveyance Improvements along Oxnard Boulevard	Water & Sewer Infrastructure	Stormwater, pg 26802	\$400,000	N	2		\$400,000	
76	Stormdrain: Diamond Bar	Water & Sewer Infrastructure	Stormwater, pg 26802	\$600,000	N	2		\$600,000	
77	Harbor Area Water Quality Feasibility Study	Water & Sewer Infrastructure	Stormwater, pg 26802	\$300,000	N	2		\$300,000	
78	Harbor Water Quality Mitigation Fund	Water & Sewer Infrastructure	Stormwater, pg 26802	\$1,000,000	N	2		\$1,000,000	
79	Phase 1 Design: East Village/Del Sol Park diversion and infiltration-Oxnard Regional Stormwater Capture Project	Water & Sewer Infrastructure	Stormwater, pg 26802	\$100,000	Y	2		\$100,000	
80	Phase 1 Design: Ventura Road and 2nd St. diversion and infiltration-Oxnard Regional Stormwater Capture Project	Water & Sewer Infrastructure	Stormwater, pg 26802	\$100,000	Y	2		\$100,000	

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81	Stormwater Catch Basins Full Capture Devices Installation for Edison Canal and Channel Islands Harbor	Water & Sewer Infrastructure	Stormwater, pg 26802	\$400,000	N	2		\$400,000	
82	AWPF-Oxnard Regional Stormwater Capture Project Wetland Storage & Sewer Diversion Pilot	Water & Sewer Infrastructure	Stormwater, pg 26802	\$1,000,000	Y	2		\$1,000,000	
83	Phase 1 Design: Riverpark basin - recycled water storage project	Water & Sewer Infrastructure	Water & Sewer Infrastructure pg 26802	\$100,000	N	2		\$100,000	
								\$48,182,200	\$6,250,000

Total of projects selected: \$48,182,200
Total of projects deferred to spring: \$6,250,000
Available ARPA funding: \$59,540,662
Remaining ARPA funding: \$11,358,462

REQUEST FOR BUDGET APPROPRIATION

Department: City Manager
Project/Program
Manager: Alexander Nguyen

Date: December 7, 2021
Phone: 805-385-8017

Reason for Appropriation:

Recognize \$16,192,200 in American Rescue Plan Act (ARPA) federal grant revenue (*to total \$48.2M; \$32M was included in the Adopted FY21-22 Budget), and appropriate ARPA investment projects Council approved on 9.21.21 for 1) Tranche 1 total of \$18,992,200 and 2) Tranche 2 total of \$29,200,000 (\$48,192,200 grand total of Tranches 1 and 2)

Accounts and Descriptions

AMOUNT

Fund: 276-AMERICAN RECOV. REIN\RESCUE PLAN ACT

Revenues/Transfers In

NON-DEPARTMENTAL (1001)

276-1001-531.72-01	FEDERAL GRANT REV.	16,192,200
Sub-total Revenues		16,192,200

Expenditures/Transfers Out

1) Gratitude Program Grocery Store Workers (Project 22AR01)		
276-1001-801.83-31	CONTRIBUTION TO OTHR AGCY	2,500,000
1) Premium Pay Front Line City Employees (Project 22AR02)		
276-1001-801.80-15	ARPA PREMIUM PAY	2,000,000
1) Crosswalk & Safe Routes (Project 22AR03)		
276-3125-826.82-08	SERVICES - CONSTRUCTION	510,000
276-3125-826.82-09	SVCS-OTHER PROF/CONTRACT	60,000
276-3125-826.84-51	SERVICES FROM OTHER PROG	30,000
1) Safe Sleep Program (Project 22AR04)		
276-5170-826.86-06	MACHINERY AND EQUIP NEW	700,000
1) Carnegie Arch&Seismic Study (Project 22AR06)		
276-9700-826.82-09	SVCS-OTHER PROF/CONTRACT	152,000
276-9700-826.84-51	SERVICES FROM OTHER PROG	8,000
2) Park Equip. Repair/Replc (Project 22AR07)		
276-5737-826.80-01	DIRECT LABOR-REGULAR	37,511
276-5737-826.80-41	EMPLOYEE BENEFITS	10,873
276-5737-826.82-08	SERVICES - CONSTRUCTION	1,050,000
276-5737-826.82-09	SVCS-OTHER PROF/CONTRACT	300,000
276-5737-826.84-51	SERVICES FROM OTHER PROG	150,000
276-5737-826.86-06	MACHINERY AND EQUIP NEW	1,451,616
2) 10 Park Shade Structures (Project 22AR08)		
276-5737-826.82-09	SVCS-OTHER PROF/CONTRACT	100,000
276-5737-826.84-51	SERVICES FROM OTHER PROG	50,000
276-5737-826.86-06	MACHINERY AND EQUIP NEW	850,000
2) Pls Valley Park Playgrd Repair/Replc (Project 22AR09)		
276-5737-826.82-08	SERVICES - CONSTRUCTION	210,000
276-5737-826.82-09	SVCS-OTHER PROF/CONTRACT	60,000
276-5737-826.84-51	SERVICES FROM OTHER PROG	30,000
276-5737-826.86-06	MACHINERY AND EQUIP NEW	300,000
1) Oxnard Festivals-Grants (Project 22AR10)		
276-1410-821.82-09	SVCS-OTHER PROF/CONTRACT	200,000
1) Community Asessment Post COVID19 (Project 22AR11)		
276-1410-821.80-01	DIRECT LABOR-REGULAR	17,347

276-1410-821.80-41	EMPLOYEE BENEFITS	5,005
276-1410-821.82-09	SVCS-OTHER PROF/CONTRACT	277,648
1) Community Assessment Bus. Gap Analysis (Project 22AR12)		
276-5170-826.82-09	SVCS-OTHER PROF/CONTRACT	100,000
1) Relocate COVID19 Shelter (Project 22AR13)		
276-5170-826.82-09	SVCS-OTHER PROF/CONTRACT	15,000
1) Revitalize Corridors (Project 22AR14)		
276-5170-826.82-09	SVCS-OTHER PROF/CONTRACT	3,000,000
2) Saviers Rd. Corridor Plan (Project 22AR15)		
276-3125-826.82-09	SVCS-OTHER PROF/CONTRACT	133,000
276-3125-826.84-51	SERVICES FROM OTHER PROG	7,000
1) So. Oxnard PBID (Project 22AR16)		
276-1410-821.80-01	DIRECT LABOR-REGULAR	7,434
276-1410-821.80-41	EMPLOYEE BENEFITS	2,145
276-1410-821.82-09	SVCS-OTHER PROF/CONTRACT	90,421
1) RiverRidge Parking Imprv (Project 22AR17)		
276-6905-824.82-08	SERVICES - CONSTRUCTION	276,250
276-6905-824.82-09	SVCS-OTHER PROF/CONTRACT	32,500
276-6905-824.84-51	SERVICES FROM OTHER PROG	16,250
1) RiverRidge Event Space (Project 22AR18)		
276-6905-824.82-09	SVCS-OTHER PROF/CONTRACT	60,000
276-6905-824.84-51	SERVICES FROM OTHER PROG	30,000
276-6905-824.86-02	BUILDING-NEW	510,000
1) PACC Marquee&Sign (Project 22AR19)		
276-5595-821.86-06		85,000
1) Visit Oxnard Branding (Project 22AR21)		
276-1410-821.80-01	DIRECT LABOR-REGULAR	24,781
276-1410-821.80-41	EMPLOYEE BENEFITS	7,149
276-1410-821.82-09	SVCS-OTHER PROF/CONTRACT	404,070
2) Sports Park Comm Outreach (Project 22AR22)		
276-5595-826.82-09	SVCS-OTHER PROF/CONTRACT	1,450,000
276-5595-826.84-51	SERVICES FROM OTHER PROG	50,000
1) Housing Voucher Admin Support (Project 22AR23)		
276-5170-826.80-02	DIRECT LABOR-TEMPORARY	200,000
276-5170-826.82-09	SVCS-OTHER PROF/CONTRACT	200,000
2) Colonia Park Improvements (Project 22AR24)		
276-5737-826.82-09	SVCS-OTHER PROF/CONTRACT	120,000
276-5737-826.84-51	SERVICES FROM OTHER PROG	60,000
276-5737-826.86-02	BUILDING-NEW	1,020,000
2) Johnson Creek Park Renovation (Project 22AR25)		
276-5737-826.82-09	SVCS-OTHER PROF/CONTRACT	60,000
276-5737-826.84-51	SERVICES FROM OTHER PROG	30,000
276-5737-826.86-02	BUILDING-NEW	510,000
1) Durley Park BB Field Repair (Project 22AR26)		
276-5737-826.82-08	SERVICES - CONSTRUCTION	63,750
276-5737-826.82-09	SVCS-OTHER PROF/CONTRACT	7,500
276-5737-826.84-51	SERVICES FROM OTHER PROG	3,750
2) RiverRidge Bleachers & Stage (Project 22AR27)		
276-6905-824.82-09	SVCS-OTHER PROF/CONTRACT	10,000

	276-6905-824.84-51	SERVICES FROM OTHER PROG	5,000
	276-6905-824.86-06	MACHINERY AND EQUIP NEW	85,000
1)	Youth Facilities (PAL) (Project 22AR28)		
	276-5595-821.81-02	SUPPLIES - OFFICE	20,000
	276-5595-821.81-03	SUPPLIES - CUSTODIAL	10,000
	276-5595-821.81-04	SUPPLIES-SHOP & FIELD	40,000
	276-5595-821.86-06	MACHINERY AND EQUIP NEW	60,000
1)	Youth Centers Supplies&Equip (Project 22AR29)		
	276-5595-821.81-02	SUPPLIES - OFFICE	60,000
	276-5595-821.81-03	SUPPLIES - CUSTODIAL	30,000
	276-5595-821.81-04	SUPPLIES-SHOP & FIELD	100,000
1)	Wilson Arts ADA Ramp (Project 22AR30)		
	276-5595-826.82-09	SVCS-OTHER PROF/CONTRACT	20,000
1)	Oxnard Sr. Ctrs Furniture (Project 22AR31)		
	276-5595-821.81-02	SUPPLIES - OFFICE	35,000
	276-5595-821.81-03	SUPPLIES - CUSTODIAL	15,000
	276-5595-821.81-04	SUPPLIES-SHOP & FIELD	50,000
2)	PACC Roofing Matl (Project 22AR32)		
	276-5609-826.82-09	SVCS-OTHER PROF/CONTRACT	54,500
	276-5609-826.84-51	SERVICES FROM OTHER PROG	27,250
	276-5609-826.86-02	BUILDING-NEW	463,250
2)	Colonia Olympic Skatepark (Project 22AR33)		
	276-5737-826.80-01	DIRECT LABOR-REGULAR	37,511
	276-5737-826.80-41	EMPLOYEE BENEFITS	10,873
	276-5756-826.82-09	SVCS-OTHER PROF/CONTRACT	300,000
	276-5756-826.84-51	SERVICES FROM OTHER PROG	150,000
	276-5756-826.86-04	IMPROVEMENTS NOT BLDG-NEW	2,501,616
1)	Main& So.Ox Library Technology (Project 22AR34)		
	276-5420-826.83-05	MAINTENANCE SERV-OTHER EQ	95,575
	276-5420-826.83-43	TRAINING/WORKSHOPS/MTNGS	1,000
	276-5420-826.86-06	MACHINERY AND EQUIP NEW	733,425
2)	Oxnard Arts Academy (Project 22AR35)		
	276-5595-821.81-02	SUPPLIES - OFFICE	50,000
	276-5595-821.81-03	SUPPLIES - CUSTODIAL	20,000
	276-5595-821.81-04	SUPPLIES-SHOP & FIELD	100,000
	276-5595-821.82-09	SVCS-OTHER PROF/CONTRACT	280,000
1)	Downtown Various (Project 22AR36)		
	276-5170-826.82-09	SVCS-OTHER PROF/CONTRACT	775,000
1)	Downtown Outdoor (Project 22AR37)		
	276-5170-826.82-09	SVCS-OTHER PROF/CONTRACT	250,000
1)	Perm. Outdoor Patio Grants (Project 22AR43)		
	276-9718-826.83-31	CONTRIBUTION TO OTHR AGCY	1,000,000
2)	Oxn. Tennis Center (Project 22AR46)		
	276-5539-821.82-09	SVCS-OTHER PROF/CONTRACT	50,000
	276-5539-821.84-51	SERVICES FROM OTHER PROG	25,000
	276-5539-821.86-04	IMPROVEMENTS NOT BLDG-NEW	425,000
1)	WiFi Upgrade Libraries (Project 22AR49)		
	276-7364-826.86-06	MACHINERY AND EQUIP NEW	17,000
2)	Youth Rec. Ctr. Fiber Lines (Project 22AR50)		
	276-7364-826.82-09	SVCS-OTHER PROF/CONTRACT	44,270

	276-7364-826.86-04	IMPROVEMENTS NOT BLDG-NEW	630,730
2)	CityWide ADA Sidewlk Imprv (Project 22AR53)		
	276-3185-826.84-51	SERVICES FROM OTHER PROG	50,000
	276-3185-826.86-04	IMPROVEMENTS NOT BLDG-NEW	950,000
1)	Fire St. 2,3 & 5 Arch Design (Project 22AR54)		
	276-2270-821.86-25	ARCHITECTURAL & ENG. COST	1,000,000
2)	Fire Vehicle-Paramedic Squad (Project 22AR55)		
	276-2270-821.86-06	MACHINERY AND EQUIP NEW	80,000
2)	PD Radio Comm Upgrade (Project 22AR56)		
	276-2110-826.81-34	MINOR EQUIP-SHOP & FIELD	100,000
	276-2110-826.82-09	SVCS-OTHER PROF/CONTRACT	2,000,000
	276-2110-826.86-06	MACHINERY AND EQUIP NEW	1,500,000
	276-2110-826.88-02	RESERVES/FOR CONTINGENCIES	400,000
2)	Howell Rd Safety Imprv (Project 22AR57)		
	276-3125-826.82-08	SERVICES - CONSTRUCTION	212,500
	276-3125-826.82-09	SVCS-OTHER PROF/CONTRACT	25,000
	276-3125-826.84-51	SERVICES FROM OTHER PROG	12,500
2)	ITS Signal RetimePHI (Project 22AR58)		
	276-3109-826.82-08	SERVICES - CONSTRUCTION	637,500
	276-3109-826.82-09	SVCS-OTHER PROF/CONTRACT	75,000
	276-3109-826.84-51	SERVICES FROM OTHER PROG	37,500
2)	WooleyRd. Prot. Bike Lanes (Project 22AR59)		
	276-5737-826.80-01	DIRECT LABOR-REGULAR	37,511
	276-5737-826.80-41	EMPLOYEE BENEFITS	10,873
	276-3125-826.82-08	SERVICES - CONSTRUCTION	1,226,616
	276-3125-826.82-09	SVCS-OTHER PROF/CONTRACT	150,000
	276-3125-826.84-51	SERVICES FROM OTHER PROG	75,000
1)	Utility Payment Kiosk (Project 22AR60)		
	276-1250-826.86-06	MACHINERY AND EQUIP NEW	80,000
1)	Fire SCBA & Radios (Project 22AR61)		
	276-2270-821.81-05	SUPPLIES-SAFETY	500,000
	276-2270-821.83-04	MTNCE SVC/COMM EQUIP	650,000
	276-2270-821.86-06	MACHINERY AND EQUIP NEW	550,000
1)	Police Dept. COVID Response (Project 22AR62)		
	276-2110-826.86-06	MACHINERY AND EQUIP NEW	40,000
1)	Code Compl. Tablets (Project 22AR63)		
	276-9718-826.81-04	SUPPLIES-SHOP & FIELD	12,600
1)	Fire COVID PPE Supplies (Project 22AR64)		
	276-2270-821.81-05	SUPPLIES-SAFETY	160,000
1)	Zoom License Bundles (Project 22AR65)		
	276-7364-826.82-09	SVCS-OTHER PROF/CONTRACT	6,600
1)	Fire Academy 6 recruits (Project 22AR66)		
	276-2270-821.80-01	DIRECT LABOR-REGULAR	187,348
	276-2270-821.80-03	OVERTIME	47,469
	276-2270-821.80-08	STATION COVERAGE	97,645
	276-2270-821.80-41	EMPLOYEE BENEFITS	91,511
	276-2270-821.81-04	SUPPLIES-SHOP & FIELD	4,511
	276-2270-821.81-05	SUPPLIES-SAFETY	122,591
	276-2270-821.82-09	SVCS-OTHER PROF/CONTRACT	28,925
2)	West Wing Repair (Project 22AR67)		

276-5737-826.80-01	DIRECT LABOR-REGULAR	37,511
276-5737-826.80-41	EMPLOYEE BENEFITS	10,873
276-9700-826.82-08	SERVICES - CONSTRUCTION	2,501,616
276-9700-826.82-09	SVCS-OTHER PROF/CONTRACT	300,000
276-9700-826.84-51	SERVICES FROM OTHER PROG	150,000
1) Utility Payment Kiosk So. Ox Ctr (Project 22AR68)		
276-1250-826.86-06	MACHINERY AND EQUIP NEW	80,000
1) Sr. Nutrition Prog (Project 22AR69)		
276-5595-821.81-02	SUPPLIES - OFFICE	30,000
276-5595-821.81-03	SUPPLIES - CUSTODIAL	20,000
276-5595-821.81-04	SUPPLIES-SHOP & FIELD	200,000
276-5595-821.86-06	MACHINERY AND EQUIP NEW	100,000
2) Elec.Plant Water Quality (Project 22AR71)		
276-6551-821.82-09	SVCS-OTHER PROF/CONTRACT	40,000
276-6551-821.84-51	SERVICES FROM OTHER PROG	20,000
276-6551-821.86-10	INFRASTRUCTURE	340,000
2) College Park Stormwtr PH.I (Project 22AR72)		
276-3510-826.82-09	SVCS-OTHER PROF/CONTRACT	95,000
276-3510-826.84-51	SERVICES FROM OTHER PROG	5,000
2) Driffl Stormwtr PH.I (Project 22AR73)		
276-3510-826.82-09	SVCS-OTHER PROF/CONTRACT	95,000
276-3510-826.84-51	SERVICES FROM OTHER PROG	5,000
2) Frank Stormwtr PH.I (Project 22AR74)		
276-3510-826.82-09	SVCS-OTHER PROF/CONTRACT	95,000
276-3510-826.84-51	SERVICES FROM OTHER PROG	5,000
2) Ox. Blvd Stormwtr (Project 22AR75)		
276-3510-826.82-09	SVCS-OTHER PROF/CONTRACT	40,000
276-3510-826.84-51	SERVICES FROM OTHER PROG	20,000
276-3510-826.86-10	INFRASTRUCTURE	340,000
2) Diamond Bar Stormdrain (Project 22AR76)		
276-3510-826.82-09	SVCS-OTHER PROF/CONTRACT	60,000
276-3510-826.84-51	SERVICES FROM OTHER PROG	30,000
276-3510-826.86-10	INFRASTRUCTURE	510,000
2) Harbor Water Feas. Study (Project 22AR77)		
276-6670-821.82-09	SVCS-OTHER PROF/CONTRACT	285,000
276-6670-821.84-51	SERVICES FROM OTHER PROG	15,000
2) Harbor Water Quality Mitg Fund (Project 22AR78)		
276-6551-821.82-09	SVCS-OTHER PROF/CONTRACT	950,000
276-6551-821.84-51	SERVICES FROM OTHER PROG	50,000
2) E.Village/DelSol Stormwtr Capture (Project 22AR79)		
276-3510-826.82-09	SVCS-OTHER PROF/CONTRACT	95,000
276-3510-826.84-51	SERVICES FROM OTHER PROG	5,000
2) Ventura Rd&2nd St. Div. (Project 22AR80)		
276-3510-826.82-09	SVCS-OTHER PROF/CONTRACT	95,000
276-3510-826.84-51	SERVICES FROM OTHER PROG	5,000
2) Stormwtr Catch Basins (Project 22AR81)		
276-3510-826.82-09	SVCS-OTHER PROF/CONTRACT	40,000
276-3510-826.84-51	SERVICES FROM OTHER PROG	20,000
276-3510-826.86-10	INFRASTRUCTURE	340,000
2) AWPf Stormwtr Capture (Project 22AR82)		

276-3510-826.82-09	SVCS-OTHER PROF/CONTRACT	100,000
276-3510-826.84-51	SERVICES FROM OTHER PROG	50,000
276-3510-826.86-10	INFRASTRUCTURE	850,000
2) Riverpark Ph.I Design (Project 22AR83)		
276-6551-821.82-09	SVCS-OTHER PROF/CONTRACT	95,000
276-6551-821.84-51	SERVICES FROM OTHER PROG	5,000
1) Youth Readiness Accel Prog (Project 22AR84)		
276-5595-821.80-02	DIRECT LABOR-TEMPORARY	75,000
2) Paint City Hall & Annex (Project 22AR85)		
276-9700-826.82-08	SERVICES - CONSTRUCTION	510,000
276-9700-826.82-09	SVCS-OTHER PROF/CONTRACT	60,000
276-9700-826.84-51	SERVICES FROM OTHER PROG	30,000
2) USPS Mailbox Replcmnt (Project 22AR86)		
276-9700-826.84-51	SERVICES FROM OTHER PROG	8,000
276-9700-826.81-04	SUPPLIES-SHOP & FIELD	2,000
Sub-total Expenditures		48,192,200

Net Change to Fund Balance*	0
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Net Appropriation Change	48,192,200
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Approvals

Department Director

Chief Financial Officer

City Manager

CITY COUNCIL OF THE CITY OF OXNARD

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OXNARD AMENDING
RESOLUTION NO. 15,471 AUTHORIZING AND APPROVING CLASSIFICATION AND
SALARY SCHEDULES PURSUANT TO CHAPTER 4 OF THE CITY PERSONNEL RULES
AND REGULATIONS

WHEREAS, Chapter 4, Article 4.5 of the City of Oxnard Personnel Rules and Regulations requires that the City of Oxnard classification listing all classes of positions in the general city service be established by resolution of the City Council; and

WHEREAS, Chapter 4, Article 4.7 of the City of Oxnard Personnel Rules and Regulations provides that the City Manager from time to time may revise the number of positions in each classification as necessary to perform the work of the classification, provided that the total expense to be incurred for such work shall be limited to the amount appropriated by the City Council for the classification; and

WHEREAS, Chapter 4, Article 4.8 of the City of Oxnard Personnel Rules and Regulations provides that the City Manager shall recommend to the City Council the creation of a new or additional position allocated to an existing class whenever possible; otherwise, the City Manager shall recommend to the City Council the creation of a new classification; and

WHEREAS, Chapter 4, Article 4.9 of the City of Oxnard Personnel Rules and Regulations requires City Council approval to establish a new classification title and salary range.

NOW, THEREFORE, the City Council of the City of Oxnard resolves to amend Exhibit “A” of Resolution No. 15,471 in accordance with Chapter 4, Articles 4.5, 4.7, 4.8 and 4.9 of the City of Oxnard Personnel Rules and Regulations, by adding the following one (1) classification and establishing salary ranges for those classifications effective December 7, 2021:

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Salary Grade	Classification Title	FLSA Status	Union Code	Compensation Frequency	Hourly (H)/ Salary (S) Range
M66	Senior Project Manager	E	OMMA	Salaried	\$89,119.89 – 147,275.86 (S)

PASSED AND ADOPTED this _____ day of _____ 2021, by the following vote:

YES:

NOES:

ABSENT:

ABSTAIN:

John C. Zaragoza, Mayor

ATTEST:

Rose Chaparro, City Clerk

APPROVED AS TO FORM:

Stephen M. Fischer, City Attorney

CITY COUNCIL OF THE CITY OF OXNARD

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OXNARD AMENDING
RESOLUTION NO. 15,470 AUTHORIZING FULL-TIME EQUIVALENT POSITIONS
PURSUANT TO CHAPTER 4 OF THE CITY PERSONNEL RULES AND REGULATIONS

WHEREAS. Chapter 4, Section 4.7 of the City of Oxnard Personnel Rules and Regulations provides that the City Manager from time to time may revise the number of positions in each classification as necessary to perform the work of the classification, provided that the total expense to be incurred for such work shall be limited to the amount appropriated by the City Council for the classification; and

WHEREAS, the City Council has reviewed the revisions and finds that they are desirable and in the interest of maintaining an efficient municipal organization.

NOW, THEREFORE. the City Council of the City of Oxnard resolves to amend Resolution No. 15,470 with the following changes to the adopted FY 21/22 position allocations as specified, subject to approval of a budget appropriation for the revised allocation:

[illegible]

Department	Title	Adopted 21/22	Proposed Change	New Allocation
City Manager	Project Manager	3	1	4
Public Works - Engineering	Senior Project Manager	0	2	2
Public Works - Engineering	Construction Project Coordinator	2	1	3
Grand Total		5	4	9

PASSED AND ADOPTED this ____ day of _____ 2021, by the following vote:

YES:

NOES:

ABSENT:

ABSTAIN:

John C. Zaragoza, Mayor

ATTEST:

Rose Chaparro, City Clerk

APPROVED AS TO FORM:

Stephen M. Fischer, City Attorney

ARPA Projects - Public Works

Item No.*	Project	Amount
3	Refreshing school crosswalks and Safe Routes planning	\$600,000
6	Carnegie Art Museum: architectural and seismic study	\$160,000
7	Seed money for park equipment repair, replacement, and consideration of all-access equipment. Specific park locations will be determined based on safety and need	\$3,000,000
8	Seed money for ten (10) park playground shade structures. Specific park locations based on parks receiving replacement of playground equipment	\$1,000,000
9	Pleasant Valley Park: repair and replacement of playground equipment	\$600,000
15	Saviors Rd Corridor: conceptual plan for widening sidewalks, landscape, lighting.	\$140,000
17	River Ridge Playing Fields: parking improvements & permanent power	\$325,000
18	River Ridge Golf Course: Event space for golf course to expand wedding business	\$600,000
24	Colonia Park: repair and resurface pool, renovation of locker rooms, construction of new public restrooms, basketball court resurfacing	\$1,200,000
25	Johnson Creek Park: renovation of snack bar, restrooms, and baseball fields	\$600,000
26	Durley Park: repair baseball fields	\$75,000
27	River Ridge Playing Fields: permanent bleachers & stage area; 50% of \$200,000 total cost	\$100,000
30	Wilson Arts Building: reconstruct the ADA ramp at Wilson Art Building to serve youth classes and the Special Populations program	\$20,000
32	PACC CIP - remove and replace roofing material and metal flashing on the Ventura and Oxnard room roofs	\$545,000
33	Olympic Skatepark in Colonia	\$3,000,000

35	Oxnard Arts Academy: portable classrooms, instruments, tablets, music stands, chairs, tables	\$450,000
46	Oxnard Tennis Center: replace the foundation and resurface the tennis courts	\$500,000
50	Youth Recreation Centers: Installation of Fiber Lines for South Oxnard Center, Southwinds Center, Colonia Center, Durley Park Center - requires an internet service provider to provide service	\$675,000
51	City-wide painting of curbs red next to fire hydrants	\$250,000
53	City-wide ADA tree and sidewalk improvements	\$1,000,000
54	Fire station architectural design for Oxnard Fire Stations 2, 3, 5	\$1,000,000
57	Howell Rd lighting and safety improvements	\$250,000
58	Intelligent Transportation Systems (ITS) Traffic Signal Retiming Safety Project – Phase 1	\$750,000
59	Bike / Pedestrian project: Wooley Rd Protected Bike Lanes	\$1,500,000
67	305 W 3rd St - West Wing repair and asbestos abatement, capital investment to meet pandemic operational needs	\$3,000,000
71	Electrical Plant Water Quality Capture Project	\$400,000
72	Phase 1 Design: College Park-Oxnard Regional Stormwater Capture Project	\$100,000
73	Phase 1 Design: Driffill Elementary School-Oxnard Regional Stormwater Capture Project	\$100,000
74	Phase 1 Design: Frank Intermediate School-Oxnard Regional Stormwater Capture Project	\$100,000
75	Stormwater Conveyance Improvements along Oxnard Boulevard	\$400,000
76	Stormdrain: Diamond Bar	\$600,000
79	Phase 1 Design: East Village/Del Sol Park diversion and infiltration-Oxnard Regional Stormwater Capture Project	\$100,000
80	Phase 1 Design: Ventura Road and 2nd St. diversion and infiltration-Oxnard Regional Stormwater Capture Project	\$100,000

81	Stormwater Catch Basins Full Capture Devices Installation for Edison Canal and Channel Islands Harbor	\$400,000
82	AWPF-Oxnard Regional Stormwater Capture Project Wetland Storage & Sewer	\$1,000,000
83	Phase 1 Design: Riverpark basin - recycled water storage project	\$100,000
New**	Painting City Hall and Annex	\$600,000
New**	USPS mailbox replacement	\$10,000
	Total Public Works ARPA project amounts	\$25,350,000

*Item No. coincides with the number used in the “ARPA Investments” list presented to the City Council on September 21, 2021

**Items listed as new were added by councilmembers during the September 21, 2021, City Council meeting

ARPA Projects - City Manager's Office

Item No.*	Project	Amount
10	Oxnard Festivals - "Comeback Year" grants	\$200,000
11	Community Assessment to determine transitions to adulthood among Oxnard Youth Post Covid-19	\$300,000
16	Saviors Rd Corridor: formation of South Oxnard Property Business Improvement District (PBID)	\$100,000
21	Visit Oxnard: Branding & publications, destination management, digital advertising	\$436,000
	Total City Manager's Office ARPA project amounts	\$1,036,000

*Item No. coincides with the number used in the "ARPA Investments" list presented to the City Council on September 21, 2021

RESOLUTION NO. ____

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
OXNARD DELEGATING CONTRACT AWARDING AND
EXECUTING AUTHORITY TO THE CITY MANAGER
FOR THE PROCUREMENT OF NON-PUBLIC PROJECTS,
AND FOR SUBRECIPIENT AGREEMENTS, FUNDED IN
WHOLE OR IN PART BY THE AMERICAN RESCUE
PLAN ACT OF 2021**

WHEREAS, on March 11, 2021, President Biden signed the American Rescue Plan Act (ARPA) into law; and

WHEREAS, the Final Rules have not yet been released by the U.S. Treasury, but the Interim Final Rules (31 CFR Part 35) state that all ARPA costs must be incurred or encumbered by December 31, 2024, and all projects must be completed by December 31, 2026; and

WHEREAS, as part of the federal stimulus package, the City of Oxnard is expected to receive a total of \$59,540,662 in ARPA funding; and

WHEREAS, on September 21, 2021, the City Council began making final decisions on its ARPA investments; and

WHEREAS, Oxnard City Code Section 4-72(B) establishes that the City Manager may award and execute agreements up to an annual authorization in the amount listed in California Public Contract Code Section 22032(b), as may be amended from time to time; and

WHEREAS, the limit listed in California Public Contract Code Section 22032(b) only applies to public projects (as defined on Public Contract Code Section 22002(c) as “construction, reconstruction, erection, alteration, renovation, improvement, demolition, and repair work involving any publicly owned, leased, or operated facility; painting or repainting of any publicly owned, leased, or operated facility; and in the case of a publicly owned utility system, only the construction, erection, improvement, or repair of dams, reservoirs, powerplants, and electrical transmission lines of 230,000 volts and higher”) but the Oxnard City Code applies this threshold to all procurement contracts and purchase orders; and

WHEREAS, the current limit listed in Public Contract Code Section 22032(b) is \$200,000; and

WHEREAS, per the Oxnard City Code, agreements for amounts in excess of the City Manager’s annual authorization must be awarded and executed by the Mayor upon approval of the City Council; and

WHEREAS, the City Manager does not have authority in the Oxnard City Code to award and execute subrecipient agreements; and

WHEREAS, in order to ensure that projects funded using APRA funds are streamlined and meet the ARPA deadlines established by the federal government, the Council wishes to delegate its contract awarding and execution authority to the City Manager with respect to projects above the limit established in Public Contract Code Section 22032(b).

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL AS FOLLOWS:

Section 1: The City Council hereby finds and determines that the foregoing recitals are true and correct.

Section 2: The City Council hereby delegates its award and execution authority for all ARPA-funded procurement contracts (and amendments thereto) and purchase orders to the City Manager. This delegation of authority shall include the procurement of supplies and equipment, as well as trade and professional services, including to those exceeding \$200,000.

Section 3: The delegation of authority in Section 2 above shall not apply: 1) to public projects as that term is defined in Oxnard City Code Section 4-1(N); and 2) for the rental, lease, purchase or license of real property.

Section 4: The City Council hereby delegates its award and execution authority for all ARPA-funded subrecipient agreements to the City Manager.

Section 5: The City Clerk shall certify as to the adoption of this Resolution.

(Continued on next page)

Resolution No. _____

Page 3

PASSED, APPROVED and ADOPTED this ____ day of December, 2021, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

John C. Zaragoza, Mayor

ATTEST:

APPROVED AS TO FORM:

Rose Chaparro, City Clerk

Stephen M. Fischer, City Attorney

ARPA Projects - City Manager Authority

Item No.*	Project	Amount
1	Gratitude program for grocery store workers City Council approved June 1, 2021, Resolution No. 15,443	\$2,500,000
2	Premium pay for City employees working on the front-line during the pandemic	\$2,000,000
11	Community Assessment to determine transitions to adulthood among Oxnard Youth Post Covid-19	\$300,000
21	Visit Oxnard: Branding & publications, destination management, digital advertising	\$436,000
22	Sports Park Community Outreach (no construction included in this authority)	\$1,500,000
34**	Main and S. Oxnard branch libraries technology purchases, laptops, security systems, and upgrades; conversion of computer labs with up to 100 Chromebooks for City's three libraries (includes Colonia)	\$830,000
36**	Downtown: 50 trash receptacles, acquisition of water trailer for DOIA, marketing funds, acquisition of movable/lockable tables and chairs, public art, removable bollards, & reader boards.	\$775,000
37**	Downtown: implement outdoor venues on City-owned properties (A St and 5th St)	\$250,000
43	Permanent Outdoor Patio Program Fund: provide grants for restaurants to create permanent, attractive and safe outdoor dining spaces	\$1,000,000
61	Fire Department Supplied Air Respirators replacement and multi-band radios (no installation costs, only equipment purchase)	\$1,700,000
69	Senior Nutrition Program: commercial freezers, cookware, thermal insulated bags, industrial pressure cookers, vehicle	\$350,000
77	Harbor Area Water Quality Feasibility Study	\$300,000
New***	Youth Apprenticeship Readiness Accelerator	\$75,000
	Total project amounts	\$12,016,000

*Item No. coincides with the number used in the “ARPA Investments” list presented to the City Council on September 21, 2021

**If any aspect of this project exceeds \$200,000 in construction costs, this authority would not apply

***Item listed as new was added by councilmembers during the September 21, 2021, City Council meeting

American Rescue Plan: Budget Appropriation, Authorization of FTEs, & Delegation of Select Contract Authority

City Council, September 21, 2021

Adam Smith, Project Manager

That the City Council:

1. Approve a budget appropriation recognizing \$16,192,200 in federal grant revenue and appropriating \$48,192,200 for the Council approved City's American Rescue Plan Act (ARPA) funding of projects and programs that will respond to the COVID-19 pandemic, address its economic fallout, and lay the foundation for a strong and equitable recovery in the City of Oxnard;
1. Adopt a resolution approving an amendment to the classification and salary range resolution for the Senior Project Manager classification to implement ARPA projects;

That the City Council:

3. Adopt a resolution approving an amendment to the position control resolution to add four (4) Full-time Equivalent employees to implement ARPA projects; and
3. Adopt a resolution delegating contract awarding and executing authority to City Manager for non-public projects funded in whole or in part by ARPA that exceed his current authority.

- On March 11, 2021, President Biden signed the American Rescue Plan Act (ARPA) into law
- The City of Oxnard has been allocated \$59,540,662 in ARPA funding from the US Treasury, of which half, \$29,770,331, was received in May 2021
- The remaining \$29,770,331 is expected in May 2022
- This funding represents a unique and rare opportunity for the community

- On September 21, 2021, after the July 13th Council Committee meetings, the July 29th City Council meeting, and the August 4th Inter-Neighborhood Council Organization meeting, City Council began making final decisions on ARPA project and program investments
- The initial total APRA project investments Council selected on September 21 totaled \$48,192,200 (Attachment 1)
- ARPA costs must be incurred or encumbered by December 31, 2024, and all projects must be completed by December 31, 2026.

- Staff recommends that Council approve the \$48,192,200 budget appropriation for the 72 projects Council selected on September 21, 2021 (Attachment 2)
- This appropriation will pave the way to allow ARPA funds to be used to respond to the COVID-19 pandemic, address its economic fallout, and lay the foundation for a strong and equitable recovery in the City of Oxnard
- As indicated in the September 21, 2021, ARPA staff report, many of these projects are tranche 2 projects and will not start until FY 2023

- Due to ARPA project deadlines, many of the ARPA projects that Council selected will likely cause delay of many of the City's currently-funded projects
- Challenges exist with current staff workload and project capacity, especially in the Engineering Division of Public Works
- US Treasury's preliminary ARPA guidance states that recipients may use funds to cover the portion of payroll and benefits of employees corresponding to time spent on administrative work necessary due to the COVID-19 public health emergency and its negative economic impacts
- The City Manager has authority from time to time to revise the number of positions or recommend to the City Council the creation of new or additional positions under new classifications as conditions and needs change in the administration of the City

- Currently, the Public Works Engineering Division (Division) is managing over one hundred (100) funded capital projects
- Council has approved approximately forty (40) new capital projects through ARPA, resulting in a roughly 40% increase in project management workload for the Division

- Staff recommends that two (2) new Senior Project Manager positions be added to the existing Division structure to manage the more complex projects and provide oversight of the existing Project Managers (Attachment 4); and
- One (1) additional Construction Project Coordinator position to assist with the public project bidding process and subsequent project coordination and documentation
- Attachment 5 lists all Public Works ARPA projects that would be aided with this enhanced staffing.

The current Division staffing level consists of:

- One (1) Supervising Civil Engineer;
- Five (5) Project Managers;
- One (1) Senior Construction Inspector;
- Four (4) Construction Inspectors; and
- Two (2) Construction Project Coordinators.

- The new Senior Project Manager position will receive a yearly salary between \$89,120 - \$147,276
- The Construction Project Coordinator will receive a yearly salary between \$52,401 - \$81,291

- Staff recommends that the City Manager's office receive an additional Project Manager to handle the complex quarterly expenditure reporting requirements of ARPA and directly manage a few ARPA projects
- This new Project Manager will serve as staff liaison between the City Manager's office and the departments implementing and completing ARPA projects on time
- The new Project Manager position will receive a yearly salary between \$74,448 - \$123,802
- Attachment 6 lists all City Manager's office-led ARPA projects that would be directly aided by the additional Project Manager

- City Code Chapter 4, which governs purchasing and contracting, limits the City Manager's procurement contract awarding and execution authority to \$200,000
- As the City continues its ongoing recovery from the pandemic, staff recommends that the Council delegate some of its procurement contract awarding and execution authority by resolution to the City Manager for projects over the \$200,000 authority (Attachment 7)
- This action will ensure that select ARPA projects are streamlined to move at a speedy pace, meet federal deadlines, and deploy much-needed support to the community

- This delegation of authority does not affect the bidding requirements or process.

The delegation of authority would not apply to:

- 1) Construction, reconstruction, erection, alteration, renovation, improvement, demolition, and repair work involving any publicly owned, leased, or operated facility; and
 - 2) The rental, lease, purchase, or license of real property.
- The City Manager will be reporting back to the City Council with routine, semi-regular updates on ARPA project progress during the City Manager's Report section of City Council meetings

ARPA PROJECTS COVERED UNDER THE DELEGATION RESOLUTION

15

ITEM NO.	PROJECT	AMOUNT
1	Gratitude program for grocery store workers *City Council approved June 1, 2021, Resolution No. 15,443	\$2,500,000
2	Premium pay for City employees working on the front-line during the pandemic	\$2,000,000
11	Community Assessment to determine transitions to adulthood among Oxnard Youth Post Covid-19	\$300,000
21	Visit Oxnard: Branding & publications, destination management, digital advertising	\$436,000
22	Sports Park Community Outreach (no construction included in this authority)	\$1,500,000
34*	Main and S. Oxnard branch libraries technology purchases, laptops, security systems, and upgrades; conversion of computer labs with up to 100 Chromebooks for City's three libraries (includes Colonia)	\$830,000
36*	Downtown: 50 trash receptacles, acquisition of water trailer for DOIA, marketing funds, acquisition of movable/lockable tables and chairs, public art, removable bollards, & reader boards.	\$775,000
37*	Downtown: implement outdoor venues on City-owned properties (A St and 5th St)	\$250,000
*If any aspect of this project exceeds \$200,000 in construction costs, this authority would not apply		

ARPA PROJECTS COVERED UNDER THE DELEGATION RESOLUTION

16

ITEM NO.	PROJECT	AMOUNT
43	Permanent Outdoor Patio Program Fund: provide grants for restaurants to create permanent, attractive and safe outdoor dining spaces	\$2,500,000
61	Fire Department Supplied Air Respirators replacement and multi-band radios (no installation costs, only equipment purchase)	\$1,000,000
69	Senior Nutrition Program: commercial freezers, cookware, thermal insulated bags, industrial pressure cookers, vehicle	\$1,700,000
77	Harbor Area Water Quality Feasibility Study	\$350,000
New**	Youth Apprenticeship Readiness Accelerator	\$300,000
Total Project Amounts		\$12,016,000

**Item listed as new was added by councilmembers during the September 21, 2021, City Council meeting

- The City has been allocated \$59,540,662 in ARPA funding from the federal government, of which half, \$29,770,331, was received in May 2021 and deposited into Fund 276-1001-531-7201 (Federal Grant Revenue). The remaining \$29,770,331 is expected in May 2022
- The Fiscal Year 2021-22 Adopted Budget included \$32 million in ARPA federal grant revenue
- Approval of the recommended action will recognize an additional \$16,192,200 in federal grant revenue, bringing the revised total federal grant revenue budget to \$48,192,200

- This action will appropriate a total of \$48,192,200 to the assigned projects Council selected on September 21, 2021
- A project number has been assigned to each specific ARPA project for tracking and federal reporting purposes
- In Spring 2022, Council will have the ability to select additional ARPA projects totaling \$11,348,462

That the City Council:

1. Approve a budget appropriation recognizing \$16,192,200 in federal grant revenue and appropriating \$48,192,200 for the Council approved City's American Rescue Plan Act (ARPA) funding of projects and programs that will respond to the COVID-19 pandemic, address its economic fallout, and lay the foundation for a strong and equitable recovery in the City of Oxnard;
2. Adopt a resolution approving an amendment to the classification and salary range resolution for the Senior Project Manager classification to implement ARPA projects;

That the City Council:

3. Adopt a resolution approving an amendment to the position control resolution to add four (4) Full-time Equivalent employees to implement ARPA projects; and
4. Adopt a resolution delegating contract awarding and executing authority to City Manager for non-public projects funded in whole or in part by ARPA that exceed his current authority.



THE END



CITY COUNCIL AGENDA REPORT

REPORTS AGENDA ITEM NO. N.4

DATE: December 7, 2021

TO: City Council

FROM: Michael Wolfe, Public Works Director, (805) 385-8055, michael.wolfe@oxnard.org

SUBJECT: Agreement A-8400 to G2K Construction, Inc. for the Replacement of Truck Weigh Scales at the Del Norte Recycling Center and Transfer Station Project Specification No. PW 20-59. (0/5/5)

RECOMMENDATION

That the City Council approve and authorize the following for a total of \$3,576,216 in Project funds for the Replacement of Truck Weigh Scales at the Del Norte Recycling Center and Transfer Station Project, Specification No. PW 20-59 (Project No. 216803):

1. The Mayor to execute Agreement A-8400 with G2K Construction, Inc. in the amount of \$2,980,180 for the Project;
2. A Project contingency amount of \$298,018 for the Project;
3. A Project allocation amount of \$298,018 for engineering, inspection, survey and project management for the Project; and
4. A budget appropriation in the amount of \$1,126,216 from the available fund balance in the Solid Waste Operating Fund (631) for the Project.

Please click the following link to view the required Measure M pre-recorded presentation video: <https://youtu.be/ERtr8-J5TtU>

BACKGROUND

The Del Norte Regional Recycling and Transfer Station (Del Norte) is a City-owned facility that was constructed in 1995. It is located on an approximately 16.5 acre industrial-zoned parcel at 111 South Del Norte Blvd. in Oxnard. The existing facility was operated on contract by BLT/ Republic Services, Inc. until January 31, 2014. Since February 1, 2014, the City of Oxnard has been directly responsible for the operation of Del Norte and continues to receive, process and transfer municipal solid waste and source-separated recyclables from the City of Oxnard and the west Ventura County region.

One of the essential operational components of the Del Norte facility are the truck weigh scales, which receive and process an average of 900 to 1,100 tons of solid waste and up to 500 vehicles daily. Del Norte currently has two "legal for trade" truck weight scales and two pairs of axle scales in operation. "Legal for trade" refers to scales that are capable of being licensed and certified by the County of Ventura Resource Management Agency, Weights and Measures Division. Due to the age of the equipment and wear and tear caused by constant use and exposure to the elements, the truck weight and axle scales are beyond their design lifespan and often are not operational. As a result, Del Norte often experiences service delays while the scale equipment is down for expensive repairs. The process of operating and maintaining the existing scales has become inefficient, unreliable, and a burden on daily operations at the facility.

Capital Improvement Plan (CIP) Reference:

Project No. 216803 – Replacement of Truck Scales at the Del Norte Recycling Center and Transfer Center PW 20-59 - CIP 2021-2026 - Adopted May 18, 2021 – Page 133.

DISCUSSION

The specific work for this Project includes site improvements to improve traffic flow and the installation of five new legal for trade vehicle scales to improve operations and comply with County of Ventura Resource Management Agency, Weights and Measures Division standards. Once completed, this Project will allow for increased reliability, quicker transactions, less down-time for scheduled maintenance and repairs, and data links through WiFi network connections. These improvements will ensure a higher accuracy rate when reporting revenue and data on financial and regulatory reports. The Project is to take place at the Del Norte Regional Recycling and Transfer Station at 111 South Del Norte Boulevard. Work is tentatively scheduled to begin in February 2022 and completed in June 2022 (90 working days) depending on material procurement and availability.

The notice inviting formal bids (NIFB) on the Project was published on September 16, 2021, and all bids were due on October 13, 2021. The City received two bids on the project. However, one of the bids was determined to be non-responsive and was rejected. The remaining bid is:

G2K Construction, Inc.: \$2,980,180

The lowest bidder is G2K Construction, Inc. and its bid is responsive to the City's NIFB. Following this determination, procurement staff reviewed all documentation received from G2K Construction, Inc. and its subcontractors. Procurement staff verified possession of required licenses, reviewed the federal Occupational Safety and Health Administration (OSHA) website for safety violations, and verified registration with the California Department of Industrial Relations (DIR). Based upon the available information and research performed to date, staff believes that the contractor is capable of satisfactorily completing the project. Other local agencies with similar projects were contacted and the price provided by G2K has been determined to be reasonable given the current bid environment. Thus, staff recommends that the City Council award the contract for this Project to G2K Construction, Inc.

The Project includes Additive Item 1 for Field Technical Support to Troubleshoot Scales. The total project costs are \$3,576,216 which includes Additive Item 1 of \$20,000, the base bid of \$2,960,180 and \$596,036 for additional funds. The additional funds include \$298,018 for project contingency (10% of the contract costs) and \$298,018 for the cost for engineering services and City staff (10% of the contract cost) to perform the following activities during construction: engineering, inspection, survey and project management.

STRATEGIC PRIORITIES

This agenda item supports the Infrastructure and Natural Resources strategy. The purpose of the Infrastructure and Natural Resources strategy is to preserve and improve our roads, utilities, parks, trees, water supply and natural resources through effective planning, prioritization, and an equitable and efficient use of available funding.

FINANCIAL IMPACT

The total cost for the Replacement of Truck Scales at the Del Norte Recycling Center and Transfer Center Project No. 216803 shall not exceed \$3,576,216 which includes the construction agreement, additive item, contingency and project allocation. \$2,500,000 was previously appropriated to this project from the Solid Waste Operating Fund (631) . An additional budget appropriation of \$1,126,216 from the Solid Waste Operating Fund (631) is needed to provide sufficient funds to award the contract.

COMMITTEE OUTCOME

This item did not originate in Committee as this is a capital improvement project specifically listed in the City's Capital Improvement Program.

Prepared by: Tatiana Arnaout, City Engineer

ATTACHMENTS

1. A-8400 G2K PW 20-59
2. Budget Appropriation
3. Presentation

CONTRACT

CITY OF OXNARD CONTRACT FOR REPLACEMENT OF TRUCK SCALES AT THE DEL NORTE RECYCLING CENTER AND TRANSFER STATION SPECIFICATION NO. PW 20-59

THIS CONTRACT ("Contract") is made and entered this _____ day of _____, 2021 ("Effective Date"), by and between the CITY OF OXNARD, a California municipal corporation ("City") and G2K CONSTRUCTION, INC. ("Contractor"). Contractor's license number is 940662.

In consideration of the covenants set forth herein, the parties hereto agree as follows:

1. Incorporation. The Contract consists of all Contract Documents, which shall include the Notice Inviting Bids, Instructions to Bidders, General Provisions, Special Provisions, Plans, Standard Plans, Greenbook, Reference Specifications, Bid (including documentation accompanying the Bid and post-Bid documentation submitted before the notice of award), insurance documentation, Bonds, the City business license, permits from regulatory agencies, Addenda, Change Orders and Supplemental Agreements. These documents are incorporated herein by reference.
2. Scope of Services. Contractor shall perform the Work in a good and workmanlike manner for the project identified as Replacement of Truck Scales at the Del Norte Recycling Center and Transfer Station Specification No. PW 20-59 ("Project"), as described in this Contract and in the incorporated Contract Documents.
3. Compensation. In consideration of the services rendered hereunder, City shall pay Contractor a not to exceed amount of two million nine hundred eighty thousand one hundred eighty dollars (\$2,980,180.00) in accordance with the prices as submitted in the Bid, attached hereto as Exhibit "A" and incorporated herein by this reference.
4. Antitrust Claims. In entering into this Contract, Contractor assigns to City all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Section 15) or under the Cartwright Act (Business and Professions Code Section 16700 *et seq.*) arising from purchases of goods, services, or materials pursuant to the Contract. This assignment shall be made and become effective at the time City tenders final payment to Contractor without further acknowledgment by the parties.
5. Prevailing Wages. City and Contractor acknowledge that the Project is a public work to which prevailing wages apply. Copies of the prevailing rate of per diem wages for each craft, classification, or type of worker needed to perform the Project are on file with the Project Coordinator at City Hall and will be made available to any interested party on request. Contractor and all Subcontractors are not qualified to bid on, be listed in a Bid proposal, or engage in the performance of any contract for public work, as defined in Labor Code Sections 1720 through 1861, unless registered and qualified to perform public work pursuant to Labor Code Section 1725.5 at the time of Bid submission.
6. Workers' Compensation. Labor Code Sections 1860 and 3700 provide that every contractor will be required to secure the payment of compensation to its employees. In accordance with the provisions of Labor Code Section 1861, by signing this Contract, the Contractor certifies as follows: "I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance

in accordance with the provisions of that Code, and I will comply with such provisions before commencing the performance of the Work of this Contract.”

7. Titles. The titles used in this Contract are for convenience only and shall in no way define, limit or describe the scope or intent of this Contract or any part of it.

8. Authority. Any person executing this Contract on behalf of Contractor warrants and represents that he or she has the authority to execute this Contract on behalf of Contractor and has the authority to bind Contractor to the performance of its obligations hereunder.

9. Entire Agreement. This Contract, including all incorporated documents, constitutes the entire agreement between the parties hereto with respect to the Project, and supersedes all previous agreements, promises, proposals, representations, understandings and negotiations, whether written or oral, between the parties regarding the subject matter.

10. Amendment. No Contract modification, amendment or supplement to this Contract other than Change Orders will be binding unless written and signed by the parties’ duly authorized representatives.

11. Counterparts. This Contract may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. A signed copy of this Contract transmitted by facsimile, email or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original executed copy of this Contract for all purposes.

[signatures on following page]

IN WITNESS WHEREOF, the parties hereto have executed the Agreement on the first written above.

CITY OF OXNARD

G2K CONSTRUCTION, INC.

☒ John C. Zaragoza, Mayor¹ _____ Date _____
☐ Alexander Nguyen, City Manager
☐ Purchasing Manager
☐ [name] , Buyer

Emilia Graciela, CEO and ² Secretary _____ Date _____

ATTEST:

Rose Chaparro, City Clerk (only if Mayor signs) _____ Date _____

APPROVED AS TO FORM:

Stephen M. Fischer, City Attorney (always required) _____ Date _____

¹ The City Council must authorize and the Mayor must sign any agreement over \$200,000 annually. The City Manager may authorize and sign any agreement over \$100,000 but up to \$200,000 annually. The Purchasing Manager may authorize and sign any agreement up to \$100,000 annually. A Buyer may authorize and sign any agreement up to \$25,000 annually.

² The City requires the following for any contract:

- For a corporation, the signatures of the Board President, CEO or Vice President and of the Board Secretary, Assistant Secretary, CFO or Assistant Treasurer;
- For an LLC, the signatures of at least two managers of the LLC (company directors, not lower-level managers); or
- For a partnership, the signature of a partner. If the partnership is a limited partnership, the signer must be a general partner.

If the company has a different structure, or if the above-listed persons are not the appropriate signers, please submit to the City Attorney legally-binding documentation stating who can sign and bind your company.

**Exhibit INS-G
INSURANCE REQUIREMENTS FOR CONSTRUCTION PROJECTS
(WITHOUT BUILDER'S RISK REQUIREMENT)**

1. Contractor shall obtain and maintain during the performance of any services under this Contract the following insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of services hereunder by Contractor, its agents, representatives, employees or subcontractors.
 - a. Commercial General Liability Insurance, including Contractual Liability, in an amount not less than \$2,000,000 combined single limit for bodily injury and property damage for each claimant for general liability with coverage equivalent to Insurance Services Office Commercial General Liability Coverage (Occurrence Form CG 0001). If a general aggregate limit is used, that limit shall apply separately to the project location or shall be twice the occurrence amount;
 - b. Business Automobile Liability Insurance in an amount not less than \$1,000,000 combined single limit for bodily injury and property damage for each claimant for automobile liability with coverage equivalent to Insurance Services Office Automobile Liability Coverage (Occurrence Form CA0001) covering Code No. 1, "any auto;"
 - c. If architectural, engineering, or electrical work will be performed under the Contract, Professional Liability/Errors and Omissions Insurance appropriate to the work being done in an amount not less than \$1,000,000, with neither Contractor nor listed subcontractors having less than \$500,000 individually. The Professional Liability/Errors and Omissions Insurance must be project specific with at least a one year extended reporting period, or longer upon request.
 - d. Workers' Compensation Insurance in compliance with the laws of the State of California, and Employer's Liability Insurance in an amount not less than \$1,000,000 per claimant. Additionally, the workers' compensation policy shall include a waiver of all rights of subrogation which the insurer may have against the City.
2. Contractor shall, prior to performance of any services, file with the Risk Manager certificates of insurance with original endorsements effecting coverage required by this Exhibit INS-G. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements are to be on the attached forms or on other forms approved by the Risk Manager. All certificates and endorsements are to be received and approved by the Risk Manager before work commences. City reserves the right to require complete certified copies of all required insurance policies at any time. The certificates of insurance and endorsements shall be sent via email (or fax if necessary) to the Risk Manager, addressed as follows (do not send hard copies):

City of Oxnard
Insurance Compliance
Reference No. A-8400
P.O. Box 100085 – OX
Duluth, GA 30096
Via Email: cityofoxnard@ebix.com
Via Fax: 678-259-1007
3. Contractor agrees that all insurance coverages shall be provided by a California admitted insurance carrier with an A.M. Best rating of A:VII or better and shall be endorsed to state that coverage may not be suspended, voided, canceled by either party, or reduced in coverage or limits without 30 days' prior written notice to the Risk Manager. The Risk Manager shall not approve or accept any endorsement if the endorsement contains "best effort" modifiers or if the insurer is relieved from the responsibility to give such notice.
4. Contractor agrees that the Commercial General Liability and Business Automobile Liability Insurance policies shall be endorsed to name City, its City Council, officers, employees and volunteers as additional insureds as respects: liability arising out of activities performed by or on behalf of Contractor; products and completed operations of Contractor; premises owned, occupied or used by Contractor; or automobiles owned, leased, hired or borrowed by Contractor. The coverage shall contain no special limitations on the scope of protection afforded to City, its City Council, officers, employees and volunteers. **The General Liability Special Endorsement Form and Automobile Liability Special Endorsement Form attached to this Exhibit INS-G or substitute forms containing the same information and acceptable to the Risk Manager shall be used to provide the endorsements (ISO form CG 2010 11/85 or if not available, CG 2010 with an edition date prior to 01/04 and CG 2037).**
5. The coverages provided to City shall be primary and not contributing to or in excess of any existing City insurance or self-insurance coverages (**this must be endorsed**). Additionally, the workers' compensation policy shall include a waiver of all rights of subrogation which the insurer may have against the City. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to City, its City Council, officers, employees and volunteers. The insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

Agreement No.: A-8400

6. Any deductibles or self-insured retentions must be declared to and approved by the Risk Manager. At the option of the Risk Manager, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects City, its City Council, officers, employees and volunteers, or the Contractor shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.
7. All insurance standards applicable to Contractor shall also be applicable to Contractor's subcontractors. Contractor agrees to maintain appropriate agreements with subcontractors and to provide proper evidence of coverage upon receipt of a written request from the Risk Manager.

10/21

INSTRUCTION FOR SUBMITTING INSURANCE CERTIFICATES AND ENDORSEMENT FORMS

Certificates of Insurance

The sample accord form on the following page is provided to facilitate your preparation and submission of certificates of insurance. You may use this or any industry form that shows coverage as broad as that shown on the attached sample. **Please note the certificate holder address must be as shown on the attached sample accord form with the contract number and insurance exhibit identification information completed.** Improperly addressed certificates may delay the contract start-up date because the City's practice is to return unidentifiable insurance certificates to the insured for clarification as to the contract number. **Cancellation provisions must be endorsed to the policy. Modifying the certificate does not change coverage or obligate the carrier to provide notice of cancellation.**

Endorsement Forms

Original endorsements are required for general liability and automobile liability insurance policies and must be attached to the applicable certificate of insurance. City preference is that you use the endorsement forms which are attached. Substitute forms will be accepted, however, as long as they include provisions comparable to the attached.

INS-G.doc

ACORD CERTIFICATE OF INSURANCE

ISSUE

DATE

(MM/DD/YY)

PRODUCER

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

CODESUB-CODE

COMPANIES AFFORDING INSURANCE COVERAGE

INSURED

COMPANY
LETTER ASPECIFY COMPANY NAMES IN THIS SPACE

COMPANY
LETTER B

COVERAGES

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED, NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

CO LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A	GENERAL LIABILITY ☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS MADE ☒ OCCUR. ☒ OWNER'S & CONTRACTOR'S PROT.				GENERAL AGGREGATE \$2,000,000 PRODUCTS COMP/OP AGG. \$2,000,000 PERSONAL & ADV. INJURY \$2,000,000 EACH OCCURRENCE \$2,000,000 FIRE DAMAGE (Any one fire) \$ MED. EXPENSE (Any one person) \$
A	AUTOMOBILE LIABILITY ☒ ANY AUTO ALL OWNED AUTOS SCHEDULED AUTOS HIRED AUTOS NON-OWNED AUTOS GARAGE LIABILITY				COMBINED SINGLE LIMIT \$1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE \$
A	EXCESS LIABILITY UMBRELLA FORM OTHER THAN UMBRELLA FORM				EACH OCCURRENCE \$ AGGREGATE \$
A	WORKERS' COMPENSATION AND EMPLOYERS' LIABILITY				STATUTORY LIMITS EACH ACCIDENT \$1,000,000 DISEASE-POLICY LIMIT \$1,000,000 DISEASE-EACH EMPLOYEE \$1,000,000
A	OTHER Errors and omissions insurance or malpractice insurance available for the insured's profession; if architectural, engineering or electrical work will be performed under the Contract				Minimum coverage \$1,000,000 Each consultant/ \$500,000 & listed sub-consultant

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/RESTRICTIONS/SPECIAL ITEMS

CERTIFICATE HOLDER

CITY OF OXNARD

Attn: Insurance Compliance

Reference No A-8400

P.O. Box 100085 – OX

Duluth, GA 30096

Via Email: cityofoxnard@ebix.com

Via Fax: 678-259-1007

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE COMPANY, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE

**GENERAL LIABILITY SPECIAL ENDORSEMENT
FOR THE CITY OF OXNARD (the aCity@)**

SUBMIT IN DUPLICATE

ENDORSEMENT NO.

ISSUE DATE (MM/DD/YY)

PRODUCER

POLICY INFORMATION:

Insurance Company:

Policy No.:

Policy Period: (from)

LOSS ADJUSTMENT EXPENSE

(to)

☐ Included in Limits

☐ In Addition to Limits

Telephone:

NAMED INSURED

☐ Deductible ☐ Self-Insured Retention (check which) of \$

with an Aggregate of \$ applies to coverage. ☐ Per Occurrence ☐ Per Claim (which)

APPLICABILITY. This insurance pertains to the operations, products and/or tenancy of the named insured under all written agreements and permits in force with the City unless checked here ☐ in which case only the following specific agreements and permits with the City are covered:

CITY AGREEMENTS/PERMITS

TYPE OF INSURANCE

GENERAL LIABILITY

☐ COMMERCIAL GENERAL LIABILITY

☐ COMPREHENSIVE GENERAL LIABILITY

☐ OWNERS & CONTRACTORS PROTECTIVE

☐ Claims Made

Retroactive Date

☐ Occurrence

OTHER PROVISIONS

COVERAGES

LIABILITY LIMITS IN THOUSANDS \$

EACH OCCURRENCE

AGGREGATE

☐ GENERAL

☐ PRODUCTS/COMPLETED OPERATIONS

☐ PERSONAL & ADVERTISING INJURY

☐ FIRE DAMAGE

☐

☐

CLAIMS: Underwriter=s representative for claims pursuant to this insurance.

Name:

Address:

Telephone: ()

In consideration of the premium charged and notwithstanding any inconsistent statement in the policy to which this endorsement is attached or any endorsement now or hereafter attached thereto, insurance company agrees as follows:

1. INSURED. The City, its officers, agents, employees and volunteers are included as insureds with regard to liability and defense of suits arising from the operations, products and activities performed by or on behalf of the named insured.

2 CONTRIBUTION NOT REQUIRED. As respects: (a) work performed by the named insured for or on behalf of the City; or (b) products sold by the named insured to the City; or (c) premises leased by the named insured from the City, the insurance afforded by this policy shall be primary insurance as respects the City, its officers, agents, employees or volunteers; or stand in an unbroken chain of coverage excess of the named insured=s scheduled underlying primary coverage. In either event, any other insurance maintained by the City, its officers, agents, employees or volunteers shall be in excess of this insurance and shall not contribute with it.

3 SEVERABILITY OF INTEREST. This insurance applies separately to each insured against whom claim is made or suit is brought except with respect to the company=s limits of liability. The inclusion of any person or organization as an insured shall not affect any right which such person or organization would have as a claimant if not so included.

4 CANCELLATION NOTICE. With respect to the interests of the City, this insurance shall not be canceled, or materially reduced in coverage or limits except after thirty (30) days prior written notice by receipted delivery has been given to the City.

5 PROVISIONS REGARDING THE INSURED=S DUTIES. Any failure to comply with reporting provisions of the policy or breaches or violations of warranties shall not affect coverage provided to the City, its officers, agents, employees or volunteers.

6 SCOPE OF COVERAGE. This policy, if primary, affords coverage at least as broad as:

2.1 Insurance Services Office Commercial General Liability Coverage, Aoccurrence@ form CG0001; or

2.2 If excess, affords coverage which is at least as broad as the primary insurance form CG0001.

Except as stated above nothing herein shall be held to waive, alter or extend any of the limits, conditions, agreements or exclusions of the policy to which this endorsement is attached.

ENDORSEMENT HOLDER

CITY OF OXNARD

Attn: Insurance Compliance

Reference No. A-8400

P.O. Box 100085 – OX

Duluth, GA 30096

Via Email: cityofoxnard@ebix.com

Via Fax: 678-259-1007

AUTHORIZED REPRESENTATIVE

☐ Broker/Agent

☐ Underwriter

I (print/type name), warrant that I have authority to bind the above-mentioned insurance company and by my signature hereon do so bind this company to this endorsement.

Signature

(original signature required)

Telephone: ()

Date Signed

AUTOMOBILE LIABILITY SPECIAL ENDORSEMENT FOR THE CITY OF OXNARD (the ACity@)		SUBMIT IN DUPLICATE	
		ENDORSEMENT NO.	ISSUE DATE (MM/DD/YY)
PRODUCER Telephone:		POLICY INFORMATION: Insurance Company: Policy No.: Policy Period: (from) (to) LOSS ADJUSTMENT EXPENSE ☐ Included in Limits ☐ In Addition to Limits	
NAMED INSURED		☐ Deductible ☐ Self-Insured Retention (check which) of \$ _____ with an Aggregate of \$ _____ applies to _____ coverage. ☐ Per Occurrence ☐ Per Claim (which)	
		APPLICABILITY. This insurance pertains to the operations, products and/or tenancy of the named insured under all written agreements and permits in force with the City unless checked here ☐ in which case only the following specific agreements and permits with the City are covered: CITY AGREEMENTS/PERMITS	
TYPE OF INSURANCE		OTHER PROVISIONS	
☐ COMMERCIAL AUTO POLICY ☐ BUSINESS AUTO POLICY ☐ OTHER			
LIMIT OF LIABILITY		CLAIMS: Underwriter=s representative for claims pursuant to this insurance.	
\$ _____ per accident, for bodily injury and property damage.		Name: _____ Address: _____ Telephone: () _____	
In consideration of the premium charged and notwithstanding any inconsistent statement in the policy to which this endorsement is attached or any endorsement now or hereafter attached thereto, insurance company agrees as follows: 1 INSURED. The City, its officers, agents, volunteers and employees are included as insureds with regard to liability and defense of suits arising from the operations, products and activities performed by or on behalf of the named insured. 2 CONTRIBUTION NOT REQUIRED. As respects: (a) work performed by the named insured for or on behalf of the City; or (b) products sold by the named insured to the City; or (c) premises leased by the named insured from the City, the insurance afforded by this policy shall be primary insurance as respects the City, its officers, agents, employees or volunteers; or stand in an unbroken chain of coverage excess of the named insured=s scheduled underlying primary coverage. In either event, any other insurance maintained by the City, its officers, agents, employees or volunteers shall be in excess of this insurance and shall not contribute with it. 3 SEVERABILITY OF INTEREST. This insurance applies separately to each insured against whom claim is made or suit is brought except with respect to the company=s limits of liability. The inclusion of any person or organization as an insured shall not affect any right which such person or organization would have as a claimant if not so included. 4 CANCELLATION NOTICE. With respect to the interests of the City, this insurance shall not be canceled, or materially reduced in coverage or limits except after thirty (30) days prior written notice by receipted delivery has been given to the City. 5 PROVISIONS REGARDING THE INSURED=S DUTIES. Any failure to comply with reporting provisions of the policy or breaches or violations of warranties shall not affect coverage provided to the City, its officers, agents, employees or volunteers. 6 SCOPE OF COVERAGE. This policy, if primary, affords coverage at least as broad as: 2.1 Insurance Services Office Automobile Liability Coverage, Aoccurrence" form CA0001, code (Aany auto@); or 2.2 If excess, affords coverage which is at least as broad as the primary insurance form referenced in the preceding section (1).			
Except as stated above nothing herein shall be held to waive, alter or extend any of the limits, conditions, agreements or exclusions of the policy to which this endorsement is attached.			
ENDORSEMENT HOLDER			
CITY OF OXNARD Attn: Insurance Compliance Reference No._ A-8400_ P.O. Box 100085 – OX Duluth, GA 30096 Via Email: cityofoxnard@ebix.com Via Fax: 678-259-1007		AUTHORIZED REPRESENTATIVE ☐ Broker/Agent ☐ Underwriter ☐ _____ I _____ (print/type name), warrant that I have authority to bind the above-mentioned insurance company and by my signature hereon do so bind this company to this endorsement. Signature _____ (original signature required) Telephone: () _____ Date Signed _____	

Bond No. _____

PAYMENT BOND
(LABOR AND MATERIALS)

KNOW ALL PERSONS BY THESE PRESENTS that:

WHEREAS the City of Oxnard ("Agency"), State of California, has awarded to _____

(Name and address of Contractor) ("Principal")

a contract (the "Contract") for the Work described as REPLACEMENT OF TRUCK SCALES AT THE DEL NORTE RECYCLING CENTER AND TRANSFER STATION SPECIFICATION NO. PW 20-59.

WHEREAS, under the terms of the Contract, the Principal is required before entering upon the performance of any Work, to file a good and sufficient Payment Bond with the Agency to secure the claims to which reference is made in Title 3 (commencing with Section 9000) of Part 6 of Division 4 of the Civil Code.

NOW, THEREFORE, we, the undersigned Principal, and _____

(Name and address of Surety)

a corporation organized and existing under the laws of the State of _____
 ("Surety") a duly admitted surety insurer under the laws of the State of California, as Surety, and
 our heirs, assignees, successors, executors and administrators are held and firmly bound,
 jointly and severally, unto the Agency and all Contractors, Subcontractors, laborers, material
 suppliers, and other persons employed in the performance of the Contract and referred to in
 Title 3 (commencing with Section 9000) of Part 6 of Division 4 of the Civil Code in the penal sum
 of _____ Dollars (\$ _____), this
 amount being not less than a hundred percent (100%) of the total Contract Price in lawful
 money of the United States of America, for materials furnished or labor thereon of any kind, or
 for amounts due under the Unemployment Insurance Act with respect to this Work or labor, that
 the Surety will pay the same in an amount not exceeding the amount hereinabove set forth, and
 also in case suit is brought upon this Bond, will pay, in addition to the face amount thereof, costs
 and reasonable expenses and fees, including reasonable attorneys' fees, incurred by Agency in
 successfully enforcing this obligation, to be awarded and fixed by the court, and to be taxed as
 costs and to be included in the judgment therein rendered.

It is hereby expressly stipulated and agreed that this Bond shall inure to the benefit of any and all persons, companies, and corporations entitled to file claims under Title 3 (commencing with Section 9000) of Part 6 of Division 4 of the Civil Code, so as to give a right of action to them or their assigns in any suit brought upon this Bond.

Upon expiration of the time within which the California Labor Commissioner may serve a civil wage and penalty assessment against the principal, any of its Subcontractors, or both the principal and its Subcontractors pursuant to Labor Code Section 1741, and upon expiration of the time within which a joint labor management committee may commence an action against the

principal, any of its Subcontractors, or both the principal and its Subcontractors pursuant to Labor Code Section 1771.2, if the condition of this Bond be fully performed, then this obligation shall become null and void; otherwise, it shall be and remain in full force and effect.

The Surety hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the Contract, including all incorporated documents, shall in any manner affect its obligations on this Bond. The Surety hereby waives notice of any such change, extension, alteration, or addition. Additionally, the Surety hereby waives California Civil Code 2845 and 2849 as well as any statutes of limitation, statutes of repose and laches as they may apply to an action on this Bond.

IN WITNESS WHEREOF, this instrument has been duly executed by Principal and Surety, on the date set forth below, the name of each party being hereto affixed and these presents duly signed by its undersigned representative(s) pursuant to authority of its governing body.

Dated: _____

“Principal”

“Surety”

By: _____

By: _____

Its: _____

Its: _____

By: _____

By: _____

Its: _____

Its: _____

(Seal)

(Seal)

Notes: This Bond must be executed in duplicate and dated, all signatures must be notarized, and evidence of the authority of any person signing as attorney-in-fact must be attached. Date of Bond must not be before the Effective Date of the Contract. Surety companies executing Bonds must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the State of California.

Bond No. _____

PERFORMANCE BOND

KNOW ALL PERSONS BY THESE PRESENTS that:

WHEREAS the City of Oxnard ("Agency"), has awarded to _____

(Name and address of Contractor) ("Principal")

a contract (the "Contract") for the Work described as REPLACEMENT OF TRUCK SCALES AT THE DEL NORTE RECYCLING CENTER AND TRANSFER STATION SPECIFICATION NO. PW 20-59.

WHEREAS, Principal is required under the terms of the Contract to furnish a Bond for the faithful performance of the Contract.

NOW, THEREFORE, we, the undersigned Principal, and _____

(Name and address of Surety)

a corporation organized and existing under the laws of the State of _____
("Surety") a duly admitted surety insurer under the laws of the State of California, as Surety, are held and firmly bound unto the Agency in the penal sum of _____
Dollars (\$ _____), this amount being not less than a hundred percent (100%) of the total Contract Price in lawful money of the United States of America, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, assignees, successors, executors and administrators, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH THAT, if the hereby bounded Principal, his, her or its heirs, executors, administrators, successors or assigns, shall in all things stand to and abide by, and well and truly keep and perform the covenants, conditions and provisions in the Contract and any alteration thereof made as therein provided, on the Principal's part, to be kept and performed at the time and in the manner therein specified, and in all respects according to their true intent and meaning, and shall indemnify and save harmless the Agency, its officers, agents and employees, as therein stipulated, then this obligation shall become null and void one (1) year from the date of recordation of the Notice of Completion for the Project; otherwise, it shall be and remain in full force and effect.

As a part of the obligation secured hereby and in addition to the face amount specified therefor, there shall be included costs and reasonable expenses and fees, including reasonable attorneys' fees, incurred by Agency in successfully enforcing such obligation, all to be taxed as costs and included in any judgment rendered. Surety hereby waives any statutes of limitation, statutes of repose and laches as they may apply to an action on this Bond.

The Surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract, including all incorporated documents, or of the Work to be performed thereunder or the Specifications accompanying the same shall in any way affect the Surety's obligations under this Bond. The Surety hereby waives notice of any such change,

extension of time, alteration or addition to the terms of the Contract or to the Work or to the Specifications. Surety hereby waives California Civil Code 2845 and 2849. The City is the principal beneficiary of this Bond and has all rights of a party hereto.

IN WITNESS WHEREOF, this instrument has been duly executed by Principal and Surety, on the date set forth below, the name of each party being hereto affixed and these presents duly signed by its undersigned representative(s) pursuant to authority of its governing body.

Dated: _____

“Principal”

“Surety”

By: _____

By: _____

Its: _____

Its: _____

By: _____

By: _____

Its: _____

Its: _____

(Seal)

(Seal)

Notes: This Bond must be executed in duplicate and dated, all signatures must be notarized, and evidence of the authority of any person signing as attorney-in-fact must be attached. Date of Bond must not be before the Effective Date of the Contract. Surety companies executing Bonds must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the State of California.

EXHIBIT A

CITY OF OXNARD

BID SHEETS FOR REPLACEMENT OF TRUCK SCALES AT THE DEL NORTE RECYCLING CENTER AND TRANSFER STATION

SPECIFICATION NO. PW 20-59

Bidder's Name: G2K CONSTRUCTION INC.

To the Honorable Mayor and Members of the City Council:

In compliance with the Notice Inviting Bids, the undersigned hereby agrees to execute the Contract to furnish all labor, materials, equipment and supplies for the Project in accordance with the Contract Documents to the satisfaction and under the direction of the City Engineer at the following prices:

BASE AMOUNT:

ITEM NO.	DESCRIPTION	PAYMENT REFERENCE	UNIT OF MEASURE	UNIT PRICE
1.	Demolition, Remove and Replace Scales 1, 2, 4, A & B	011000, 012500, 012600, 012900, 013119, 013233, 013200, 013300, 013300.5, 014000, 015000, 016000, 017300, 017419, 017700, 017823, 017839, 017900, 020500, 033000, 034200, 055000, 118800, 119000, 221400, 323100	LS	\$ 2,624,180.00

ITEM NO.	DESCRIPTION	PAYMENT REFERENCE	UNIT OF MEASURE	UNIT PRICE
2.	Remove Existing Traffic Striping and Install New Traffic Striping Plan with Site Improvements	011000, 012500, 012600, 012900, 013119, 013233, 013200, 013300, 013300.5, 014000, 015000, 016000, 017300, 017419, 017700, 017823, 017839, 017900, 020500, 101400, 321700, 347100	LS	\$ 336,000. —
TOTAL BASE AMOUNT:				\$ 2,940,180.00

ADDITIVE ITEM 1:

ITEM NO.	DESCRIPTION	PAYMENT REFERENCE	UNIT OF MEASURE	UNIT PRICE
1.	Field Technical Support to Troubleshoot Scales	118800-2.1, A, 11	LS	\$ 20,000. —
TOTAL ADDITIVE ITEM 1				\$ 20,000. —

Note: Several items may be adjusted or deleted. Any changes to the quantities for these items shall not classify as a substantial change as stipulated in Greenbook Section 7-3.5.1. Regardless of total actual volume compared to estimated quantities, the unit prices provided above shall be applied to the final quantity when payment is calculated for these items. No adjustment in the unit prices will be allowed. The City reserves the right to not use any of the estimated quantities, and if this right is exercised, the Contractor will not be entitled to any additional compensation. The cost of all labor, materials, export of

material shall be included in the above unit costs; no additional compensation will be granted for such expenses.

TOTAL BID PRICE = BASE AMOUNT

TOTAL BID PRICE IN DIGITS: \$ 2,960,180.00 *

TOTAL BID PRICE IN WORDS: two million nine hundred sixty thousand one hundred eighty dollars and 00/100

*** The lowest Bid will be determined on the basis of the lowest base amount without considering the amounts listed for the additive items.

Contractor must complete all Work within ninety (90) Working Days of the City's Notice to Proceed.

Bidder acknowledges receipt of all addenda

Addendum: Date Received:
#01 10/5/2021
#02 _____

Addendum: Date Received:
#03 _____
#04 _____

Bidder's Name (Company): G2K Construction Inc.

Signature: 
Print: Emilia G. Levy

Title: President
Date: 10.11.21

Signature: 
Print: EMILIA G. LEVY

Title: SECRETARY
Date: 10.11.21

*Total awarded bid amount is \$2,980,180.00 which represents base bid of \$2,960,180 plus additive item #1 of \$20,000. $\$2,960,180 + \$20,000 = \$2,980,180$.

REQUEST FOR BUDGET APPROPRIATION**Department:** Public Works/Engineering**Date:** December 7, 2021**Project/Program****Manager:** Omar Ortiz  **Phone:** (805)276-7470**Reason for Appropriation:**

Budget appropriation to fund the construction agreement, additive item, contingency and project allocation funds for the Scale House Reurbishing Project (216803).
--

Accounts and Descriptions**AMOUNT****Fund: 631 SOLID WASTE OPERATING****Expenditures/Transfers Out****PROJECT 216803 SCALE HOUSE REFURBISHING**

631-6880-826.82-08	SVCS - CONSTRUCTION	1,126,216
--------------------	---------------------	-----------

Sub-total Expenditures

1,126,216**Net Change to Fund Balance****(1,126,216)****Net Appropriation Change****1,126,216****Approvals**

Department Director



Chief Financial Officer

City Manager

REQUIRES CITY COUNCIL AUTHORIZATION

BA# (Finance Use Only) _____

BA Doc# (Finance Use Only) _____

Revised : 2/23/2012

AGREEMENT FOR THE REPLACEMENT OF TRUCK WEIGH SCALES AT THE DEL NORTE RECYCLING CENTER AND TRANSFER STATION PROJECT PW 20-59

Presentation to City Council
December 7, 2021

Tatiana Arnaout, PE
City Engineer

That the City Council approve and authorize the following for a total of \$3,576,216 in Project funds for the Replacement of Truck Weigh Scales at the Del Norte Recycling Center and Transfer Station Project, Specification No. PW 20-59 (Project No. 216803):

1. The Mayor to execute Agreement A-8400 with G2K Construction, Inc. in the amount of \$2,980,180 for the Project;
2. A Project contingency amount of \$298,018 for the Project;
3. A Project allocation amount of \$298,018 for engineering, inspection, survey and project management for the Project; and
4. A budget appropriation in the amount of \$1,126,216 from the available fund balance in the Solid Waste Operating Fund (631) for the Project.

Replacement of Truck Weigh Scales at the Del Norte Recycling Center and Transfer Station Project

- The Del Norte Regional Recycling and Transfer Station (MRF) was constructed in 1995 & the existing scales are original to the MRF. The City of Oxnard has operated the MRF since February 1, 2014
- The scales process an average of 900 - 1100 tons of solid waste daily with a traffic volume of nearly 500 vehicles per day and are an essential component of the MRF's everyday operation

- Due to the age of the equipment and wear-and-tear caused by constant use and exposure to the elements, the existing truck weigh scales are failing at a rapid rate
- The scales have exceeded their design life resulting in:
 - Expensive repairs
 - Prolonged delays due to repairs
 - Bottleneck to normal daily operations
 - Potential loss in revenue due to scale inaccuracy



The existing truck weigh scales are no longer manufactured and continuously in need of costly repair and custom replacement parts



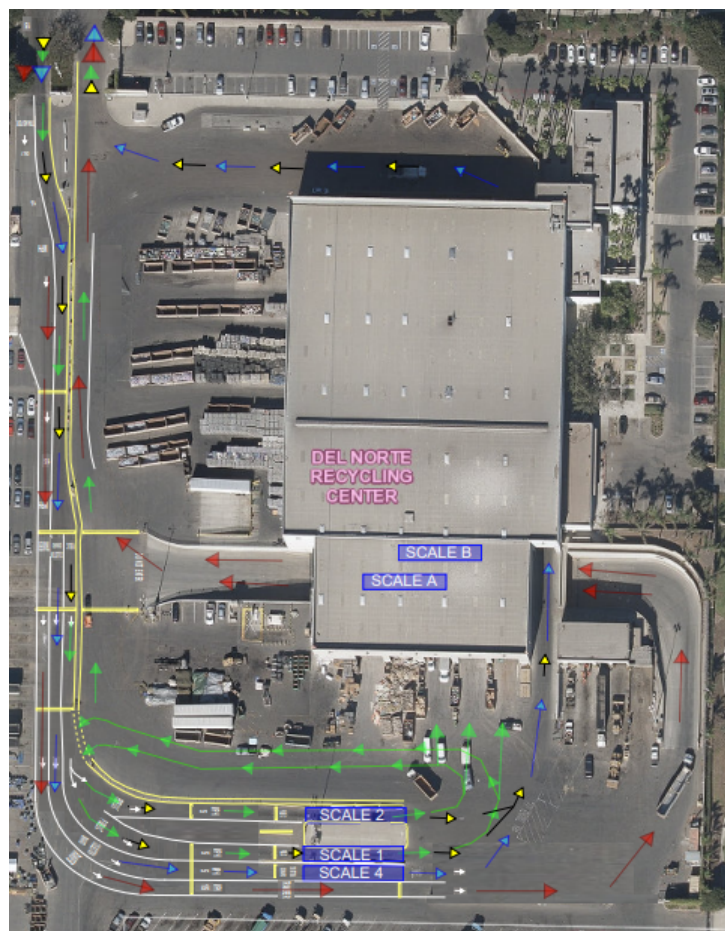
There are currently only two “legal for trade” truck weigh scales causing major delays when just one is not operating and in need of repair



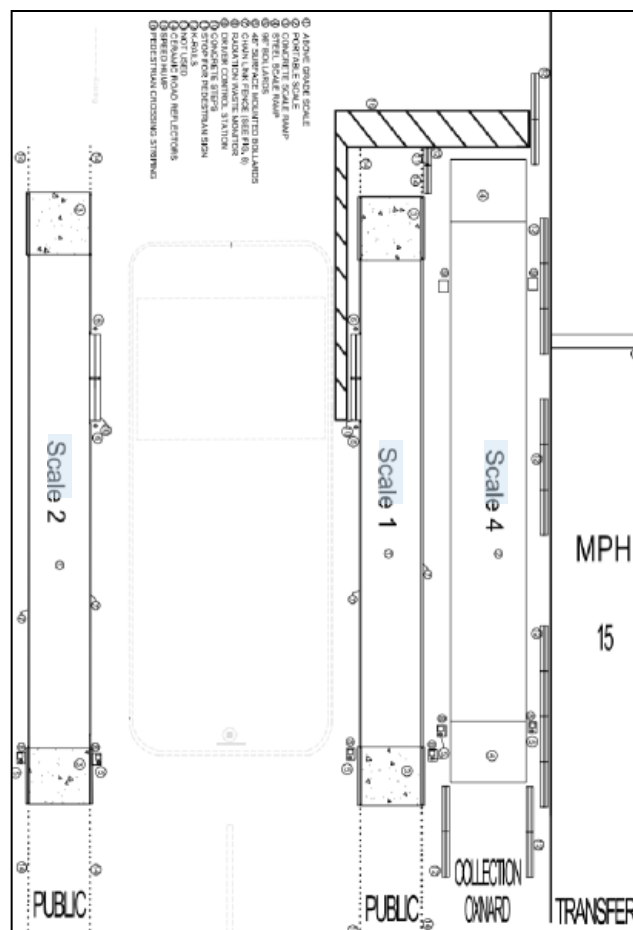
Example of the new above grade scale design.



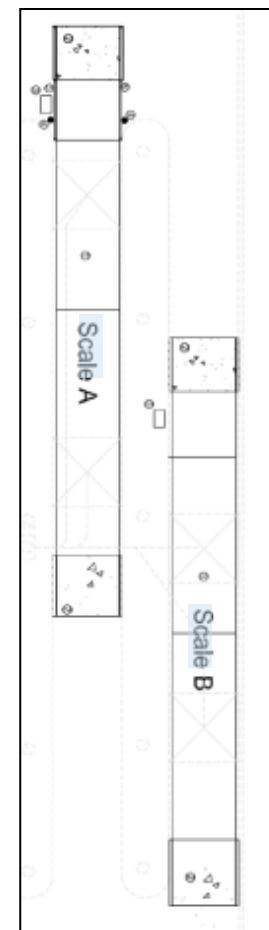
Scope of Work



Efficient Vehicle Traffic Flow



5 High Performance Scales with Modern Technology



Replacement of Truck Weigh Scales at the Del Norte Recycling Center and Transfer Station Project

- Notice inviting formal bids (NIFB) for the project was published on September 16, 2021 with bids due on October 13, 2021
- Two bids were received and evaluated:

G2K Construction, Inc.	\$2,980,180.00
JSL Construction	REJECTED

- G2K Construction, Inc. was found to be the lowest responsive bidder for this project

- Total cost for the Project is \$3,576,216 which includes:
 - Agreement A-8302 with G2K Construction, Inc. for **\$2,980,180**
 - Project contingency of **\$298,018**
 - Engineering, inspection, survey and project management (EISPM) of **\$298,018**
- Current project budget is \$2,450,000 from the Solid Waste Operating Fund (631)
- Requesting a budget appropriation of \$1,126,216 to complete the Project from the available fund balance of the Solid Waste Operating Fund (631)

QUESTIONS?