

**PLANNING COMMISSION
STAFF REPORT**

TO: Planning Commission

FROM: Serena Gonzalez, Assistant Planner

DATE: March 21, 2024

SUBJECT: **Project Name: 30 Mariscos Alcohol Special Use Permit;** Planning and Zoning Permit No. 23-510-01; Located at 606 North Ventura Road (APN: 200-0-150-385)

1) Recommendation: That the Planning Commission (“**Commission**”):

- a) Find the Project to be Categorically Exempt from environmental review pursuant to the California Environmental Quality Act (CEQA) Guidelines Section 15301 (Existing Facilities); and
- b) Adopt Resolution 2024-XX approving Planning and Zoning Permit No. 23-510-01 (Special Use Permit - Alcohol), subject to certain findings and conditions.

2) Project Description and Applicant: A request for approval of a Special Use Permit (SUP) to upgrade existing type 41 license (beer and wine) to an Alcohol Beverage Control (ABC) License Type 47¹ license to sell distilled spirits for on-site consumption at an existing restaurant of approximately 5,727 square feet located at 606 North Ventura Road within the General Commercial (C-2) zone. The proposed hours of sales are 7:00am to 11:00pm Sunday through Saturday. The project is exempt from environmental review pursuant to Section 15301 (Existing Facilities), Class 1 of the California Environmental Quality Act (CEQA) Guidelines. For purposes of this staff report, the foregoing project description shall be referred to as the “**Project**”. Filed by Francisco Lopez, Business Owner, on behalf of property owner BGN Fremont Square LTD 3720 South Susan Street Ste 100, Santa Ana, CA, 92704.

Please see the reduced Project plans (Attachment B) for more details.

¹ABC License Type 47 - Eating Place (Restaurant) Authorizes the sale of beer, wine and distilled spirits for consumption on the licenses premises. Authorizes the sale of beer and wine for consumption off the licenses premises. Must operate and maintain the licensed premises as a bona fide eating place. Must maintain suitable kitchen facilities, and must make actual and substantial sales of meals for consumption on the premises. Minors are allowed on the premises.

- 3) Existing & Surrounding Land Uses:** The 0.73 -acre Project site is currently developed with 5,727 square foot restaurant (30 Mariscos) located within the Community Commercial - Planned Development (C-2-PD) zoning district. The Project site is surrounded by a mixture of residential and commercial uses. The following table summarizes the land uses and zoning designation of the Project site and adjacent properties, which are also illustrated below in Exhibit A.

LOCATION	GENERAL PLAN	ZONING	EXISTING LAND USE
Project Site	Community Commercial (CC)	General Commercial Planned Development (C-2-PD)	Restaurant
North	Community Commercial (CC)	General Commercial Planned Development (C-2-PD)	Shopping Center
South	Residential Low (RL)	Single Family Residential (R-1- PD)	Single - Family Residential
East	Residential Medium (RM)	Garden Apartment (R-3)	Multiple - Family Residential
West	Residential Low (RL)	Single Family Residential (R-1- PD)	Single - Family Residential

- 4) Background Information:** The applicant currently operates a restaurant that serves beer and wine for on-site consumption as permitted and regulated by the State of California, Department of Alcoholic Beverage Control through a Type 41 (On-Sale Beer and Wine) ABC license. The applicant is proposing to upgrade the existing ABC license to a Type 47 (On-Sale Spirits) which would allow the sale of general liquor for on-site consumption in addition to beer and wine.

The Oxnard Police Department has reviewed the application for a major modification to the existing Alcohol Special Use Permit PZ No. 03-510-05. The original Alcohol SUP was approved on December 18, 2003. There are no other licenses of the same type within 350 feet or between 350 and 1000 feet of the subject site therefore, the Police Department has determined that there is not an over-saturation issue. However, the Oxnard Police Department has recommended approval of the requested application.

5) Environmental Determination:

In accordance with Section 15301, Class 1 (Existing Facilities) of the State California Environmental Quality Act (CEQA) Guidelines, 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 sell alcohol for on-site consumption within an existing commercial building and will not increase the square footage of the existing building. No Exceptions to the Exemptions (Section 15300.2) apply to defeat the Exemption. Therefore, Staff has determined that there is no substantial evidence that the Project will have a significant effect on the environment and recommends that the Planning Commission accept the Notice of Exemption (Attachment C).

6) Analysis:

- a) **General Discussion:** The Applicant is requesting the approval to allow the sale of beer, wine and distilled spirits for on-site consumption of alcoholic beverages (ABC License Type 47) within the existing 5,727 square-foot restaurant. The restaurant will only be allowed to operate as a restaurant as this permit only allows for alcohol sales from 7am to 11pm. The current business will be open from 11:00 a.m. to 8:30 p.m. Sunday through Thursday and 11am to 10pm Friday and Saturday; however, future businesses that come in would be able to take advantage of the full hours of the permit.

In accordance with the City Code, the ability to sell alcohol for on-site consumption is subject to approval of a SUP by the Planning Commission. The proposed sale of beer, wine and distilled spirits for on-site consumption is accessory to the primary use of the restaurant and conforms to the permitted uses of the subject zone.

Per the City Code, the ability to sell alcohol for off-site consumption is subject to approval of a SUP by the Planning Commission. The proposed sale of beer, wine, and distilled spirits for off-site consumption is an accessory to the primary use of the market and conforms to the permitted uses of the C-2-PD Zone. The restaurant's operation will allow for the neighborhood to have a safe location to consume an appropriate amount of alcoholic beverages while contributing to the local economy.

- b) **General Plan & Zoning Consistency:** The 2030 General Plan designation for the site is Community Commercial (CC) and the zoning designation is General Commercial (C-2). General Plan Policy ICS-19.2 encourages Police Department review of development projects. The Project was reviewed by the Police Department and their recommendations are incorporated into the conditions of approval. Therefore, this Project is consistent with Policy ICS-19.2.

The Project is proposed in the General Commercial Planned Development (C-2-PD) zone district. In accordance with the Oxnard City Code (OCC) Section 16-136 (Related Uses), the sales of alcoholic beverages for on-site consumption are permitted through the

approval of a Special Use Permit. Therefore, with approval of this permit, the proposed use is consistent with the zoning designation of the property.

- c) **Police Department Review:** The Oxnard Police Department provided a comprehensive report and analysis of the proposed alcohol request (Attachment D) in accordance with City Council Resolution No. 11,896 (Attachment E). The report analyzes the number of establishments selling alcoholic beverages within 350 feet and 1,000 feet of the Project site to determine whether a presumption of undue concentration exists, and whether approval of the SUP is likely to significantly aggravate policing problems. The Police Department's Report is broken down into an analysis of the concentration of alcohol outlets, crime statistics, police and community input, and conclusion. The table below summarizes the findings of the Police Department's Report:

Location	Same type within 350 feet?	Same type within 1,000 feet?	Likely to Cause Police problem?	Undue concentration as defined in Resolution No. 11,896 or Business and Professions Code Section 23958.4?
Thirsty Ox - 640 N. Ventura Road	No	No (Type 48)	No, as conditioned	No (City or State)
City Market - 1454 Doris Avenue	No	No (Type 20)	No, as conditioned	No (City or State)
Rite Aid (closed) - 720 N. Ventura Road	No	No (Type 21)	No, as conditioned	No (City or State)
Grocery Store - 920 N. Ventura Road	No	No (Type 21)	No, as conditioned	No (City or State)

Concentration of Alcohol Outlets:

According to the Police report, there are no establishments of the same type located within 350 feet or between 350 and 1,000 feet of the subject property. There is another establishment located within 350 feet of the subject property (Thirsty Ox) that currently operates with a ABC License Type 48 (On-Sale General - Public Premises²). The Police Department has determined that as there are no other similar alcohol establishments within 350 feet of the applicant's site, there is no undue concentration by City standards.

² 48 - On-Sale General - Public Premises Issued to bars and night clubs. Authorizes the sale of beer, wine, and distilled spirits for consumption on the premises where sold. Authorizes the sale of beer and wine for consumption off the premises where sold. Minors are not allowed to enter and remain (see [BPC § 25663.5](#) for exception, musicians). Food service is not required. This license type is subject to Responsible Beverage Service (RBS) requirements and requires alcohol servers and managers of alcohol servers to be RBS certified.

In the case of the applicant site, as seen in the next section, the annular crime rate is above the average annular citywide rate and below the standard established in the California Business and Professions Code Section 23958.4(1). Currently there are two off-sale licenses within the applicant's census tract and two off-sale licenses are allowed within this census tract. There are two on-sale licenses within the tract and three are allowed. Based on the above findings, there is not an undue concentration under the provisions of California Business and Professions Code Section 23958.4.

Crime Statistics:

For comparison purposes the Police Department calculates the average number of Part I³ and II⁴ crimes that occurred during a selected 12-month period. In the case of this report, all calculations are based on statistics from 2022. The average city-wide, annular average of Part I and II crimes is 33.9. The average number of Part I and II crimes in the applicant's 1000 foot annular area is 65. This is 58 % of the average for commercial properties citywide and can be best illustrated in the graph below:



³ Part I crimes include: murder, rape, robbery, theft, burglary, auto theft, assault, and arson.

⁴ Part II crime include: other assaults, forgery & counterfeiting, fraud, embezzlement, stolen property, vandalism, weapons, prostitution & commercialized vice, sex offenses, drug abuse violations, gambling, offenses against family and children, driving under the influence, liquor laws, drunkenness, disorderly conduct, vagrancy, all other offenses not specifically identified as Part I or Part II, except traffic violations.

Police Department Input:

The Beat Coordinator who is responsible for the day-to-day monitoring of activity and deployment of police resources for the surrounding area said that the location is not generally considered to be a policing problem other than scavengers and homeless rummaging through trash bins and loitering in and around trash enclosures.

Community Input:

Several nearby business operators were contacted and interviewed regarding this business' request to sell alcohol. Those operators contacted were supportive of the new business and their plan to sell alcoholic beverages.

The Neighborhood Chairperson was contacted and briefed concerning the project and had no objection to the business selling alcoholic beverages.

Conclusion:

On December 18, 2003 the Oxnard Planning Commission issued an Alcohol Special Use Permit authorizing the sale of beer and wine at this site. The applicant, Francisco Lopez, has operated El 30 Mariscos restaurant under an ABC Type 41 (beer & wine) License since 2015 without any adverse impact on the neighborhood or police services. The approval to authorize the business to change from beer and wine license to a beer, wine and spirits license is not expected to create community issues. The proposed conditions of approval are offered as best practices for a restaurant selling beer, wine and spirits.

As previously discussed, there is not an undue concentration of alcohol establishments under the standards established by the State of California or the City of Oxnard.

Based on the crime statistics, the assessment from the Beat Coordinator, and the input from the community there is no significant reason to oppose this application. Under the recommended operating conditions, it is believed that the service of alcoholic beverages at this business will have little, if any adverse impact on the community or policing services. Several conditions of approval have been incorporated into the draft Resolution of approval (Attachment F) in order to mitigate Police Department concerns in order to reduce the risk for potential policing problems in the future.

- 7) Community Workshop and Public Input:** This Project is located within the Fremont North Neighborhood. On February 2, 2024, the Applicant mailed notices of the Community Workshop meeting to all property owners within the Fremont North Neighborhood, Fremont South, and properties within a 2,000 foot radius. The Applicant also provided notice on the Project site with a brief description of the project and contact information. The Community

Workshop was held on February 12, 2024. No members of the community were present at the Community Workshop for this item. Staff received no correspondence from the community before or during the meeting.

Consistent with public noticing requirements, the Planning Commission hearing was advertised in the newspaper, with an on-going site posting, and by mail to property owners within 300 feet of the subject property. To date, Staff has not received any additional concerns or public comments regarding the proposed Project.

- 8) Appeal Procedure:** In accordance with OCC Section 16-545 of the Oxnard City Code, the Planning Commission's action may be appealed to the City Council within 18 days after the decision date. Appeal forms may be obtained from the Planning Division's Office and must be submitted with the appropriate fees before the end of the appeal period. If an appeal to the City Council is not filed within 18 days of the Planning Commission's decision, the decision of the Planning Commission shall be considered final.

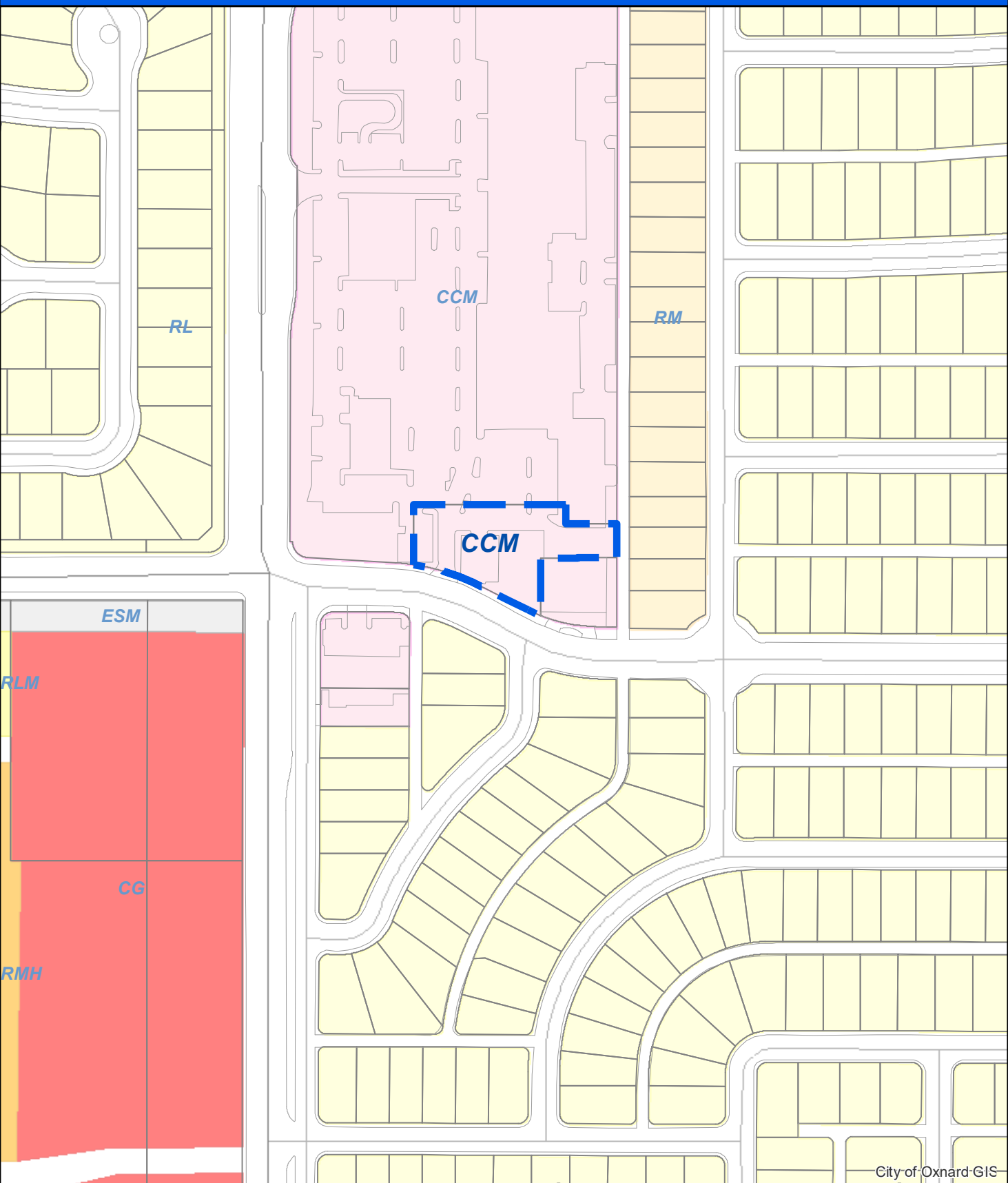
Attachments:

- A. Maps (Vicinity, General Plan, Zoning, Aerial)
- B. Reduced Project Plans
- C. Notice of Exemption
- D. Police Department Report
- E. City Council Resolution No. 11,896
- F. Draft Resolution of Approval PZ 23-510-01 (Special Use Permit - Alcohol)
- G. Staff Presentation

Vicinity Map



2030 General Plan Land Use Map



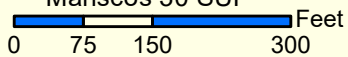
City of Oxnard-GIS



Oxnard Planning

January 17, 2024

PZ 23-510-01
Location: 2606 N Oxnard Blvd
APN: 2000150385
Mariscos 30 SUP

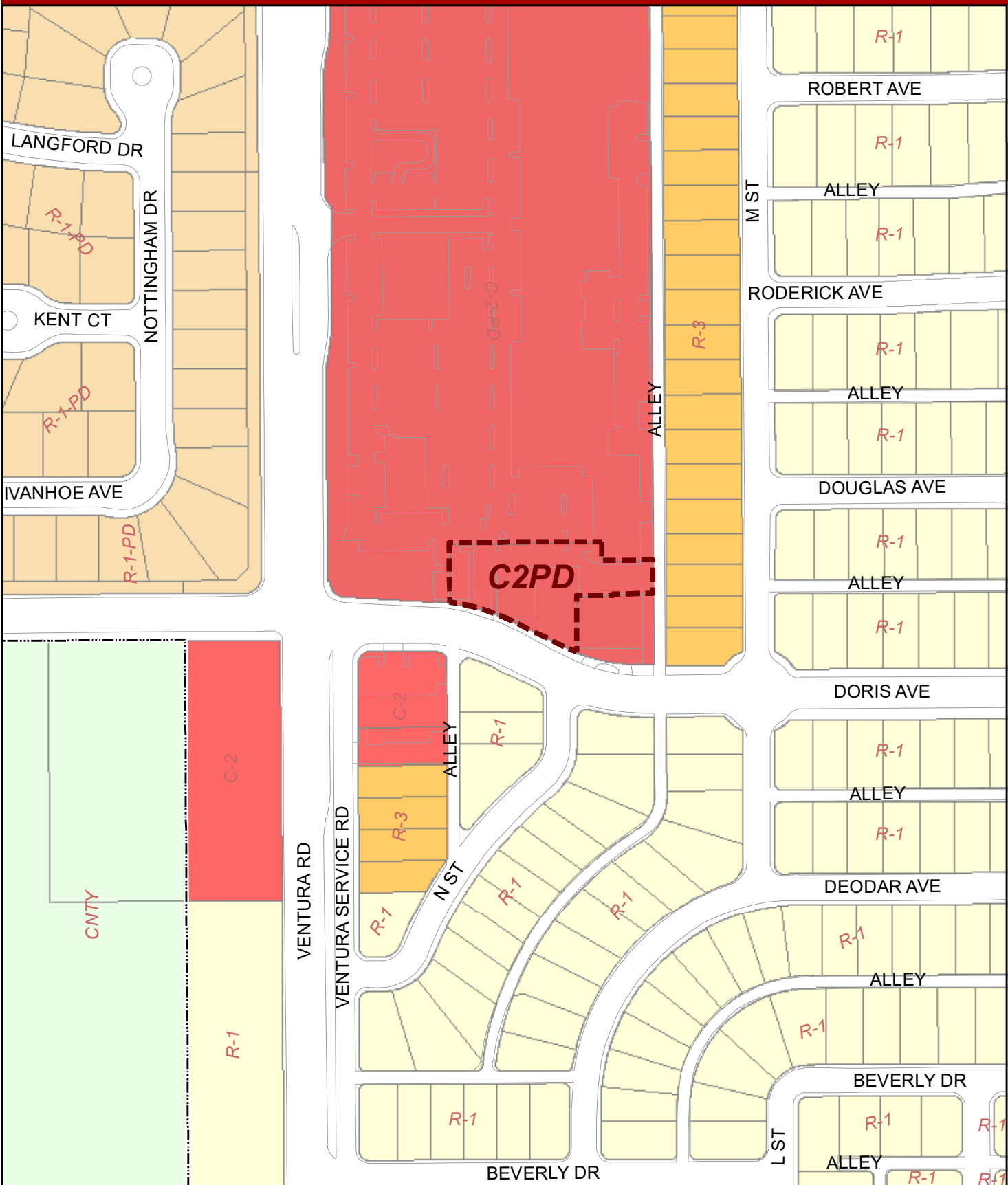


2030 General Plan Land Use Map

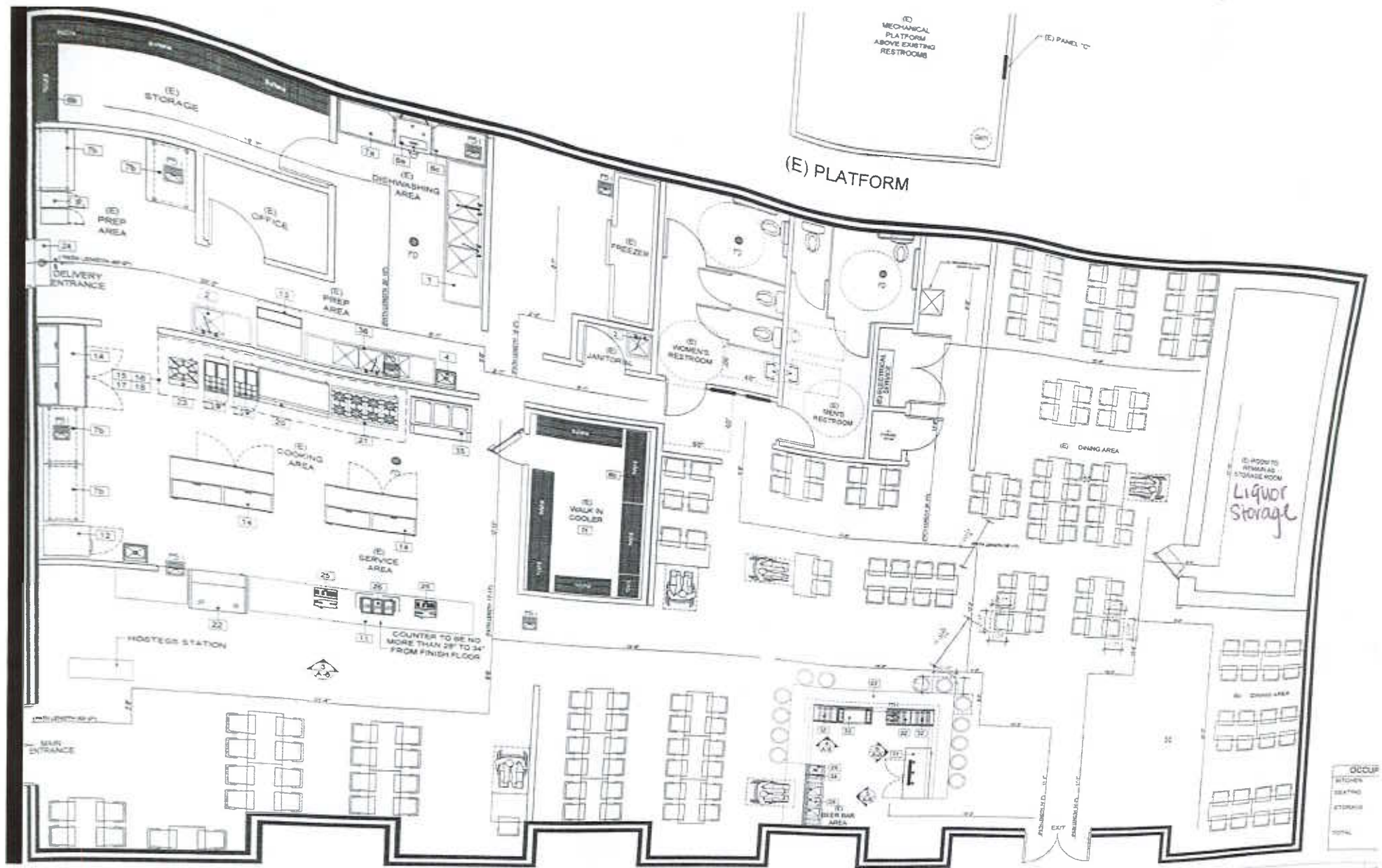


1:2,500

Zoning/Specific Plan Map







Liquor Storage

Dining Area

Bar

Beer Storage

Men's Restroom

Women's Restroom

Walk-in
Freezer

Mop sink

Sink

Walk-in cooler

Kitchen

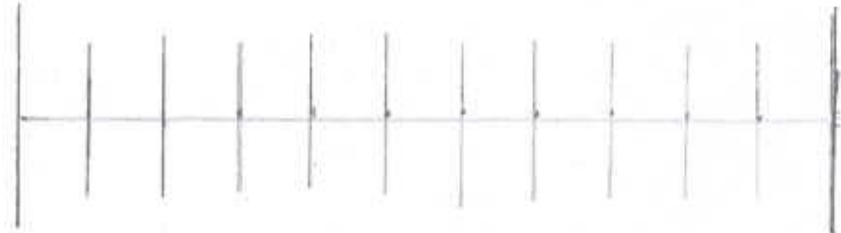
Dining Area

Office

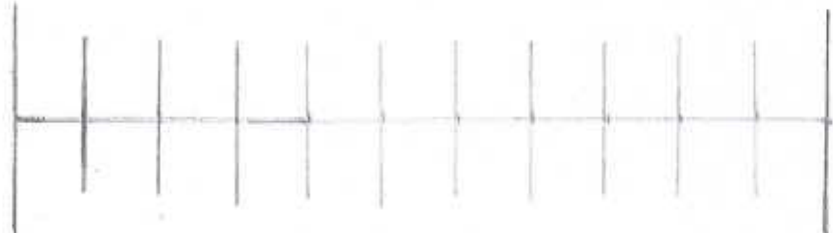
Dry Storage

SHOPPING MALL ENTRANCE

DENTISTRY	GOLD SHOP	QUIRO- FRACTIC	WIC STORE	VACANT SPACE
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PARKING
LOT



PARKING
LOT

*
EL 30
MARISCOS

CLINIC

LAUNDRY
VACANT SPACE
BARBER SHOP
MINI MARKET
SPA
NAIL'S SHOP
BAR

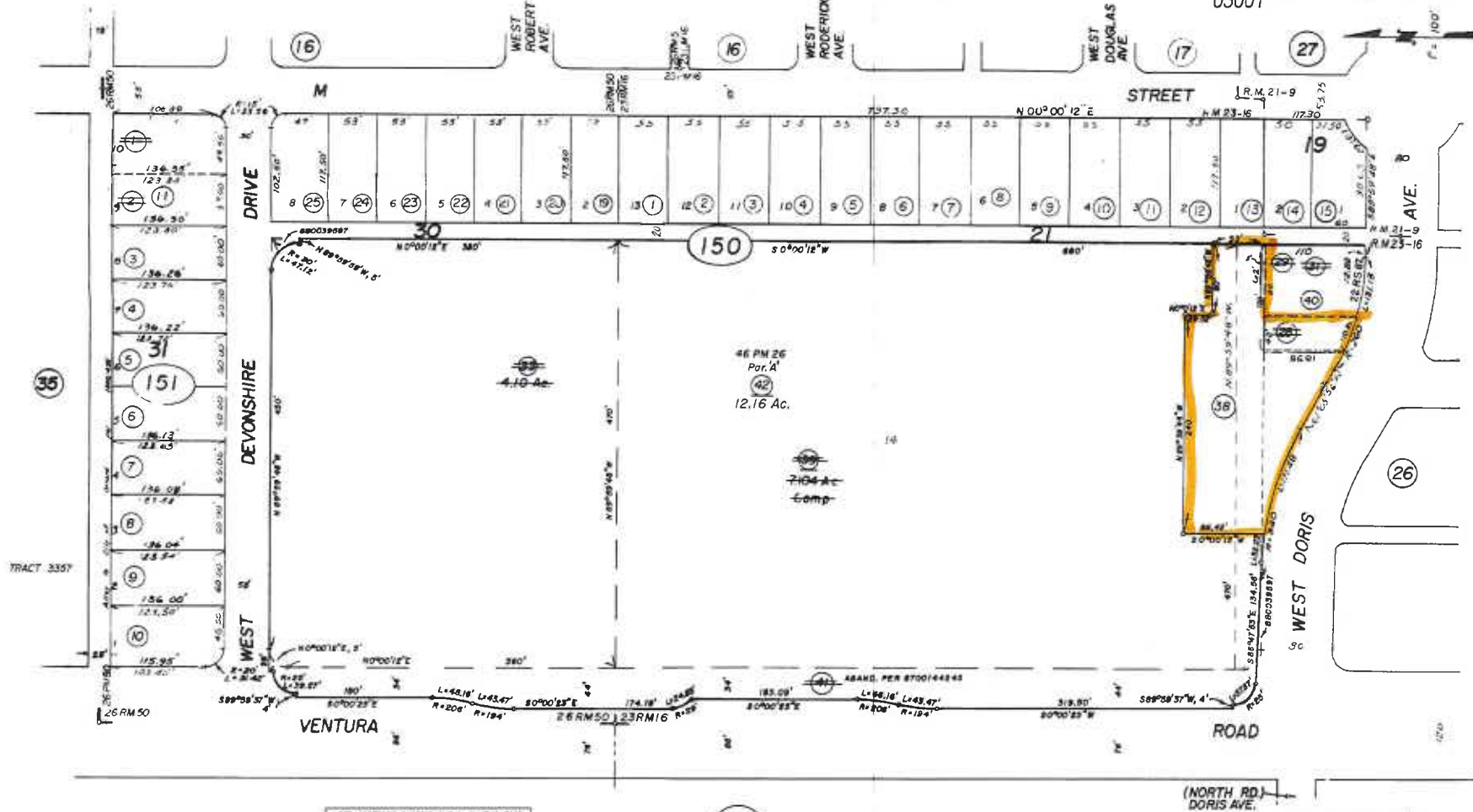
ALLEY

DORIS AVE

POR RANCHO EL RIO DE SANTA CLARA O'LA COLONIA

Tax Rate Area
03001

200-15



NOTE: ASSessor PARCELS SHOWN ON THIS PAGE
DO NOT NECESSARILY CONSTITUTE LEGAL LOTS.
CHECK WITH COUNTY SURVEYOR'S OFFICE OR
PLANNING DIVISION TO VERIFY.

TRACT
Bk.
181
17
18
3051-3

Fremont Square Unit 2, M.R. 21, Pg.9
Fremont Square Unit 3, M.R. 23, Pg.16
Fremont Square Unit 4, M.R. Bk.26, Pg.50 (Tract 1067)

Assessor's Block Numbers Shown in Ellipses.
Assessor's Parcel Numbers Shown in Circles.
Assessor's Mineral Numbers Shown in Squares.

CITY OF OXNARD,
Ventura County Assessor's Map.

DRAWN	REVISED	4-3-2002
REDRAWN	CREATED	4-3-2002
INKE	PLOTTED	EFFECTIVE
	PREVIOUS Bk.200L	Portion Pg.15
	Compiled By Ventura County Assessor's Office	



NOTICE OF EXEMPTION (NOE)

To: Office of Planning and Research
P.O. Box 3044, Room 113
Sacramento, CA 95812-3044

From: City of Oxnard
Community Development Department
214 South C Street
Oxnard, CA 93030

To: Ventura County Clerk-Recorder &
Registrar of Voters
Hall of Administration, Main Plaza
800 South Victoria Avenue,
Ventura, CA 93009-1260

Project Title: 30 Mariscos Alcohol Special Use Permit - Alcohol

Project Applicant: BGN Fremont Square LTD 3720 S Susan Street Ste 100, Santa Ana, CA, 92704, Property Owner

Project Location - Specific: 606 North Ventura Road Oxnard CA 93030; County of Ventura; APN: 200-0-150-385

Description of Nature, Purpose and Beneficiaries of Project: Planning and Zoning Permit No. 23-510-01. A request to replace an existing license (ABC Type 41) with a new license (ABC Type 47) to authorize the sale of distilled spirits for on-site consumption within an existing restaurant of approximately 5,727 square feet located at 606 North Ventura Road. The proposed hours of sales are 7:00am to 11:00pm Sunday through Saturday.

Name of Public Agency Approving Project (Lead Agency): City of Oxnard

Name of Person or Agency Carrying Out Project (Applicant): Francisco Lopez of 30 Mariscos

Exempt Status: (check one):

- ☐ Ministerial (Sec. 21080(b)(1); 15268);
- ☐ Declared Emergency (Sec. 21080(b)(3); 15269(a));
- ☐ Emergency Project (Sec. 21080(b)(4); 15269(b)(c));
- ☒ Categorical Exemption. State type and section number: Section 15301 (Existing Facilities), Class 1
- ☐ Statutory Exemptions. State code number: _____

Reason(s) why project is exempt:

In accordance with Section 15301, Class 1 (Existing Facilities) of the California Environmental Quality Act (CEQA) Guidelines, 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 sell alcohol for on-site consumption

within an existing commercial building and 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 may have a significant effect on the environment, the project is categorically exempt from the provisions of CEQA, there is no requirement to prepare an environmental document.

Lead Agency Contact Person: Serena Gonzalez; Assistant Planner; (805) 385-7952

Joe Pearson II, AICP
Planning and Environmental Services Manager
City of Oxnard

Date

Note: Authority cited: Sections 21083 and 21110, Public Resources Code.
Reference: Sections 21108, 21152, and 21152.1, Public Resources Code.



Police Department

Jason Benites, Chief of Police

February 26, 2024

To: Serena Gonzalez , Assistant Planner
Joe Pearson II, Planning Division Manager

From: Edgar Fernandez, Patrol Support Division Commander
Scott Swenson, Safer Neighborhoods and Alcohol Compliance Specialist

Subject: El 30 Mariscos, 606 N. Ventura Road
PZ 23-510-01, Alcohol SUP Review (ABC Type 47)

Site Information:

The applicant business is an existing restaurant operating under an ABC Type 41 (Beer and Wine on sale premise). The business is located in the Fremont Shopping Center and is part of the Fremont North Neighborhood.

El 30 Mariscos is one of four businesses that are licensed to sell alcoholic beverages in the Fremont Shopping Center.

The applicant is pursuing an Alcohol Beverage Control (ABC) Type 47¹ License to sell beer and wine as a restaurant from 7 A.M. to 11 P.M.

Concentration, Crime and Policing Services

Concentration of retail alcohol outlets and crime can have a significant impact on public safety and the delivery of police services. The State of California² and the City of Oxnard³ have established standards to weigh concentration factors, and, when

¹ *Type 47 ABC License - Eating Place: (Restaurant) Authorizes the sale of beer, wine and spirits for consumption on or off the premises where sold. Must operate and maintain the licensed premises as a bona fide eating place. Must maintain suitable kitchen facilities and must make actual and substantial sales of meals for consumption on the premises. Minors are allowed on the premises.*

² *Concentration Standards for the State of California: §23958.4 Business and Professions Code*

³ *Concentration Standards for the City of Oxnard: Council Resolution 11,896*

appropriate, mitigations to address those factors. The below charts identify nearby retail alcohol establishments.

Alcohol outlets located within 350 Feet

#	Business Name	Address	ABC Type	A S U P	O n O f f	Premise	Alcohol	Alcohol Hours *
1	Thirsty Ox	640 N. Ventura Road	48		On	Bar	Beer Wine Spirits	6a-2a
2	City Market	1454 Doris Avenue	20		Off	Convenience Store	Beer Wine	7a-1a
3	Rite Aid	720 N. Ventura Road	21		Off	Drug Store	Beer Wine Spirits	6a-2a

*Alcohol hours reflect the period the business is permitted to serve alcohol under State law or by established City conditions.

Alcohol outlets located between 350 Feet and 1000 Feet

#	Business Name	Address	ABC Type	A S U P	O n O f f	Premise	Alcohol	Alcohol Hours *
1	Grocery Store	920 N. Ventura Road	21	Y	Off	Market	Beer Wine Spirits	6a-Mid

City Council Resolution 11,896 establishes that there is undue concentration if there exists an alcohol establishment of a similar type within 350 feet of the applicant site. As noted on the chart above, no existing restaurants with alcohol licenses within 350 feet of the applicant site. This establishes that there is not an undue concentration under City standards.

State standards for undue concentration are established under Business and Professions Code Section 23958.4.

(a) For purposes of Section 23958, "undue concentration" means the case in which the applicant premises for an original or premises-to-premises transfer of any retail license are located in an area where any of the following conditions exist:

- 1) The applicant premises are located in a crime reporting district⁴ that has a 20 percent greater number of reported crimes, as defined in subdivision c, than the average number of reported crimes as determined from all crime reporting districts within the jurisdiction of the local law enforcement agency.
- 2) As to on-sale retail license applications, the ratio of on-sale retail licenses to population in the census tract or census division in which the applicant premises are located exceeds the ratio of on-sale retail licenses to population in the county in which the applicant premises are located.
- 3) As to off-sale retail license applications, the ratio of off-sale retail licenses to population in the census tract or census division in which the applicant premises are located exceeds the ratio of off-sale retail licenses to population in the county in which the applicant premises are located.

⁴ Oxnard P.D. does not collect crime data based on reporting districts. For the purposes of concentration of alcohol establishments, the crime stats are compared by 1000-foot annular areas.

In the case of the applicant site, the annular crime rate is above the average annular citywide rate. This shows the site as having a crime rate above the standard established in 23958.4(1) B&P.

Currently there are 2 on-sale licenses within the applicant's census tract. According to the ABC, 3 on-sale licenses are permitted within this census tract.

Currently there are 2 off-sale licenses within the applicant's census tract. According to the ABC, 2 off-sale licenses are permitted within this census tract.

Based on the above findings, there is not an undue concentration under the provisions of California Business and Professions Code Section 23958.4

As this application is for a change in license type, it does not reflect an increase in the number of licenses in the census tract.

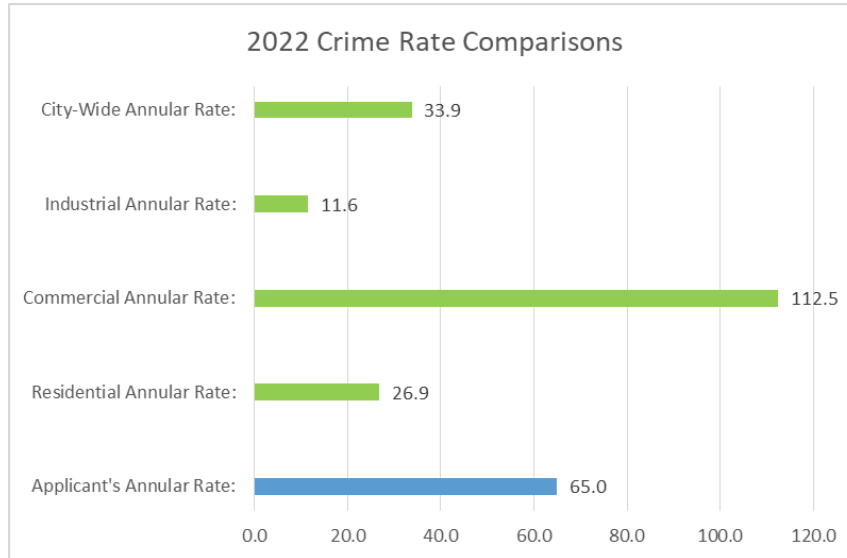
Crime Statistics Review:

For comparison purposes the Police Department calculates the average number of Part I⁵ and II⁶ crimes that occurred during a selected 12-month period. In the case of this report, all calculations are based on statistics from 2022. The average city-wide, annular average of Part I and II crimes is 33.9.

The average number of Part I and II crimes in the applicant's 1000 feet annular area is 65. This is 58 % of the average for commercial properties citywide and can be best illustrated in the graph below:

⁵ Part I crimes include: murder, rape, robbery, theft, burglary, auto theft, assault, and arson.

⁶ Part II crime include: other assaults, forgery & counterfeiting, fraud, embezzlement, stolen property, vandalism, weapons, prostitution & commercialized vice, sex offenses, drug abuse violations, gambling, offenses against family and children, driving under the influence, liquor laws, drunkenness, disorderly conduct, vagrancy, all other offenses not specifically identified as Part I or Part II, except traffic violations.



Police Department Input:

The Beat Coordinator who is responsible for the day-to-day monitoring of activity and deployment of police resources for the surrounding area said that the location is not generally considered to be a policing problem and has not required any specific attention.

Community Input

Businesses:

Several nearby business operators were contacted and interviewed regarding this business' request to sell liquor in addition to beer and wine. No one contacted had an objection and believed that the business operated as a good neighbor.

Area Residents:

The Neighborhood Chairperson was contacted and he conveyed that he was unaware of any issues tied to the business. He stated that he would check with others in the neighborhood and advise them of the change in license type and that there would be public meetings to comment on the permit.

Conclusion

On December 18, 2003 the Oxnard Planning Commission issued an Alcohol Special Use Permit authorizing the sale of beer and wine at this site. The applicant, Francisco Lopez, has operated El 30 Mariscos restaurant under an ABC Type 41 (beer & wine) License since 2015 without any adverse impact on the neighborhood or police services. The approval to authorize the business to change from beer and wine license to a beer, wine and spirits license is not expected to create community issues. The proposed conditions of approval are offered as best practices for a restaurant selling beer, wine and spirits.

Concentration, Public Convenience and Necessity

As previously discussed, there are undue concentrations of alcohol establishments under the standards established by the State of California or the City of Oxnard.

Based on the crime statistics, the assessment from the Beat Coordinator, and the input from the community there is no significant reason to oppose this application. Under the recommended operating conditions, it is believed that the service of alcoholic beverages at this business will have little, if any adverse impact on the community or policing services.

On-Sale Restaurant Standard Conditions

RBS Training

1. Permittee, managers and servers shall complete an approved course in Responsible Beverage Service (RBS) sponsored or approved by either the California Department of Alcohol Beverage Control or the Chief of the Oxnard Police Department within sixty (60) days of license granting and/or date of employment. The permittee is responsible for maintaining records showing servers have completed the required training and shall submit this documentation upon request by the Oxnard Police Department. The ABC website for their RBS training is [Responsible Beverage Service \(RBS\) Training | Alcoholic Beverage Control \(ca.gov\)](https://www.bac.ca.gov/Responsible-Beverage-Service-Training/). The RBS card shall be renewed every three years by taking an approved course otherwise, the card will be considered invalid. (PL/PD)
2. A copy of these conditions and a log of employees who have completed Responsible Beverage Service training must be maintained on the premises and made available upon the demand of by any representative of the Oxnard Police Department.

Hours

3. Sales of alcohol may only occur between the hours of 7:00 A.M. and 11P.M. (see *provision for extension of service hours in "Special Conditions"*) (PL/PD)

Food & Beverage Service

4. The quarterly gross sales of alcoholic beverages shall not exceed the gross sales of food sold on the premises during the same period. Permittee shall at all times maintain records which reflect separately the gross sales of food and the gross sales of alcoholic beverages of the licensed business. Said records shall be kept

no less frequently than on a quarterly basis and shall be made available to the Police Department upon demand. (PL/PD)

5. The premises shall be equipped and maintained in good faith as a bona fide restaurant and shall possess, in operative condition, such conveniences for cooking and storage of foods such as stoves, ovens, broilers, refrigeration or other devices, as well as pots, pans or containers which can be used for cooking or heating foods on the type heating device employed. (PL/PD)
6. The permittee shall have a Certified Food Handler on-duty at all times the restaurant is open to support the service of its menu. (PD)
7. The permittee shall maintain records in accordance with Health and Safety Code 113790 which requires any employee who handles food shall have a California Food Handler Card. (PD)
8. Permittee shall offer an assortment of food items to customers at all times that alcohol is being served. A menu of food items, including appetizers, entrees and desserts, shall be available at all times that alcohol is available for sale, and employees will encourage guests to purchase and consume food items along with their alcoholic beverages, as part of its commitment to responsible beverage service. The menu shall not be reduced in number or substance at any time alcohol is being served other than for reasonable, unforeseen reasons (lack of product...). Any changes or replacements to the proposed product offering shall be of similar or greater quantity and any permanent reduction of menu items is prohibited. (PD)
9. Alcoholic beverages shall not be offered at significantly reduced prices (typically more than a 25% reduction from regular prices) that are meant to encourage greater consumption of alcohol such as during "happy hour" type promotions. Permittee shall not develop any other promotional activity that is designed to encourage excessive drinking of alcoholic beverages. Promoting a "happy hour" or other event that offers reduced prices on food or other items shall not be considered a violation of this condition and are actually encouraged. (PD)
10. Alcohol shall be served in containers that are distinct from the beverage cups or containers used for coffee or other non-alcoholic beverages shall be served in standard sizes that are consistent with the industry and shall not be served by the pitcher or similar high-capacity containers exceeding 25 oz. total. The sale or service of alcohol in their original container (bottle or can) is prohibited. The design of containers for the service of alcoholic beverages shall be approved by the Chief of Police or his designee. (PD)

11. The premises shall be equipped with an adequate number of seats to accommodate all customers. There shall be no service area that is designed or used as a standing area only or as a combined standing and seating area. (PD)
12. Employees involved in the sale or service of alcoholic beverages shall not be allowed to consume alcoholic beverages at any time during their shift. Employees shall not report to work with evidence of having consumed any intoxicants such as alcohol, illegal drugs or controlled substances. (PD)
13. Any graffiti painted or marked upon the premises or on any adjacent area under the control of the Permittee shall be removed or painted over within 48-hours of being applied. (PD/PL)
14. The property owner and the tenant shall be responsible for maintaining their areas of responsibility free of litter in the area adjacent to the premises over which Permittee has reasonable control. (PD/PL)
15. The permittee shall establish responsible cash handling procedures to reduce the likelihood of robberies and thefts. (PD)
16. Permittee shall regularly police the area under Permittee's control and shall not permit the loitering of persons about the premises. (PL/PD)
17. The activity at the site and the use of any amplifying system or device shall not be disruptive to neighboring uses. (PD)
18. The Police Chief or designee may immediately suspend operation of the uses approved by this permit pending a hearing on the revocation of this permit conditions and/or a permit/license issued by the California Department of Alcoholic Beverage Control ("ABC"), or there is a single serious violent crime or single significant incident to which multiple police units or multiple police jurisdictions respond associated with the operations of this use, which the Chief determines is detrimental to the public safety or health. The Chief shall immediately inform the Planning and Environmental Services Manager of the suspension and the manager shall schedule a hearing on the revocation of the permit by the Community Development Director to be held no more than 30-days after the suspension begins. (PD)

License/Permit

19. The subject Alcoholic Beverage Control License shall not be exchanged for any other type of Alcoholic Beverage Control License without Planning Department review and approval by the Police Chief or designee. (PD)
20. Upon any individual transfer (person-to-person) of the subject Alcoholic Beverage Control License, or if the business is ever deemed a nuisance as defined in the Oxnard City Code, a review of the existing SUP shall be initiated

and conditions may be added or removed as appropriate to mitigate existing or potential problems. (PD)

21. The permittee shall participate, when requested and reasonable, in programs and efforts of the Oxnard Police Department to inform and educate the patrons of alcohol establishments on the dangers of driving under the influence of alcohol or drugs. (PD)
22. A copy of these conditions must be maintained on the premises and made available upon the demand of any representative of the Oxnard Police Department at all times. (PL/PD)

Security Features

23. Prior to commencing the sale of alcohol permitted by this permit, the permittee shall install and operate 24 hours a day a video surveillance system. The system shall be maintained at a reasonable industry standard to monitor, and, at a minimum monitor, the entrances and exits, and any centralized point of sale and areas immediately surrounding the exterior of the business. Any video system installed to meet the requirement of these conditions shall meet the below minimum standards:
 - a. Cameras and supporting equipment shall supply digital color images under normal lighting conditions. Greyscale images are required for infra-red lighting.
 - b. Cameras shall be made by a reputable manufacturer and maintained to current industry standards.
 - c. Cameras shall have sufficient low light capture ability to clearly monitor persons conducting transactions.
 - d. The video system shall utilize a Digital Video Recorder (DVR) and/or cloud based system. VHS and other formats are prohibited.
 - e. The video system shall allow recording, live viewing and playback of recorded video for a period of at least 30 days.
 - f. Recorded images shall bear a date and time stamp that cannot be altered.
 - g. At a minimum, one camera shall be dedicated to capturing head and upper body images of each person entering any door or entrance to the business. Cameras dedicated to this purpose shall be mounted at 7-feet above the floor.
 - h. The camera system shall operate 24-hours a day, 7-days a week.
 - i. At a minimum one camera shall be dedicated to capture activity in the kitchen.
 - j. Cameras shall be located inside as well as outside the premises to monitor general activity.
24. Failure to maintain the video surveillance system in good working order can be grounds for suspension of this permit. The permittee shall provide video records to the Chief of Police or his/her designee in a timely manner upon request.
25. Prior to the use of privileges granted under an ABC Type 47 License, the permittee shall submit and have approved by the Chief of Police or his/her designee a Security Site Plan which shall include the below features.

26. The Security Site Plan shall illustrate the location of each camera installation as well as the location of the support equipment. The support equipment shall be located in a secure room with limited access to supervisory employees and other employees who, by the nature of their responsibilities, have a need to access the equipment.
27. The Security Site Plan shall include a chart that identifies each camera by an alpha-numeric designation, the make and model of the instrument, the type of camera housing (dome, bullet, discrete), the camera's capture purpose (general area, choke point, point of sale, etc.) and its mounting height above the floor/grade.
28. Identify the nature of all alarm systems including the make, model and type of sensors.

Grounds for Modifying Permit Conditions

1. Any of the following circumstances or violations can cause a change in the conditions of this permit or any other City issued permit as a punitive action to encourage compliance with the conditions of this permit.
 - a. Three or more incidents of the business being identified as a Place of Last Drink (POLD) over any four consecutive quarters.
 - b. Failure to provide, when requested, a complete Quarterly Report of Food and Alcohol Sales. The quarterly report shall be provided within 15-days of the request, but not any sooner than 30-days after the end of the requested quarter.
 - c. The Quarterly Report of Food and Alcohol sales shall be completed in a format provided by the Oxnard Police Department.
 - d. Failure to maintain staff trained in Responsible Beverage Service.
 - e. Any three events over a 90-day period tied to the business which illustrate over-service of alcohol, an assault involving an employee or a customer at or adjacent to the business, or other activity that requires a police response initiated by a member of the public. For purposes of this section, a customer is any person who has made a purchase in the business.

Operational Standards

29. Deliveries of alcoholic beverages are prohibited as a function of this alcohol Special Use Permit.

30. During normal business hours, the licensee shall provide access to the digital recordings for any and all law enforcement purposes as determined by the City of Oxnard. (PD)
31. The permittee's Internet presence shall be consistent with these conditions. Any site or Internet presence reasonably controlled by the permittee shall not advertise or illustrate circumstances or activities that run contrary to provisions set forth through their ABC license or this Special Use Permit. (PD)
32. Should an event occur within the business, the permittee or managing/supervising employee shall provide to the Oxnard Police Department, in a timely manner, any video recording documenting activity within and around this business relative to the event when it involves:
 - a. The service or sales of alcoholic beverages under the scope of this permit or ABC license.
 - b. Any crime of violence and there is an urgency to identify the suspect or true circumstances to protect the safety of an individual or the public at large.
 - c. Any theft occurring within the business.

Crime Prevention Best Practices

33. Permittee shall install and maintain a dual technology electronic intrusion detection system capable of differentiating between human and non-human motion. (burglary alarm). (PD)
34. Permittee shall bolt down or otherwise secure all cash registers to service counters to prevent the entire device from being stolen during a burglary or robbery. (PD)
35. Permittee shall equip each point of sale with a silent robbery alarm that complies with Oxnard City Ordinance No. 2601 or develop and implement critical incident protocols that provide an efficient method for alerting police and others to a potential threat without unnecessarily putting the employees at risk. (PD)
36. Permittee shall have drop-safes installed or establish other responsible cash handling procedures to allow employees to deposit daily receipts throughout the day as the amounts exceed allowable levels in the register (typically \$50-200). (PD)
37. Permittee shall establish responsible cash handling procedures to reduce the likelihood of robberies and theft. (PD)

38. The area surrounding premises under the reasonable control of the Permittee (including the rear of the business) shall be equipped with lighting of sufficient power to illuminate and make easily discernible the appearance and conduct of all persons in or about the area. (PD/PL)

Entertainment

39. When security personnel are present or required per Oxnard City Code, Permittee shall maintain accurate records of all security personnel on the premises at any given time and make those available to the police upon demand. These records shall, at a minimum, provide the name, date of birth, copies of security guard credentials or license and any other permits or certifications related to security work. This would include copies of permits for weapons or other tools the guard may be authorized to carry. Security personnel shall remain in compliance with updated training related to their work as set forth by any existing or future state and/or local regulations. (PD)

Signage

40. There shall be no advertising of alcoholic beverages visible from the outside, including advertising directed to the exterior from within, promoting or indicating the availability of alcoholic beverages. (PL/PD)
41. There shall be no posters or signs on the windows other than those required by permit or statute or otherwise specifically approved by the Planning Division. (PL/PD)
42. In the areas outside the business, not otherwise licensed by the Department of Alcoholic Beverage Control allowing the service of alcohol, Permittee shall post prominent, permanent signs indicating that loitering, open containers and the consumption of alcoholic beverage is prohibited. This includes the parking lot, walkways and other adjacent areas under Permittee's reasonable control. (PD)
43. Prominent signs shall be posted throughout the business, in effect, "No persons under 21 will be served alcoholic beverages" and "Valid ID is required to purchase or possess alcoholic beverages". (PD)

Site Design

44. Any rear door of the premises shall be equipped on the inside with an automatic locking device, shall be closed at all times, and shall not be used as a means of access by patrons to and from the licensed premises. Temporary use of these doors for delivery of supplies does not constitute a violation. (PD)
45. Any change in the floorplan as established at the time of the issuance of this permit that may intensify the use or service of alcohol shall require a minor

modification permit. Such change would include, but not be limited to increasing the number of seats at a bar, expansion of hours beyond those established in this permit, or the creation of a bandstand or other area for the use of entertainment.

Permit Restrictions

46. The subject Alcoholic Beverage Control License shall not be exchanged for any other type of Alcoholic Beverage Control License without DDR review and approval by the Police Chief or designee and the Community Development Director. (PD)
47. Upon any individual transfer (person to person) of the subject Alcoholic Beverage Control License, or if the business is ever deemed a nuisance as defined in the Oxnard City Code, a review of the existing DDR shall be initiated, and conditions may be added or removed as appropriate to mitigate existing or potential problems. (PD)
48. Prior to the issuance of this permit, the permittee shall submit and have approved a security plan which details the camera system, alarms, guard post orders and other security related matters and policies.
49. "Dine in" customers ordering alcoholic beverages shall not take the beverage(s) away from the premises. Menus shall have language that advises customers that alcoholic beverages are served for on-site consumption.
50. Credible evidence of any of the below issues shall be grounds to change the hours of alcohol sales under this permit or hours allowed for dancing under a Dance Permit. Such action would be taken using the hearing process as outlined in the Oxnard City Code.
 - a. Evidence of over-service of alcohol to patrons. This may be established through the annual Place of Last Drink Report issued by the Oxnard Police Department or the Ventura County Department of Behavioral Health, or, through arrests at or near the business for public intoxication or DUI where the arrestee was a patron of the business.
 - b. Service of an alcoholic beverage to a minor.
 - c. Evidence that the gross sales of alcohol exceeded the gross sales of food during a previous quarter.
 - d. Failure to submit, when requested, quarterly fiscal documentation to the Police Department 45-days after the close of the quarter. Documentation shall include but not be limited to: profit and loss statements which specifically illustrated gross alcohol and gross food sales and filings to the Department of Tax and Fee Administration. Sales of merchandise and services shall not include either the calculation of gross alcohol or gross food sales.
51. Permittee shall provide the Police Department a point of contact for notifications and exchange of information. To update the Police Department on this

designated point of contact an email shall be sent to:
specialprojects@oxnardpd.org. The email shall include the name of the business, address, name of the primary contact person, their role with the business, their email address and a phone number.

52. Any change in the customer seating that would create a bar or other alcohol centric customer area will prompt the need for a new Alcohol Special Use Permit and Review.

Special Police Conditions

53. The permittee may request an extension of hours up to 1A.M. for no more than six times in a calendar year to accommodate special activities (ie: New Year's Eve, Mother's Day) to expand the hours of operation and alcohol service beyond the hours identified in the conditions of this permit and to allow for entertainment. The one-day extension of hours may be denied if there has been a documented violation of these conditions during the 12-month period prior to date of the planned one-day event or any other circumstance where it is believed that the event would disturb neighboring uses or require additional police resources to monitor the event. To request an extension of hours send an email at least 30-days prior to the event date to: specialprojects@oxnard.org and on the subject line identify your business' name and state "Request for Extension of Hours. A Police Department staff member should respond to this request within 5-business days.

CITY COUNCIL OF THE CITY OF OXNARD

RESOLUTION NO. 11.896

RESOLUTION OF THE CITY COUNCIL OF THE CITY
OF OXNARD ADOPTING STANDARDS FOR
DETERMINING APPLICATIONS FOR SPECIAL USE
PERMITS TO SELL ALCOHOLIC BEVERAGES

WHEREAS, any person wishing to sell alcoholic beverages in the State of California must obtain a license to do so from the Department of Alcoholic Beverage Control; and

WHEREAS, Business and Professions Code Section 23790 provides that the Department of Alcoholic Beverage Control shall not issue a retail license "for any premises which are located in any territory where the exercise of the rights and privileges conferred by the license is contrary to a valid zoning ordinance of any county or city"; and

WHEREAS, the City of Oxnard has enacted zoning ordinances restricting the sale of alcoholic beverages to certain zones and requiring that a person wishing to sell alcoholic beverages in such zones first obtain a special use permit; and

WHEREAS, section 34-147 of the Oxnard City Code provides in part:

"Before a special use permit may be granted, the applicant must show and the planning 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 where the commission 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."

WHEREAS, based on the experience of the Police Department that there is a relationship between crime and the consumption of alcohol and that establishments selling alcohol are incompatible with certain adjacent uses, the City Council wishes to adopt standards for determining when granting applications for special use permits to sell alcoholic beverages would adversely affect or be materially detrimental to adjacent uses, buildings or structures or to the public health, safety and general welfare; and

WHEREAS, this resolution applies only to the determination required by subsection (a) of section 34-147 of the City Code, and does not dispense with the requirement that in order to grant a special use permit to sell alcoholic beverages the application must satisfy the remainder of section 34-147; and

WHEREAS, in accordance with the California Environmental Quality Act, the Planning and Environmental Services Manager provided public notice of the intent of the City to adopt a negative declaration for the adoption of this resolution ("the project"), and the City Council has considered the proposed negative declaration, together with any comments received during the public review process, finds on the basis of the initial study and any comments received that there is no substantial evidence that the project will have a significant effect on the environment, further finds that the mitigated negative declaration reflects the independent judgment of the City, and approves the negative declaration.

NOW, THEREFORE, the City Council of the City of Oxnard resolves:

1. City Council Resolution No. 8597 is repealed.

2. The Planning and Environmental Services Division of the Development Services Department shall refer to the Police Department applications for special use permits to sell alcoholic beverages at retail. The Police Department shall prepare and submit to the secretary of the Planning Commission, at least ten calendar days before the date set for hearing on the special use permit, a written report on the following matters:

(a) The name and address and a description of the type of all establishments selling alcoholic beverages within 1,000 feet of the location for which the special use permit is applied. As used in this resolution, "the type" refers to the nature of the business (e.g., grocery store, liquor store, bar or restaurant), not to the type of State Alcoholic Beverage Control license issued to or sought for the business.

(b) The annual number of incidents involving police responses within 1,000 feet of the location for which the special use permit is applied and how this number compares to the City average of police responses.

(c) The likelihood that granting the application will create or significantly aggravate police problems at or near the subject location.

(d) A list of conditions recommended for inclusion in the special use permit to minimize police problems if the application is granted. One such condition shall be that the applicant provide Responsible Beverage Sales and Service (RBSS) training to all operators and employees of the establishment within 30 days of their employment. The applicant may apply to the Police Department for a waiver of RBSS training for temporary or short-term employees.

3. The Planning Commission shall consider the report, as well as any other relevant evidence, in determining whether, under subsection (a) of section 34-147 of the City Code, granting an application for a special use permit to sell alcoholic beverages at retail would adversely affect or be materially detrimental to adjacent uses, buildings or structures or to the

public health, safety or general welfare. Before making such determination, the Planning Commission shall make the following findings, as well as any other relevant findings:

(a) The proposed use is not likely to create or significantly aggravate police problems within 1000 feet of the location for which the special use permit is applied; and

(b) The proposed use will not result in or add to an undue concentration of establishments selling alcoholic beverages at retail within 1000 feet of the location for which the special use permit is applied. For purposes of making this determination, there is a presumption that an undue concentration will result or be added to if the establishment for which the special use permit is applied will be located less than 350 feet from another establishment of the same type, and there is a presumption that an undue concentration will not result or be added to if the establishment for which the special use permit is applied will be located 350 feet or more from another establishment of the same type. However, either presumption may be rebutted by a preponderance of the evidence, based on the facts of the particular case.

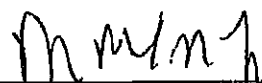
4. All of the procedures and other matters contained in section 34-146 et seq. of the City Code apply to applications for special use permits to sell alcoholic beverages at retail.

PASSED AND ADOPTED this 6th day of February, 2001, by the following vote:

AYES: Councilmembers Maulhardt, Pinkard, Zaragoza, Holden and Lopez.

NOES: None.

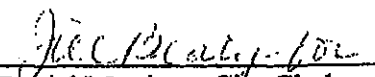
ABSENT: None.



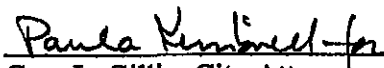
Dr. Manuel M. Lopez, Mayor

ATTEST:

APPROVED AS TO FORM:



Daniel Martinez, City Clerk



Gary L. Gillig, City Attorney

RESOLUTION NO. 2024 – XX

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF OXNARD APPROVING PLANNING AND ZONING PERMIT NO. 23-510-01 (SPECIAL USE PERMIT - ALCOHOL), A REQUEST TO SELL BEER, WINE AND DISTILLED SPIRITS (TYPE 47 ABC LICENSE) FOR ON-SITE CONSUMPTION AT A EXISTING APPROXIMATELY 5,727 SQUARE-FOOT RESTAURANT ON A 0.73-ACRE SITE LOCATED AT 606 NORTH VENTURA ROAD (APN: 200-0-150-385) WITHIN THE GENERAL COMMERCIAL PLANNED DEVELOPMENT (C-2-PD) ZONE, SUBJECT TO CERTAIN FINDINGS AND CONDITIONS. FILED BY FRANCISCO LOPEZ, BUSINESS OWNER, ON BEHALF OF PROPERTY OWNER BGN FREMONT SQUARE LTD 3720 SOUTH SUSAN STREET STE 100, SANTA ANA, CA, 92704.

WHEREAS, on April 18, 2023, Francisco Lopez, (the “**Applicant**”) property owner, submitted a request to allow the sale of beer, wine and distilled spirits (Type 47 ABC License) for on-site consumption at a existing 5,727 square-foot restaurant (30 Mariscos Restaurant) at 606 North Ventura Road; and

WHEREAS, on March 21, 2024, the Planning Commission of the City of Oxnard (“**Planning Commission**”) conducted a duly notice public hearing to consider an application for Planning and Zoning Permit No. 23-510-01 (Special Use Permit - Alcohol), filed by Francisco Lopez in accordance with Section 16-530 through 16-553 of the Oxnard City Code and City Council Resolution No. 11,896; and

WHEREAS, the Planning 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 Community Commercial (CC) and the zoning designation is General Commercial - Planned Development (C-2-PD). The Project is surrounded by commercial and residential developments. 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 Special Use Permit request for alcohol is consistent with the 2030 General Plan and the Oxnard City Code and is compatible with the physical 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 Municipal 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 Special Use Permit request to allow for the sale of alcohol 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 character of the surrounding development and the property does not contain any unusual environmental characteristics as the property is surrounded on all sides by residential and 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.

- (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. The approximately 5,727 square-foot commercial building was originally constructed prior to 1957. Furthermore, no physical improvements are proposed with this permit. Therefore, the proposed project will not cause a substantial adverse change in the significance of a historical resource.

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 Planning Commission Staff Report and all attachments thereto, the Planning Commission finds:

1) The proposed use is in conformance with the City of Oxnard 2030 General Plan and the elements thereof and other adopted standards.

As described in the Staff Report, the subject site is within the General Commercial Planned Development (C-2-PD) zoning district, with 2030 General Plan designations of Community Commercial (CC). The proposed 5,727 square-foot restaurant and request to sell beer, wine and distilled spirits for on-site consumption (ABC License Type 47) is consistent with the General Plan and zoning designation. The ability to sell alcohol for a restaurant is subject to approval of Special Use Permits by the Planning Commission pursuant to Oxnard City Code (OCC). Therefore, the proposed sale of alcohol is in conformance with the 2030 General Plan 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 the sale of beer, wine, and distilled spirits for on-site consumption for a proposed restaurant within an existing commercial building. According to the Police report, there is one establishment of a similar ABC License Type 48 (On-Sale General - Public Premise) within 350 Feet of the project location. There are no similar types of licenses between 350 and 1000 Feet of the subject property.

The Police Department has determined that based on the proximity of the businesses listed, there is not an undue concentration under the established City Standards.

In the case of the applicant site, as seen in Finding 7, the annular crime rate is 2.6 times the average annular citywide rate, which exceeds the standard established in the California Business and Professions Code Section 23958.4(1). Currently there are two

on-sale licenses within the applicant's census tract. According to the ABC, three on-sale licenses are allowed within this census tract. Based on the above findings, there is not an undue concentration under the provisions of California Business and Professions Code Section 23958.4.

The proposed sale of alcohol will not adversely affect or be materially detrimental to the adjacent uses, buildings or structures or to the public health safety or general welfare. 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 yards, walls, fences, parking and loading facilities, landscaping and all items required by the conditions of approval.**

As described in the Staff Report, the proposed alcohol (beer, wine, and distilled spirits) sales will occur within an existing interior dining area that is adequate for the proposed sales. The recommended conditions of approval do not require changes to the site. Therefore, the site for the proposed alcohol sales is adequate in size and shape to accommodate all items required by the conditions of approval. As such, this Project meets this finding.

- 4) The site for the proposed use will be served by highways adequate in width and improved as necessary to carry the kind and quantity of traffic such use will generate.**

The project site is currently served by existing infrastructure which includes Oxnard Boulevard, which connects to multiple arterial streets. The proposed sale of alcohol is not anticipated to generate significant traffic that would require improvements to infrastructure. Therefore, the site for the proposed alcohol sales will be served by highways adequate in width and improved as necessary to carry project-generated traffic. 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.**

The project site is currently served by adequate sewerage, water, fire protection and storm drainage facilities. The proposed alcohol sales will not generate significant impacts that would require additional facilities. Therefore, the site for the proposed alcohol sales will be provided with adequate sewerage, water, fire protection, and storm drainage facilities. As such, this Project meets this finding.

- 6) The proposed use is not likely to create or significantly aggravate police problems within 1,000 feet of the location for which the special use permit is applied.**

As described in the Staff Report, the project site has a higher than average crime rate when compared to other parts of the City. The Project will not create or significantly aggravate police problems within 1,000 feet of the location for which the Special Use Permit is requested, as discussed in the Staff Report and Oxnard Police Department Alcohol SUP Report. Based on the crime statistics, the input from the community and the Beat Coordinator and subject to the required conditions, there is no reason to oppose this application. As such, this Project meets this finding.

- 7) The proposed use will not result in or add to an undue concentration of establishments selling alcoholic beverages at retail within 1000 feet of the location for which the special use permit is applied. For purposes of making this determination, there is a presumption that an undue concentration will result or be added to if the establishment for which the special use permit is applied will be located less than 350 feet from another establishment of the same type, and there is a presumption that an undue concentration will not result or be added to if the establishment for which the special use permit is applied will be located 350 feet or more from another establishment of the same type. However, either presumption may be rebutted by a preponderance of the evidence, based on the facts of the particular case.**

As described in the Staff Report, the Project will allow the sale of beer, wine, and distilled spirits for on-site consumption for a existing restaurant within an existing commercial building. According to the Police report, there are no establishments of the same type located within 350 feet of the Project site or between 350 feet and 1000 feet from the property. There is only one establishment of a similar ABC License Type 48 (On-Sale General - Public Premises) within 350 Feet of the subject property. Therefore there is no undue concentration of alcohol sales in the area. As such, this Project meets this finding.

SECTION 2. The Planning Commission, in accordance with the California Environmental Quality Act (CEQA), determines 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 sell alcohol for on-site consumption within an existing restaurant building and 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 Division 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, the Planning Commission hereby approves Planning and Zoning Permit 23-510-01 (Special Use Permit - Alcohol), subject to the attached conditions of approval.

SECTION 4. The decision of the Planning Commission shall be final unless an appeal of the action is filed in accordance with the provisions of Section 16-545 of the Oxnard City Code.

SECTION 5. The Secretary shall certify the adoption of this Resolution.

CONDITIONS OF APPROVAL

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 March 21, 2024, (“the plans”) on file with the Planning Division. The Project shall conform to the plans, except as otherwise specified in these conditions, or unless a Minor Modification to the plans is approved by the Planning and Environmental Services Manager (“Planning Manager”) or a Major Modification to the plans is approved by the Planning Commission. A Minor Modification may be granted for minimal changes or increases in the extent of use or size of structures or of the design, materials or colors of structures or masonry walls. A Major Modification shall be required for substantial changes or increases in such items (PL, *G-2*).

3. By commencing any activity related to the Project or using any structure authorized by this permit, 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*).
4. Applicant agrees, as a condition of adoption of this resolution, at Applicant's own expense, to indemnify, defend and hold harmless the City and its agents, officers and employees from and against any claim, action or proceeding to attack, review, set aside, void or annul the approval of the resolution or any condition attached thereto or any proceedings, acts or determinations taken, done or made prior to the approval of such resolution that were part of the approval process (CA, *G-6*).
5. Any covenants, conditions, and restrictions (CC&Rs) applicable to the Project property shall be consistent with the terms of this permit and the City Code. If there is a conflict between the CC&Rs and the City Code or this permit, the City Code or this permit shall prevail (CA, *G-7*).
6. 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. 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*).
8. Applicant shall not permit any combustible refuse or other flammable materials to be burned on the Project property (FD, *G-12*).
9. 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*).
10. 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 Oxnard City Code (CA, *G-14*).

PLANNING DIVISION SPECIAL CONDITIONS

11. This permit shall automatically be void 12 months from the date of issuance, unless the Applicant has received a License Type 47 from the State Department of Alcoholic Beverage Control to sell alcoholic beverages on the Project property (PL).
12. Unless the use is inaugurated no later than 12 months after this approval is granted and is diligently pursued thereafter, this approval will expire pursuant to the Oxnard City Code Section 16-553.
13. The property shall continue to be used as a restaurant only, any changes to the proposed use, including use as a bar and/or the inclusion of a dance floor, shall require modification to this permit and other applicable entitlements, including compliance with Chapter 16 of the Oxnard City Code.

POLICE DEPARTMENT STANDARD CONDITION

RBS Training

14. Permittee, managers and servers shall complete an approved course in Responsible Beverage Service (RBS) sponsored or approved by either the California Department of Alcohol Beverage Control or the Chief of the Oxnard Police Department within sixty (60) days of license granting and/or date of employment. The permittee is responsible for maintaining records showing servers have completed the required training and shall submit this documentation upon request by the Oxnard Police Department. The ABC website for their RBS training is [Responsible Beverage Service \(RBS\) Training | Alcoholic Beverage Control \(ca.gov\)](https://www.alcoholicbeveragecontrol.ca.gov/responsible-beverage-service). The RBS card shall be renewed every three years by taking an approved course otherwise, the card will be considered invalid. (PL/PD)
15. A copy of these conditions and a log of employees who have completed Responsible Beverage Service training must be maintained on the premises and made available upon the demand of by any representative of the Oxnard Police Department.

Hours

16. Sales of alcohol may only occur between the hours of 7:00 A.M. and 11P.M. (*see provision for extension of service hours in "Special Conditions"*) (PL/PD)

Food & Beverage Service

17. The quarterly gross sales of alcoholic beverages shall not exceed the gross sales of food sold on the premises during the same period. Permittee shall at all times maintain records which reflect separately the gross sales of food and the gross sales of alcoholic beverages of the licensed business. Said records shall be kept no less frequently than on a quarterly basis and shall be made available to the Police Department upon demand. (PL/PD)

18. The premises shall be equipped and maintained in good faith as a bona fide restaurant and shall possess, in operative condition, such conveniences for cooking and storage of foods such as stoves, ovens, broilers, refrigeration or other devices, as well as pots, pans or containers which can be used for cooking or heating foods on the type heating device employed. (PL/PD)
19. The permittee shall have a Certified Food Handler on-duty at all times the restaurant is open to support the service of its menu. (PD)
20. The permittee shall maintain records in accordance with Health and Safety Code 113790 which requires any employee who handles food shall have a California Food Handler Card. (PD)
21. Permittee shall offer an assortment of food items to customers at all times that alcohol is being served. A menu of food items, including appetizers, entrees and desserts, shall be available at all times that alcohol is available for sale, and employees will encourage guests to purchase and consume food items along with their alcoholic beverages, as part of its commitment to responsible beverage service. The menu shall not be reduced in number or substance at any time alcohol is being served other than for reasonable, unforeseen reasons (lack of product...). Any changes or replacements to the proposed product offering shall be of similar or greater quantity and any permanent reduction of menu items is prohibited. (PD)
22. Alcoholic beverages shall not be offered at significantly reduced prices (typically more than a 25% reduction from regular prices) that are meant to encourage greater consumption of alcohol such as during "happy hour" type promotions. Permittee shall not develop any other promotional activity that is designed to encourage excessive drinking of alcoholic beverages. Promoting a "happy hour" or other event that offers reduced prices on food or other items shall not be considered a violation of this condition and are actually encouraged. (PD)
23. Alcohol shall be served in containers that are distinct from the beverage cups or containers used for coffee or other non-alcoholic beverages shall be served in standard sizes that are consistent with the industry and shall not be served by the pitcher or similar high-capacity containers exceeding 25 oz. total. The design of containers for the service of alcoholic beverages shall be approved by the Chief of Police or his designee. (PD)
24. The premises shall be equipped with an adequate number of seats to accommodate all customers. There shall be no service area that is designed or used as a standing area only or as a combined standing and seating area. (PD)
25. Employees involved in the sale or service of alcoholic beverages shall not be allowed to consume alcoholic beverages at any time during their shift. Employees shall not report to work with evidence of having consumed any intoxicants such as alcohol, illegal drugs or controlled substances. (PD)

26. Any graffiti painted or marked upon the premises or on any adjacent area under the control of the Permittee shall be removed or painted over within 48-hours of being applied. (PD/PL)
27. The property owner and the tenant shall be responsible for maintaining their areas of responsibility free of litter in the area adjacent to the premises over which Permittee has reasonable control. (PD/PL)
28. The permittee shall establish responsible cash handling procedures to reduce the likelihood of robberies and thefts. (PD)
29. Permittee shall regularly police the area under Permittee's control and shall not permit the loitering of persons about the premises. (PL/PD)
30. The activity at the site and the use of any amplifying system or device shall not be disruptive to neighboring uses. (PD)
31. The Police Chief or designee may immediately suspend operation of the uses approved by this permit pending a hearing on the revocation of this permit conditions and/or a permit/license issued by the California Department of Alcoholic Beverage Control ("ABC"), or there is a single serious violent crime or single significant incident to which multiple police units or multiple police jurisdictions respond associated with the operations of this use, which the Chief determines is detrimental to the public safety or health. The Chief shall immediately inform the Planning and Environmental Services Manager of the suspension and the manager shall schedule a hearing on the revocation of the permit by the Community Development Director to be held no more than 30-days after the suspension begins. (PD)

License/Permit

32. The subject Alcoholic Beverage Control License shall not be exchanged for any other type of Alcoholic Beverage Control License without Planning Department review and approval by the Police Chief or designee. (PD)
33. Upon any individual transfer (person-to-person) of the subject Alcoholic Beverage Control License, or if the business is ever deemed a nuisance as defined in the Oxnard City Code, a review of the existing SUP shall be initiated and conditions may be added or removed as appropriate to mitigate existing or potential problems. (PD)
34. The permittee shall participate, when requested and reasonable, in programs and efforts of the Oxnard Police Department to inform and educate the patrons of alcohol establishments on the dangers of driving under the influence of alcohol or drugs. (PD)

35. A copy of these conditions must be maintained on the premises and made available upon the demand of any representative of the Oxnard Police Department at all times. (PL/PD)

Security Features

36. Prior to commencing the sale of alcohol permitted by this permit, the permittee shall install and operate 24 hours a day a video surveillance system. The system shall be maintained at a reasonable industry standard to monitor, and, at a minimum monitor, the entrances and exits, and any centralized point of sale and areas immediately surrounding the exterior of the business. Any video system installed to meet the requirement of these conditions shall meet the below minimum standards:
- a. Cameras and supporting equipment shall supply digital color images under normal lighting conditions. Greyscale images are required for infra-red lighting.
 - b. Cameras shall be made by a reputable manufacturer and maintained to current industry standards.
 - c. Cameras shall have sufficient low light capture ability to clearly monitor persons conducting transactions.
 - d. The video system shall utilize a Digital Video Recorder (DVR) and/or cloud based system. VHS and other formats are prohibited.
 - e. The video system shall allow recording, live viewing and playback of recorded video for a period of at least 30 days.
 - f. Recorded images shall bear a date and time stamp that cannot be altered.
 - g. At a minimum, one camera shall be dedicated to capturing head and upper body images of each person entering any door or entrance to the business. Cameras dedicated to this purpose shall be mounted at 7-feet above the floor.
 - h. The camera system shall operate 24-hours a day, 7-days a week.
 - i. At a minimum one camera shall be dedicated to capture activity in the kitchen.
 - j. Cameras shall be located inside as well as outside the premises to monitor general activity.
37. Failure to maintain the video surveillance system in good working order can be grounds for suspension of this permit. The permittee shall provide video records to the Chief of Police or his/her designee in a timely manner upon request.
38. Prior to the use of privileges granted under an ABC Type 47 License, the permittee shall submit and have approved by the Chief of Police or his/her designee a Security Site Plan which shall include the below features.
39. The Security Site Plan shall illustrate the location of each camera installation as well as the location of the support equipment. The support equipment shall be located in a secure room with limited access to supervisory employees and other employees who, by the nature of their responsibilities, have a need to access the equipment.
40. The Security Site Plan shall include a chart that identifies each camera by an alpha-numeric designation, the make and model of the instrument, the type of camera

housing (dome, bullet, discrete), the camera's capture purpose (general area, choke point, point of sale, etc.) and it's mounting height above the floor/grade.

41. Identify the nature of all alarm systems including the make, model and type of sensors.

Grounds for Modifying Permit Conditions

42. Any of the following circumstances or violations can cause a change in the conditions of this permit or any other City issued permit as a punitive action to encourage compliance with the conditions of this permit.
- a. Three or more incidents of the business being identified as a Place of Last Drink (POLD) over any four consecutive quarters.
 - b. Failure to provide, when requested, a complete Quarterly Report of Food and Alcohol Sales. The quarterly report shall be provided within 15-days of the request, but not any sooner than 30-days after the end of the requested quarter.
 - c. The Quarterly Report of Food and Alcohol sales shall be completed in a format provided by the Oxnard Police Department.
 - d. Failure to maintain staff trained in Responsible Beverage Service.
 - e. Any three events over a 90-day period tied to the business which illustrate over-service of alcohol, an assault involving an employee or a customer at or adjacent to the business, or other activity that requires a police response initiated by a member of the public. For purposes of this section, a customer is any person who has made a purchase in the business.

Operational Standards

43. Deliveries of alcoholic beverages are prohibited as a function of this alcohol Special Use Permit.
44. During normal business hours, the licensee shall provide access to the digital recordings for any and all law enforcement purposes as determined by the City of Oxnard. (PD)
45. The permittee's Internet presence shall be consistent with these conditions. Any site or Internet presence reasonably controlled by the permittee shall not advertise or illustrate circumstances or activities that run contrary to provisions set forth through their ABC license or this Special Use Permit. (PD)
46. Should an event occur within the business, the permittee or managing/supervising employee shall provide to the Oxnard Police Department, in a timely manner, any video recording documenting activity within and around this business relative to the event when in involves:
- a. The service or sales of alcoholic beverages under the scope of this permit or ABC license.
 - b. Any crime of violence and there is an urgency to identify the suspect or true

- circumstances to protect the safety of an individual or the public at large.
- c. Any theft occurring within the business.

Crime Prevention Best Practices

47. Permittee shall install and maintain a dual technology electronic intrusion detection system capable of differentiating between human and non-human motion. (burglary alarm). (PD)
48. Permittee shall bolt down or otherwise secure all cash registers to service counters to prevent the entire device from being stolen during a burglary or robbery. (PD)
49. Permittee shall equip each point of sale with a silent robbery alarm that complies with Oxnard City Ordinance No. 2601 or develop and implement critical incident protocols that provide an efficient method for alerting police and others to a potential threat without unnecessarily putting the employees at risk. (PD)
50. Permittee shall have drop-safes installed or establish other responsible cash handling procedures to allow employees to deposit daily receipts throughout the day as the amounts exceed allowable levels in the register (typically \$50-200). (PD)
51. Permittee shall establish responsible cash handling procedures to reduce the likelihood of robberies and theft. (PD)
52. The area surrounding premises under the reasonable control of the Permittee (including the rear of the business) shall be equipped with lighting of sufficient power to illuminate and make easily discernible the appearance and conduct of all persons in or about the area. (PD/PL)

Entertainment

53. When security personnel are present or required per Oxnard City Code, Permittee shall maintain accurate records of all security personnel on the premises at any given time and make those available to the police upon demand. These records shall, at a minimum, provide the name, date of birth, copies of security guard credentials or license and any other permits or certifications related to security work. This would include copies of permits for weapons or other tools the guard may be authorized to carry. Security personnel shall remain in compliance with updated training related to their work as set forth by any existing or future state and/or local regulations. (PD)

Signage

54. There shall be no advertising of alcoholic beverages visible from the outside, including advertising directed to the exterior from within, promoting or indicating the availability of alcoholic beverages. (PL/PD)

55. There shall be no posters or signs on the windows other than those required by permit or statute or otherwise specifically approved by the Planning Division. (PL/PD)
56. In the areas outside the business, not otherwise licensed by the Department of Alcoholic Beverage Control allowing the service of alcohol, Permittee shall post prominent, permanent signs indicating that loitering, open containers and the consumption of alcoholic beverage is prohibited. This includes the parking lot, walkways and other adjacent areas under Permittee's reasonable control. (PD)
57. Prominent signs shall be posted throughout the business, in effect, "No persons under 21 will be served alcoholic beverages" and "Valid ID is required to purchase or possess alcoholic beverages". (PD)

Site Design

58. Any rear door of the premises shall be equipped on the inside with an automatic locking device, shall be closed at all times, and shall not be used as a means of access by patrons to and from the licensed premises. Temporary use of these doors for delivery of supplies does not constitute a violation. (PD)
59. Any change in the floorplan as established at the time of the issuance of this permit that may intensify the use or service of alcohol shall require a minor modification permit. Such change would include, but not be limited to increasing the number of seats at a bar, expansion of hours beyond those established in this permit, or the creation of a bandstand or other area for the use of entertainment.

Permit Restrictions

60. The subject Alcoholic Beverage Control License shall not be exchanged for any other type of Alcoholic Beverage Control License without SUP review and approval by the Police Chief or designee and the Community Development Director. (PD)
61. Upon any individual transfer (person to person) of the subject Alcoholic Beverage Control License, or if the business is ever deemed a nuisance as defined in the Oxnard City Code, a review of the existing SUP shall be initiated, and conditions may be added or removed as appropriate to mitigate existing or potential problems. (PD)
62. Prior to the issuance of this permit, the permittee shall submit and have approved a security plan which details the camera system, alarms, guard post orders and other security related matters and policies.
63. "Dine in" customers ordering alcoholic beverages shall not take the beverage(s) away from the premises. Menus shall have language that advises customers that alcoholic beverages are served for on-site consumption.

64. Credible evidence of any of the below issues shall be grounds to change the hours of alcohol sales under this permit or hours allowed for dancing under a Dance Permit. Such action would be taken using the hearing process as outlined in the Oxnard City Code.
- a. Evidence of over-service of alcohol to patrons. This may be established through the annual Place of Last Drink Report issued by the Oxnard Police Department or the Ventura County Department of Behavioral Health, or, through arrests at or near the business for public intoxication or DUI where the arrestee was a patron of the business.
 - b. Service of an alcoholic beverage to a minor.
 - c. Evidence that the gross sales of alcohol exceeded the gross sales of food during a previous quarter.
 - d. Failure to submit, when requested, quarterly fiscal documentation to the Police Department 45-days after the close of the quarter. Documentation shall include but not be limited to: profit and loss statements which specifically illustrated gross alcohol and gross food sales and filings to the Department of Tax and Fee Administration. Sales of merchandise and services shall not include either the calculation of gross alcohol or gross food sales.
65. Permittee shall provide the Police Department a point of contact for notifications and exchange of information. To update the Police Department on this designated point of contact an email shall be sent to: specialprojects@oxnardpd.org. The email shall include the name of the business, address, name of the primary contact person, their role with the business, their email address and a phone number.
66. Any change in the customer seating that would create a bar or other alcohol centric customer area will prompt the need for a new Alcohol Special Use Permit and Review.

Police Department Special Police Conditions

67. The permittee may request an extension of hours up to 1A.M. for no more than six times in a calendar year to accommodate special activities (ie: New Year's Eve, Mother's Day) to expand the hours of operation and alcohol service beyond the hours identified in the conditions of this permit and to allow for entertainment. The one-day extension of hours may be denied if there has been a documented violation of these conditions during the 12-month period prior to date of the planned one-day event or any other circumstance where it is believed that the event would disturb neighboring uses or require additional police resources to monitor the event. To request an extension of hours send an email at least 30-days prior to the event date to: specialprojects@oxnardpd.org and on the subject line identify your business' name and state "Request for Extension of Hours. A Police Department staff member should respond to this request within 5-business days.

PASSED AND ADOPTED by the Planning Commission of the City of Oxnard on this 21st day
of March 2024, by the following vote:

Ronald Arruejo, 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 March 2024, and carried
by the following vote:

AYES: Commissioner(s):

NOES: Commissioner(s):

ABSENT: Commissioner(s):

ABSTAIN: Commissioner(s):

RECUSED: Commissioner(s):

Joe Pearson II, Secretary

City of Oxnard Planning Commission

March 21, 2024

30 Mariscos Alcohol Special Use Permit
606 North Ventura Road
PZ 23-510-01
(Special Use Permit - Alcohol)

Applicant Francisco Lopez

Case Planner: Serena Gonzalez

Project Description

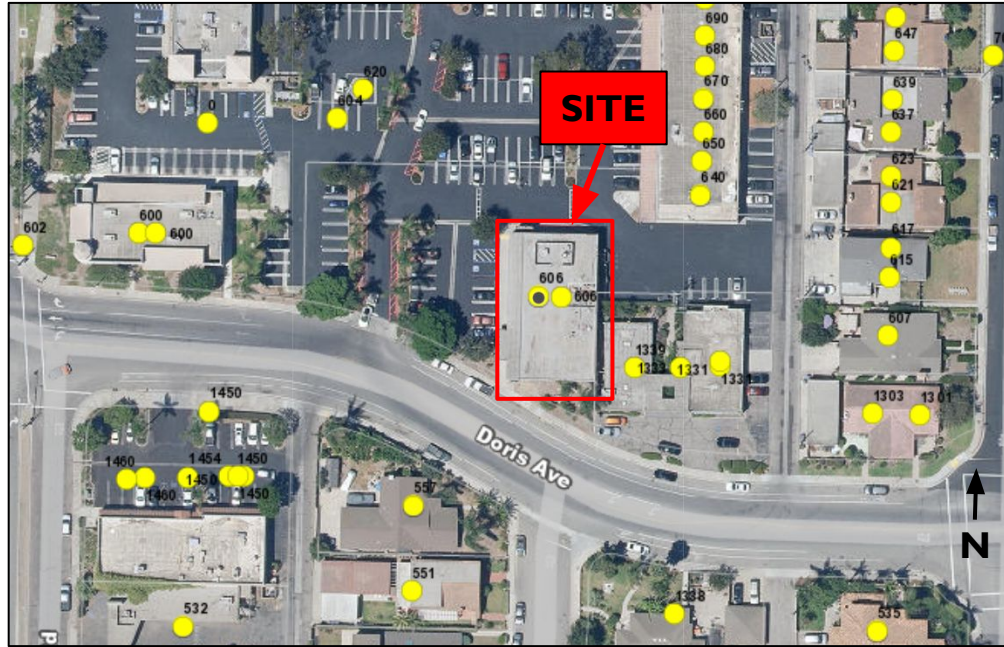
A request to replace an existing license (ABC Type 41) with a new license (ABC Type 47) to authorize the sale of beer, wine, and distilled spirits for on-site consumption within an existing restaurant of approximately 5,727 square feet located at 606 North Ventura Road.

The proposed hours of sales are 7:00am to 11:00pm Sunday through Saturday.

Background

On December 18, 2003 the Oxnard Planning Commission issued an Alcohol Special Use Permit (PZ 03-510-05) authorizing the sale of beer and wine at this site.

Project Location



General Plan and Zoning

2030 General Plan:
Community Commercial (CC)



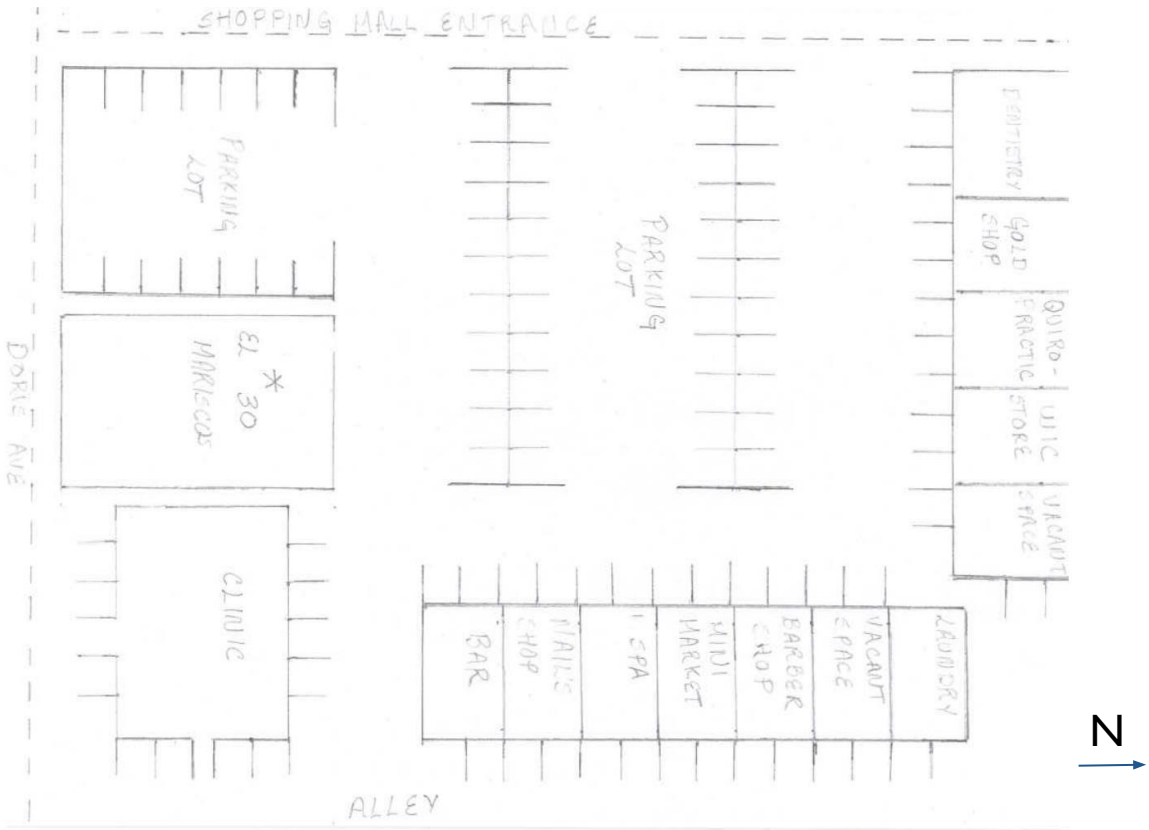
Zoning Designation:
General Commercial Planned Development (C-2-PD)



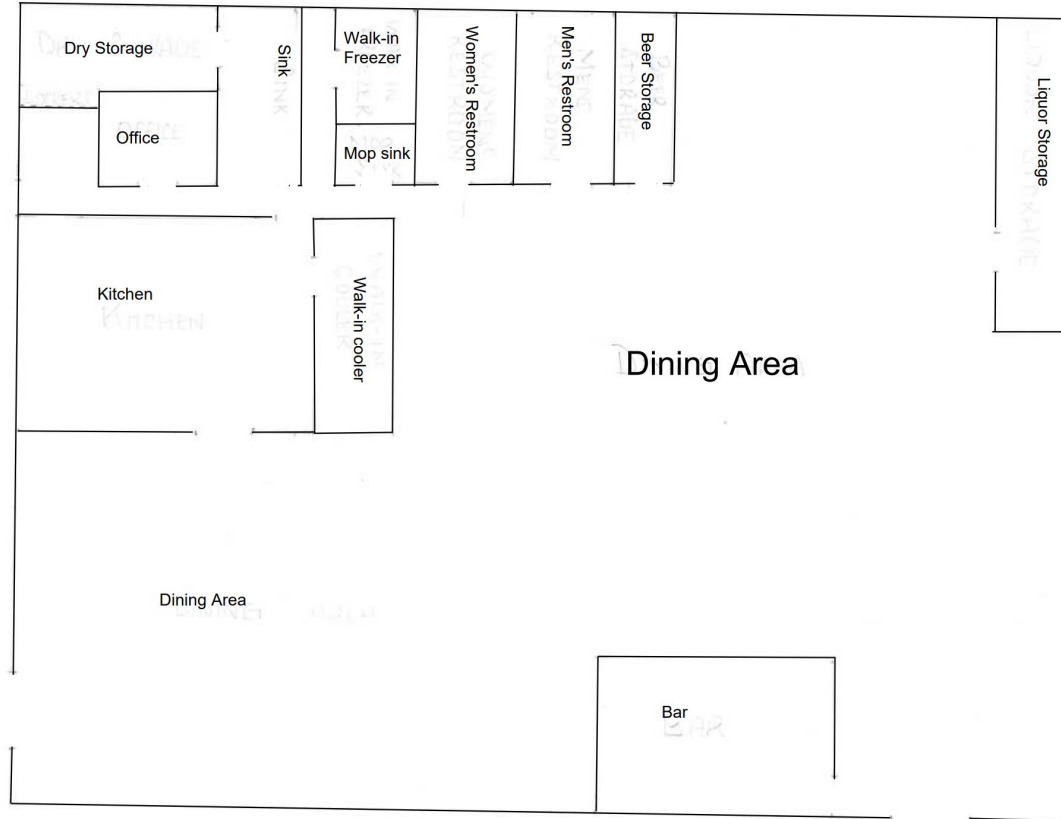
Surrounding Land Uses

LOCATION	GENERAL PLAN	ZONING	EXISTING LAND USE
Project Site	Community Commercial (CCM)	General Commercial Planned Development (C2-PD)	Restaurant
North	Community Commercial (CCM)	General Commercial Planned Development (C2-PD)	Shopping Center
South	Residential Low (RL)	Single Family Residential (R1- PD)	Single - Family Residential
East	Residential Medium (RM)	Garden Apartment (R3)	Multiple - Family Residential
West	Residential Low (RL)	Single Family Residential (R1- PD)	Single - Family Residential

Site Plan



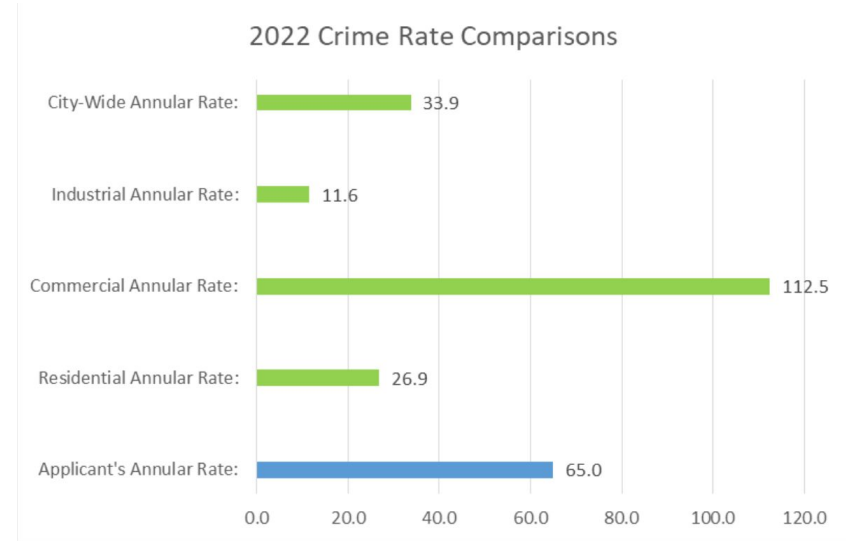
Floor Plan



Police Report Summary

Crime:

- The crime rate within 1,000 feet of the site is lower than the average for commercial properties citywide.
- Site is not considered to be a policing problem. No safety concerns noted by Beat Coordinator or neighboring businesses.



Police Department Review

Reviewed application per CC Resolution No. 11,896

Concentration:

- I. There are 3 establishments located within 350 feet of the Project site that sell alcoholic beverages.

Location	Same type within 350 feet?	Same type within 1,000 feet?	Likely to Cause Police problem?	Undue concentration as defined in Resolution No. 11,896 or Business and Professions Code Section 23958.4?
Thirsty Ox - 640 N. Ventura Road	No	No (Type 48)	No, as conditioned	No (City or State)
City Market - 1454 Doris Avenue	No	No (Type 20)	No, as conditioned	No (City or State)
Rite Aid (closed) - 720 N. Ventura Road	No	No (Type 21)	No, as conditioned	No (City or State)

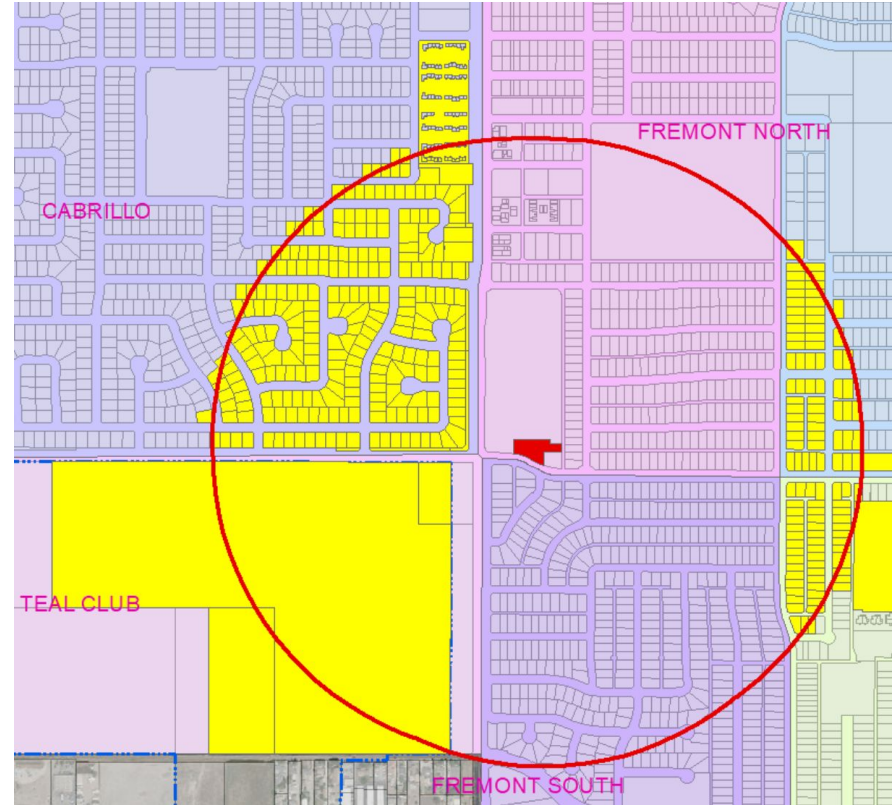
Findings:

- Crime rate around site is below commercial average.
- There is no undue concentration per City standards (350 and 1,000 feet).
- There is an undue concentration per State standards (census tract).
- Had an undue concentration been found, a Finding of public convenience or necessity would be required.

Community Input

Community Input:

- A virtual Community Workshop was conducted on February 12, 2024. Notices were provided to the Fremont North, Fremont South Neighborhoods, and a 2000 foot buffer. No speakers commented on the request.
- Nearby business operators and the Chairpeople were contacted regarding this application and proposed operations.
- To date, staff has not received any concerns or public comments regarding the proposed project.



Select Recommended Conditions of Approval

- CofAs #14 and #15:

Permittee and all sellers or servers and their immediate supervisors shall complete a course in Responsible Beverage Service (RBS) approved by the Chief of Police within sixty days of license granting and/or date of employment.

- CofA #16:

Sales of alcohol may only occur between the hours of 7:00 A.M. and 11:00 P.M.

- CofA #18:

The premises shall be equipped and maintained in good faith as a bona fide eating establishment.

Exempt from California Environmental Quality Act (CEQA) (Section 15301 “Existing Facilities”)

- Project does not require physical development.
- Does not trigger thresholds in City CEQA Guidelines or Exceptions to the Exemptions.
- A Notice of Exemption will be filed.

- Notice of PC hearing posted on-site
- Notice of PC hearing sent to surrounding property owners
- To date, no public comments regarding project for an additional alcohol outlet in the neighborhood

Staff Recommendation

That the Planning Commission

- a) Find the Project to be Categorically Exempt from environmental review pursuant to the California Environmental Quality Act (CEQA) Guidelines Section 15301 (Existing Facilities); and
- b) Adopt Resolution 2024-XX approving Planning and Zoning Permit No. 23-510-01 (Special Use Permit - Alcohol), subject to certain findings and conditions.



PLANNING COMMISSION STAFF REPORT

TO: Planning Commission

FROM: Daniel Houck, Associate Planner

DATE: March 21, 2024

SUBJECT: **Project Name: Fore Property Development Agreement Amendment;** Planning and Zoning Permit PZ No. 24-670-01 (Third Development Agreement Amendment); Located at 2700 and 2750 North Ventura Road (APN 132-0-100-595)

1. Recommendation: That the Planning Commission (“**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 2024-XX recommending City Council approval of Planning and Zoning Permit No. 24-670-01 (Third Amendment to Development Agreement No. A-7113) for the Fore Property, subject to certain findings.

2. Project Description and Applicant: The project consists of a proposed Development Agreement Amendment (DAA) to remove Section 5 of the second development agreement amendment as it is no longer relevant to the project. This section is in regards to the maintenance of a road that was to be acquired by the City of Oxnard from the California Department of Transportation (Caltrans) that was going to serve the Fore Apartments at Riverpark development. However, that acquisition is no longer being executed due to Caltrans retreating from the potential conveyance of the road to the City of Oxnard as a result of internal disputes within Caltrans.

The Fore DAA only pertains to Lots 8 & 9 of Tract 4334, in RiverPark Specific Plan (RPSP) District B and does not cover the rest of the RiverPark Specific Plan Area. The remainder of the properties in the RiverPark Specific Plan are covered under a separate Development Agreement.

No other changes or physical development is proposed with this request. Any future development proposals would be required to comply with the 2030 General Plan, the RPSP, and applicable development standards. All future proposals would also be subject to compliance with the State California Environmental Quality Act (CEQA) Guidelines.

For purposes of this Staff Report, the foregoing project description shall be referred to as the “Project.” The project application was filed by Riverpark Apartments Owner, LLC, 1741 Village Center Circle, Las Vegas, NV 89134 (collectively referred to as the “Applicant” or “Developer.”)

- 3. Existing & Surrounding Land Uses:** The 702-acre RiverPark Specific Plan site is located in the western portion of Ventura County, in the northwestern edge of the City of Oxnard, and is bounded by the Ventura Freeway (Highway 101) to the South, Vineyard Avenue to the east, Central Road to the North, and the Santa Clara River to the west. This project site is located southwesterly of the intersection of North Ventura Road and Town Center Drive, within the RiverPark Specific Plan Area, at 2700 and 2750 North Ventura Road (APNs: 132-0-100-085 and 132-0-100-095) (Attachment A). The RiverPark Specific Plan area is currently under active development and operation.

The following table provides City General Plan designations, City zoning which governs the area. Additionally, the table identifies a general summary of existing land uses.

Table 1

LOCATION	ZONING	2030 GENERAL PLAN	EXISTING LAND USE
Project Site	The RiverPark Specific Plan	Commercial Regional	Fore Apartments at Riverpark (Under Construction)
North	The RiverPark Specific Plan	Commercial Regional	Light Industrial Development
South	The RiverPark Specific Plan	Commercial Regional	Commercial/Senior Living Facility
East	The RiverPark Specific Plan	Residential Medium-High and Park	Wagon Wheel Apartments
West	The RiverPark Specific Plan	Commercial Regional	Santa Clara River

- 4. Background Information:** The original Fore Development Agreement stems from the fact that the two vacant parcels that will contain the approved Fore RiverPark Apartment were outside of the original RiverPark Development Agreement, thus it put these two parcels on par with the parcels governed by the original RiverPark Development Agreement. The development itself is an approved 333 unit residential apartment building that includes onsite amenities and a wrapped parking garage. The apartment building has additionally been approved through the building permit process and is currently under construction.

The history of the development agreement starts on November 18, 2008, when the City Council adopted Ordinance No. 2787, approving Planning and Zoning Permit No. 08-670-03 (Development Agreement No. A-7113) between the owners of the Project site and the City of Oxnard. The Development Agreement (DA) has been amended on two previous occasions.

1. The first amendment was adopted on November 9, 2010 and was related to development fees within the RPSP area.
2. The second amendment was adopted on April 5, 2022 and was intended to provide a net public benefit by providing more affordable housing, promoting the full buildout of the RiverPark Specific Plan, additional tax revenue, and relieving the City from certain road maintenance requirements. In return, the developer wanted to reduce the financial impacts of increased and new development impact fees on the project and therefore, received a fee lock and waiver of new fee increases as well as for improvement costs associated with construction of bicycle and pedestrian facilities and art provided on site.

The proposed DAA would be the third Amendment to DA A-7113 between the City and the applicant, who now currently is RiverPark Apartments Owner, LLC.

- 5. Environmental Analysis:** Pursuant to the 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 request proposes no development and does not constitute a project. Therefore, it can be seen with certainty that there is no possibility that this amendment to the development agreement, located at 2700 and 2750 North Ventura Road, would have a significant effect on the environment (CEQA Guidelines Section 15061(b)(3) and Section 15378(b)(5)). Staff recommends that the Planning Commission accept a Notice of Exemption attached to the staff report. Any subsequent improvement to the property will be separately examined in accordance with CEQA.

The prior approved development was approved in accordance with the California Environmental Quality Act (CEQA), as an environmental impact report (EIR No. 00-03) was prepared to analyze potential impacts associated with the approval and implementation of the RPSP and the anticipated build out of the 701-acre specific plan area. On July 16, 2002, the City Council adopted Resolution No. 12,209, upholding the Planning Commission’s decision certifying the Final EIR (State Clearinghouse No. 2000051046), and adopting Findings of Fact, Statement of Overriding Considerations, and a Mitigation Monitoring and Reporting Program. The approved project is subject to all Mitigation measures identified in FEIR No.

00-03 and subsequent addendums which are relevant. Since certification of FEIR No. 00-03 and approval of the subsequent addendums, there have been no substantial changes proposed for the RiverPark project, no substantial changes have occurred under which the RiverPark project is being undertaken, and no new information of substantial importance to the RiverPark project has become available. As the current development is consistent with the development anticipated under the RPSP, the no changes or additions to FEIR No. 00-03 including the subsequent addendums. Therefore, no additional environmental review is required pursuant to Public Resources Code Section 21166 and Sections 15162 through 15164 and 15183 of the State CEQA Guidelines.

6. Analysis:

- a. General Discussion:** Pursuant to Oxnard City Code (OCC) Section 2-95, the Planning Commission is an advisory body which provides land use recommendations to the City Council on items such as General Plan Amendments, Specific Plans, Ordinance Amendments and Development Agreements. The Applicant has requested a modification to Development Agreement No. A-7113, which will now be referred to as the third DAA. The modification is to remove the maintenance requirement for the Development Agreement as it is no longer required due to the City no longer acquiring the access road.
- b. General Plan Consistency:** The City's 2030 General Plan land use designation for the subject site is Commercial Regional (CR) with corresponding land use designations to support development of the approved RPSP. The proposed DAA is consistent with the RPSP and the 2030 General Plan and the property's land use designations.

The proposed DAA removes a no longer relevant section from the development agreement concerning the acquisition of a service road and does not conflict with General Plan land use, goals and policies. The following table demonstrates further consistency with the general plan through specific policies:

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
Policy ICS-1.2	I	<i>Development Impacts to Existing Infrastructure</i> Review proposals for their impacts on infrastructure (e.g., sewer, water, fire stations, libraries, streets) and require appropriate mitigation measures to ensure that proposed developments do not create substantial adverse impacts on existing infrastructure and that the necessary infrastructure will be in place to support the development.	The development agreement removes language regarding the need for a maintenance agreement with the City for the acquisition of a road from Caltrans, which would serve as access for Environmental Services and the Fire Department. The development has pivoted following the withdrawal of Caltrans from the deal, and is now supplying their own access road, which has already been approved through a minor modification. This amendment would not leave the development without proper infrastructure and therefore complies with the general plan.
Policy ICS-1.4	I	<i>Infrastructure Conditions of Approval</i> New development should not be approved unless: • The applicant demonstrates adequate public services and facilities are available; • Infrastructure improvements incorporate a range of feasible measures that can be implemented to reduce all public safety and/or environmental impacts associated with the construction, operation, or maintenance of any required improvement; • Infrastructure improvements are consistent with City infrastructure master plans; and • Required infrastructure needed for future new development is self-funded.	The development agreement removes language regarding the need for a maintenance agreement with the City for the acquisition of a road from Caltrans, which would serve as access for Environmental Services and the Fire Department. The development has pivoted following the withdrawal of Caltrans from the deal, and is now supplying their own access road, which has already been approved through a minor modification. It has been demonstrated that adequate facilities are in place to serve the development of the prior approved residential apartment building. This amendment would not leave the development without adequate infrastructure and therefore complies with the general plan.
Policy ICS-20.10	I	<i>Adequate Emergency Access and Routes</i> Require that new developments provide adequate access for emergency vehicles, particularly firefighting equipment, and evacuation routes, as appropriate.	The development agreement removes language regarding the need for a maintenance agreement with the City for the acquisition of a road from Caltrans, which would serve as access for Environmental Services and the Fire Department. The development has pivoted following the withdrawal of Caltrans from the deal, and is now supplying their own access road, which has already been approved through a minor modification. This amendment would not leave the development without proper emergency access and therefore complies with the general plan.

- c. Conformance with Zoning Development Standards:** The proposed DAA does not propose revisions to zoning development standards. The revision, as identified in Section 6a above, would not conflict with existing development standards within the Oxnard City Code or The RPSP.

d. Development Agreement Amendment:

The reasoning behind this third amendment request is to remove Section 5, which has now become irrelevant since the approval of the second DAA. This section proposed to be removed concerns the maintenance of a service road that was to be transferred to the City of Oxnard from Caltrans. However, after Caltrans, the City, and the Applicant worked together on the issue for quite some time Caltrans decided not to move forward with the relinquishment of the roadway. The road was to provide access to the southwest portion of the property and was primarily to be used as emergency access for the Fire Department and access for Environmental Resources refuse trucks. The section was added as part of the prior development agreement amendment to solidify that a maintenance agreement would be done with the city following the acquisition making the developer of Fore Apartments financially responsible for upkeep of the road.

The acquisition of the access road was halted when the matter was sent up to the state entity of Caltrans, who disapproved of the conveyance to the City of Oxnard.

Due to the unexpected cancellation of the acquisition, the Fore Apartment project, which was already approved with the anticipated road access, had to submit for a minor modification to address the access road issue that was created. To make way for a new access road, the proposed building footprint was compressed. The modification was approved on July 18th, 2023 by the Planning and Environmental Services Manager for a revised building layout and a new access roadway that wrapped around the proposed building. The revised access road was reviewed and approved by both the Fire Department and Environmental Services Division. The compressed building still maintained the proposed 333 units and was generally the same in nature, however, the footprint was slightly smaller. The most significant changes of the compressed footprint were a loss of 25 bedrooms and a minor increase in the height of the parking structure. With these changes the access road issue was solved. This development agreement amendment now follows the approved modification to remove the irrelevant language concerning the acquisition of the Caltrans road from the Development Agreement.

- 7. Development Advisory Committee:** The proposed DAA did not require review by the Development Advisory Committee (DAC). However, the apartment project and revisions were reviewed by the members of the DAC.
- 8. Community Workshop:** The DAA is not a development application and therefore does not require a Community Workshop. However, a Community Workshop on the apartment project was held on August 17, 2020. Public notice signs were posted on the Fore

Apartments project site. Notifications were mailed to the RiverPark Neighborhood. Approximately 2,000 notices were mailed. The meeting was held online due to the COVID-19 meeting restrictions. Sixteen members of the community attended this meeting, and three people spoke on the items. The video from the online workshop was also posted on the City's website for members of the public to view separately. The primary concern identified at the Community Workshop walkability and the connectivity of potential housing in District B to other resources. While District B, is on the periphery, there will be a variety of commercial uses within close proximity. New Urbanist principles generally define walking distances as $\frac{1}{4}$ to $\frac{1}{2}$ mile, which is a five to ten minute walk. In addition to the commercial development proposed at the Landing, many of the stores within the Collection are also within $\frac{1}{2}$ mile. Other than those concerns, the comments were generally supportive of the Project introduction of housing, and a recognition of the need for more housing.

Consistent with public noticing requirements, the Planning Commission Hearing was advertised with on-site postings and by mail to property owners within 300 feet of the project site. To date, Planning Staff has received one written comment but no other inquiries from the public regarding the proposed Project.

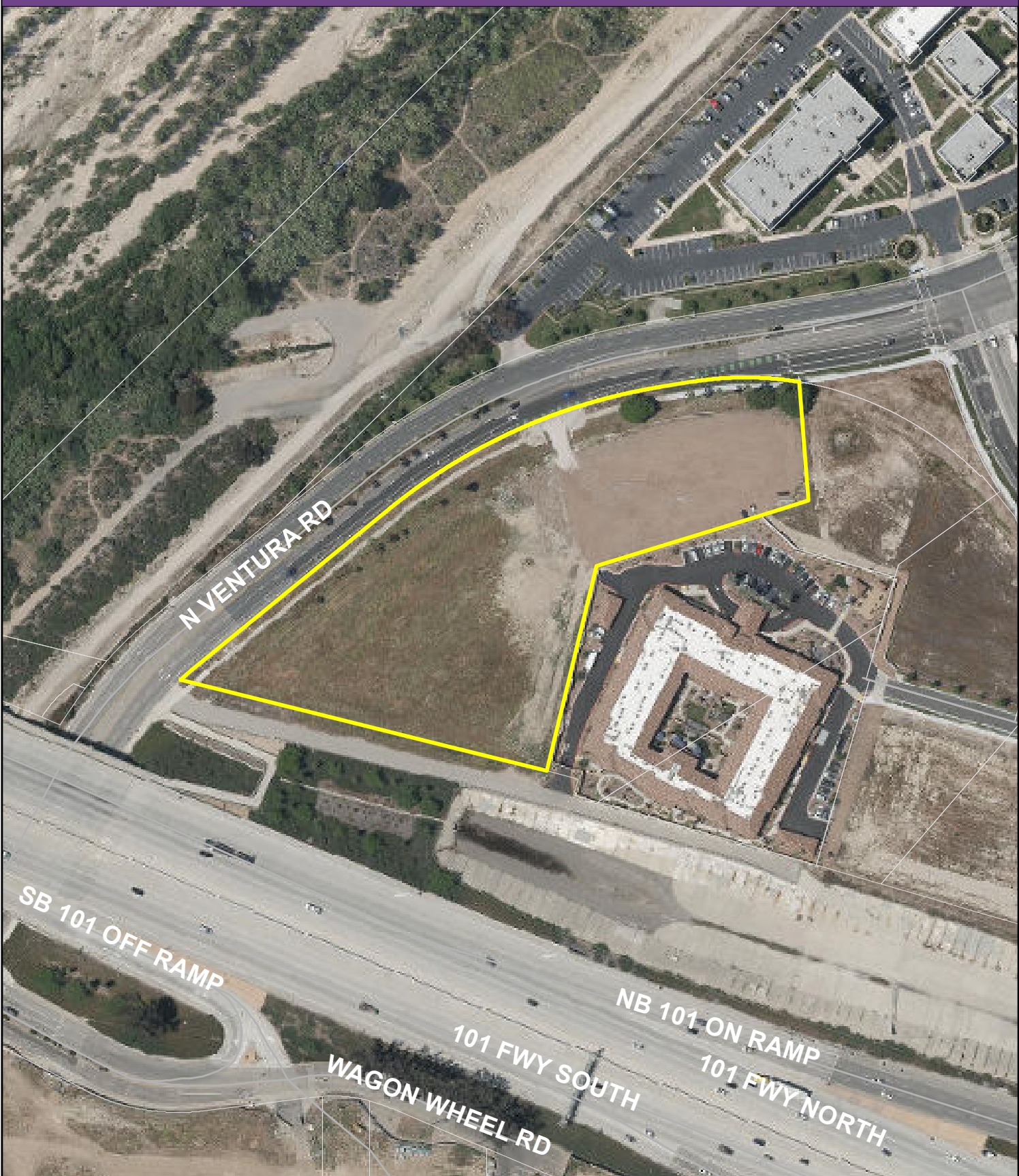
- 9. Appeal Procedure:** The requested actions for the DAA are recommendations to the City Council. As the Planning Commission does not take formal action, but recommends an action to the City Council, an Appeal procedure is not necessary. All aspects of this Project shall not become effective unless and until the City Council approves the Development Agreement.

Attachments:

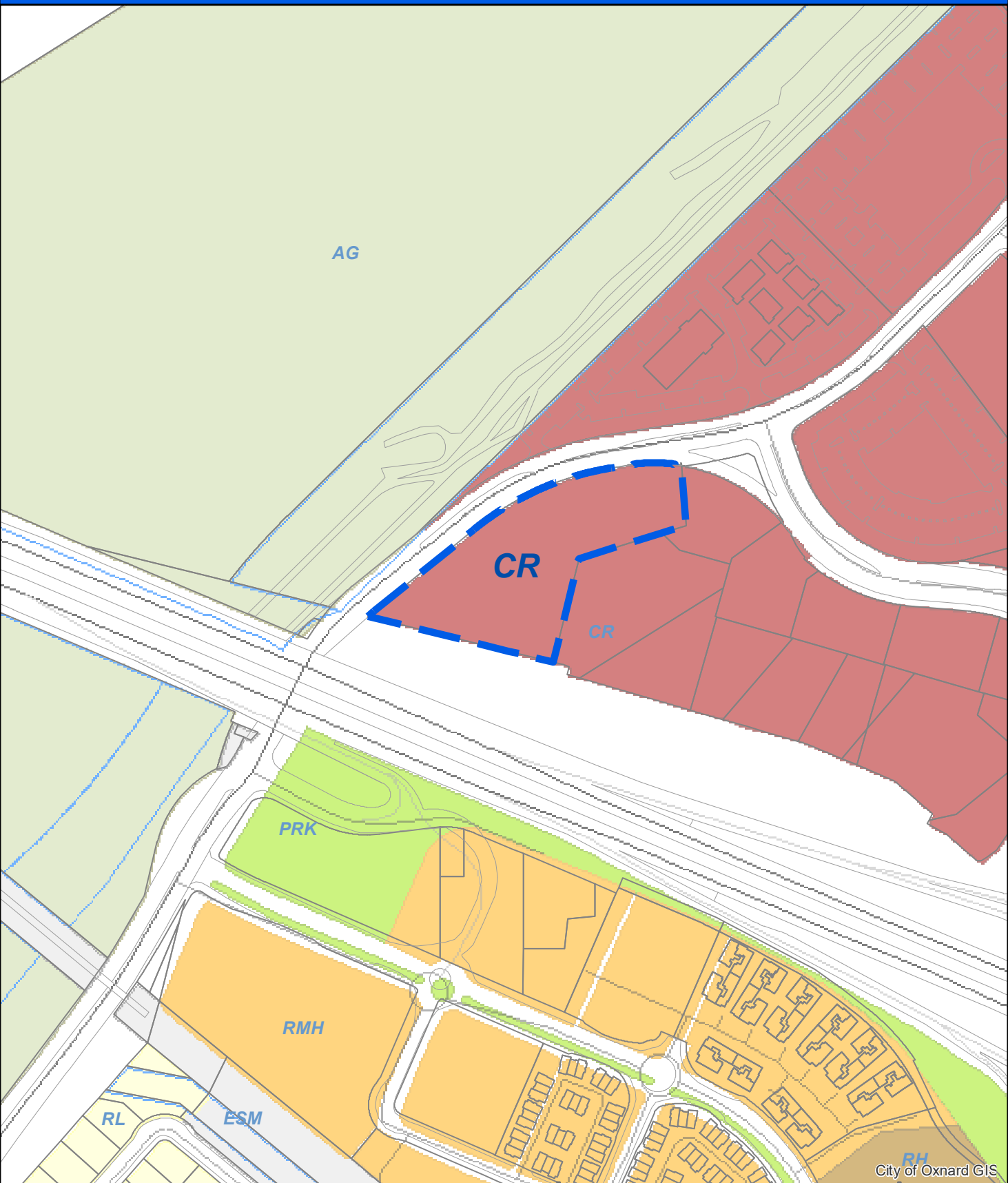
- A. Maps (Vicinity, General Plan, and Zoning Maps)
- B. Third Development Agreement Amendment
- C. Second Development Agreement
- D. Notice of Exemption
- E. Resolution Recommending Approval for Third DAA
- F. Staff Presentation

Vicinity Map



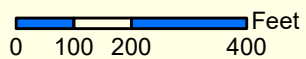


2030 General Plan Land Use Map



Oxnard Planning
March 8, 2024

PZ 24-670-01
Location: 2700, 2750 N Ventura Rd
APN: 1320100095, 1320100085
Fore DAA

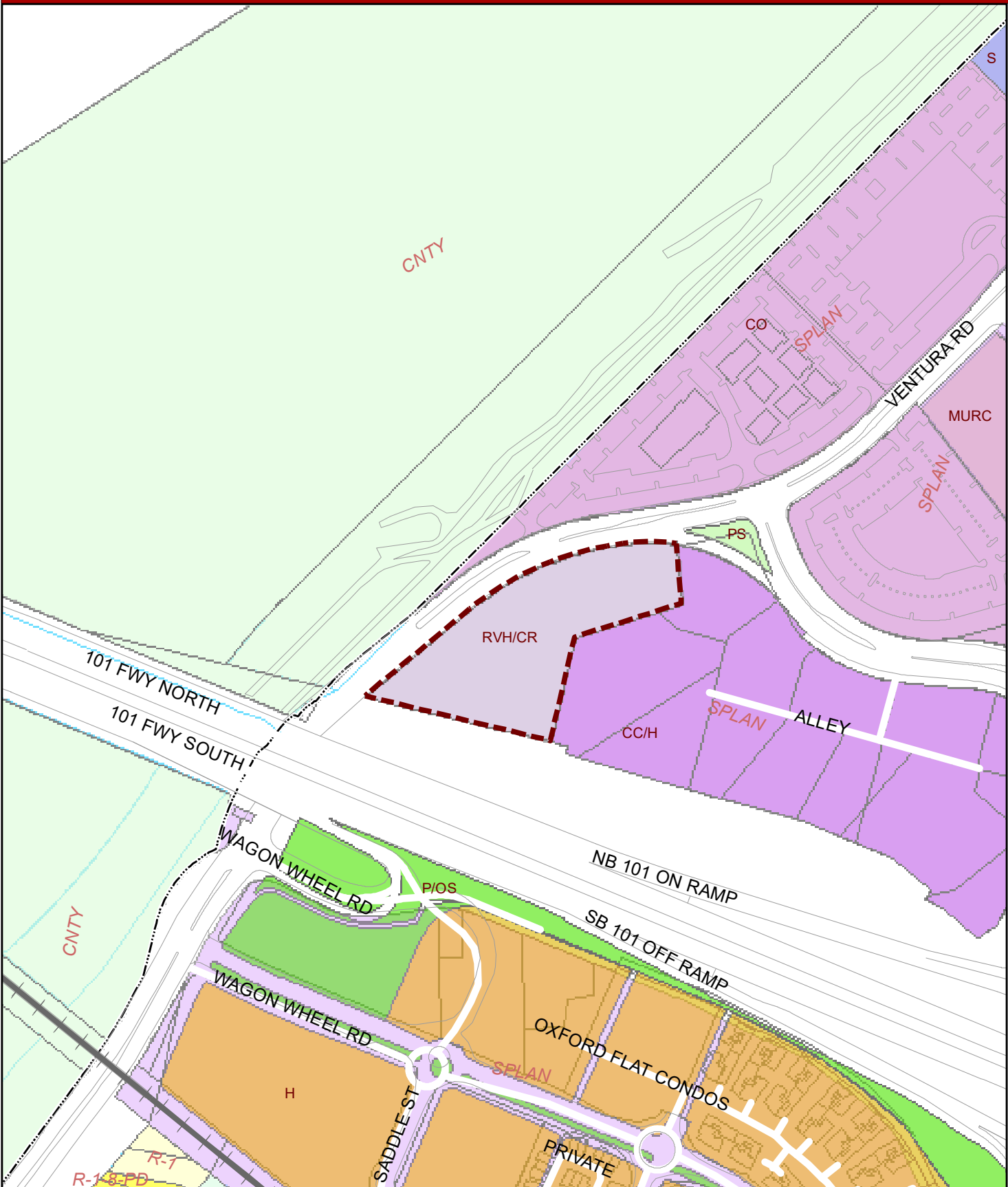


2030 General Plan Land Use Map



1:4,000

Zoning/Specific Plan Map



Oxnard Planning

March 8, 2024

PZ 24-670-01
Location: 2700, 2750 N Ventura Rd
APN: 1320100095, 1320100085

Fore DAA

0 50 100 200 300 400 Feet

Zoning/Specific Plan Map



1:4,000

**RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:**

City of Oxnard
305 West Third Street
Oxnard, California 93030
Attn: City Clerk

SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE

THIRD AMENDMENT TO DEVELOPMENT AGREEMENT

THIS THIRD AMENDMENT TO DEVELOPMENT AGREEMENT (the “Third Amendment”) is made in Ventura County, California as of _____, 2024, by and between the **CITY OF OXNARD**, a municipal corporation of the State of California (the “City”) and **RIVERPARK APARTMENTS OWNER, LLC**, a Delaware limited liability company (“Developer”).

RECITALS

- A. Developer is the successor in interest to the owner of that certain real property located in the City and more particularly described in Exhibit 1 attached hereto (“Property”). The Property is located within the boundaries of the City’s RiverPark Specific Plan.
- B. The City and the prior owner of the Property entered into that certain Development Agreement dated as of November 18, 2008, and which was recorded against the Property on December 1, 2008, as Instrument No. 20081201-00172496-0 in the Ventura County Recorder’s Office and re-recorded against the Property on December 17, 2008, as Instrument No. 20081217-00180417-0 in the Ventura County Recorder’s Office (the “Original Development Agreement”), as amended by that certain First Amendment to Development Agreement dated as of November 9, 2010, and recorded against the Property on January 6, 2011, as Instrument No. 20110106-00003776-0 in the Ventura County Recorder’s Office (the “First Amendment to Development Agreement”), as amended by that certain Second Amendment to Development Agreement dated as of September 6, 2022, and recorded against the Property on September 21, 2022, as Instrument No. 2022000094753 in the Ventura County Recorder’s Office (the “Second Amendment to Development Agreement”). The Original Development Agreement, as amended by the First Amendment to Development Agreement, Second Amendment to Development Agreement and Third Amendment, are collectively referred to as the “Development Agreement.”

- C. This Third Amendment solely relates to the Property and no other real property located within the RiverPark Specific Plan.
- D. On _____, 2024, the Planning Commission held a duly noticed public hearing wherein the Planning Commission reviewed this Third Amendment.
- E. On _____, 2024, the City Council held a duly noticed public hearing on this Third Amendment in accordance with Government Code Section 65868.
- F. The City Council has given notice of its intention to consider this Third Amendment, has conducted a public hearing thereon pursuant to the relevant portions of the Government Code, and has found that the provisions of this Third Amendment are consistent with the City's General Plan, City zoning ordinances, and the RiverPark Specific Plan, as amended. The City Council has also specifically considered the impacts and benefits of this Third Amendment upon the welfare of the residents of the City and the surrounding region. The City Council has determined that this Third Amendment is beneficial to the residents of the City and is consistent with the present public health, safety and welfare needs of the residents of the City and the surrounding region.

NOW, THEREFORE, in consideration of the foregoing Recitals, which are hereby incorporated into the operative provisions of this Third Amendment by this reference and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the City and Developer agree as follows:

Section 1. Deletion of Section 5 of the Second Amendment to Development Agreement.

Section 5 of the Second Amendment to the Development Agreement relating to a maintenance agreement for an access road as it relates to the Property is hereby deleted in its entirety.

Section 2. Miscellaneous Provisions.

(a) Entire Agreement. Except for the Development Agreement, which this Third Amendment amends, this Third Amendment represents the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior agreements and understandings, whether oral or written, between the parties with respect to the matters contained in this Third Amendment.

(b) Section Headings. The section headings contained in this Third Amendment are for convenience and identification only and shall not be deemed to limit or define the contents to which they relate.

(c) Counterparts. This Third Amendment may be executed in any number of counterparts with the same force and effect as if executed in the form of a single document.

(d) Waiver. No waiver of any provision of this Third Amendment shall be effective unless in writing and signed by a duly authorized representative of the party against whom enforcement of a waiver is sought.

(e) Severability. If any part of this Third Amendment is declared invalid for any reason, such invalidity shall not affect the validity of the remainder of the Third Amendment or the Development Agreement which it amends. The other parts of this Third Amendment and the Development Agreement which it amends shall remain in effect as if this Third Amendment had been executed without the invalid part. The parties intend and desire that the remaining parts of this Third Amendment and the Development Agreement which it amends continue to be effective without any part or parts that have been declared invalid. If, for any reason, the Third Amendment does not take effect, then the provisions of the Development Agreement shall remain in full force and binding upon the parties to the Development Agreement.

(f) No Reliance on Other Parties. All parties to this Third Amendment declare that, prior to the execution of this Third Amendment, they have informed themselves of sufficient relevant data, either through experts or other sources of their own selection, and have sought and obtained legal counsel, in order that they might intelligently exercise their own judgment in evaluating the contents of this Third Amendment and making the decision to execute it. The parties each represent and acknowledge that in executing this Third Amendment, they do not rely and have not relied upon any representation or statement not set forth herein made by any other party to this Third Amendment or their respective legal counsel with regard to the subject matter, basis or effect of this Third Amendment.

(g) Construction. The provisions of this Third Amendment shall be liberally construed to effectuate its purpose. The language of this Third Amendment shall be construed according to its plain meaning and shall not be construed for or against any party, as each party has participated in the drafting of this Third Amendment and has had its legal counsel review it. Whenever the context and construction so require, all words used in the singular shall be deemed to be used in the plural and vice versa.

(h) Successors and Assigns. This Third Amendment shall be binding on and shall inure to the benefit of the parties and their respective legal representatives, successors and assigns.

(i) Applicable Law. The laws of the State of California shall govern the interpretation and enforcement of this Third Amendment, with venue for any legal action lying in a court of competent jurisdiction in the County of Ventura, State of California without giving effect to the principles of conflict of laws.

(j) Authorizations. Each party certifies and warrants that all individuals executing this Third Amendment and other related documents on its behalf have the capacity and have been duly authorized to do so. Each party shall also indemnify the other parties to this Third Amendment and hold them harmless from any and all damages, costs, attorneys' fees, and other expenses, if a signatory is not so authorized.

(k) Indemnification. The Developer agrees, as a condition of approval of this Third Amendment, to indemnify, defend and hold harmless at the Developer's sole expense, the City, the City Council, and the City's agents, officers and employees from and against any claim, action or proceeding commenced within the applicable time period, to attack, review, set aside, void or annul the approval of this Third Amendment. The City shall promptly notify the Developer of any such claim, action or proceeding of which the City receives notice, and the City will cooperate fully with the Developer in the defense thereof. The Developer shall reimburse the City for any court costs and reasonable attorneys' fees which the City may be required to pay as a result of any such claim, action or proceeding. The City may, in its sole discretion, participate in the defense of any such claim, action or proceeding, but such participation shall not relieve the Developer of the obligations of this subsection.

(l) Definitions. All terms not specifically defined in this Third Amendment shall have the meanings ascribed to them in the Development Agreement.

(m) Impact of Third Amendment on Development Agreement. Unless otherwise specifically amended by this Third Amendment, all provisions of the Development Agreement shall remain in full force.

(n) Recordation of this Third Amendment. Pursuant to Government Code Section 65868.5, the City Clerk shall record a copy of this Third Amendment with the Ventura County Recorder's Office within ten (10) days after the mutual execution of this Third Amendment.

(o) Effective Date. After this Third Amendment has been signed by authorized representatives of each of the parties hereto, this Third Amendment shall become effective on which the ordinance approving this Third Amendment becomes operative under Government Code Section 36937.

IN WITNESS WHEREOF, the parties to this Third Amendment have each executed this Third Amendment as of the date first written above.

[Signatures on following pages]

THE CITY:

CITY OF OXNARD, a public body,
corporate and politic

By: _____
John C. Zaragoza, Mayor

ATTEST:

By: _____
Rose Chaparro, City Clerk

APPROVED AS TO FORM:

By: _____
Stephen Fischer, City Attorney

[Signatures continue on next page]

DEVELOPER:

RIVERPARK APARTMENTS OWNER, LLC,
a Delaware limited liability company

By: Riverpark Apartments Venture, LLC, a
Delaware limited liability company, its sole member

By: FORE Riverpark LLC, a Delaware limited
liability company, its Manager

By: _____
Name: Jonathan Fore
Title: Managing Member

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
) ss:
COUNTY OF _____)

On __ ____, 2022 before me, _____
Notary Public (insert name and title of the officer),

personally appeared _____, who 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.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: _____

[Seal]

Notary

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
) ss:
COUNTY OF _____)

On _____, 2024, before me, _____
Notary Public (insert name and title of the officer),

personally appeared _____, who 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.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: _____

[Seal]

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
) ss:
COUNTY OF _____)

On _____, 2024 before me, _____
Notary Public (insert name and title of the officer),

personally appeared _____, who 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.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: _____

[Seal]

EXHIBIT 1

THE PROPERTY

All that certain real property situated in the County of [Ventura](#), State of California, described as follows:

LOTS 8 AND 9 OF [TRACT NO. 4334](#), IN THE CITY OF OXNARD, COUNTY OF VENTURA, STATE OF CALIFORNIA, AS PER MAP RECORDED IN [BOOK 114, PAGES 62 TO 66 OF MAPS](#), IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

EXCEPTING THEREFROM AN UNDIVIDED ONE-HALF INTEREST IN AND TO ALL OIL, GAS, OTHER HYDROCARBON SUBSTANCES AND MINERALS IN AND UNDER THE PROPERTY HEREIN DESCRIBED, WITHOUT, HOWEVER, THE RIGHT TO ENTER UPON THE SURFACE THEREOF OR WITHIN OR WITHIN 500 FEET BENEATH THE SURFACE THEREOF AS RESERVED IN THE DEED RECORDED IN [BOOK 4723, PAGE 472 OF OFFICIAL RECORDS](#).

ALSO EXCEPTING THEREFROM THE REMAINDER OF ALL THE OIL, GAS, OTHER HYDROCARBON SUBSTANCES AND MINERALS IN AND UNDER SAID PROPERTY, WITHOUT, HOWEVER THE RIGHT TO ENTER ON THE SURFACE THEREOF OR WITHIN 500 FEET BENEATH THE SURFACE THEREOF AS RESERVED IN THE DEEDS RECORDED DECEMBER 3, 1986 AS [INSTRUMENT NO. 86-175822 THROUGH 86-175828](#), OF OFFICIAL RECORDS.

Assessor's Parcel Number: [132-0-100-085](#) & [132-0-100-095](#)

EPN

Commonwealth Land Title Company

RECORDING REQUESTED BY AND WHEN RECORDED MAIL TO:

City of Oxnard
305 West Third Street
Oxnard, California 93030
Attn: City Clerk

Electronically Recorded in Official Records
County of Ventura County
Mark A. Lunn
Ventura County Clerk-Recorder

DOC# 2022000094753

09/21/2022
Titles: 1 Pages: 13
08:00 AM
Total Fees: \$50.00
ONTIVD

9172683-09

SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE

SECOND AMENDMENT TO DEVELOPMENT AGREEMENT

THIS SECOND AMENDMENT TO DEVELOPMENT AGREEMENT (the "Second Amendment") is made in Ventura County, California as of September 6th, 2022, by and between the **CITY OF OXNARD**, a municipal corporation of the State of California (the "City") and **OXNARD COASTAL INVESTMENTS, LLC**, a California limited liability company and **VENTURA LAND DEVELOPMENT COMPANY, LLC**, a California limited liability company (collectively, "Developer").

RECITALS

- A. Developer is the successor in interest to the owner of that certain real property located in the City and more particularly described in Exhibit 1 attached hereto ("Property"). The Property is located within the boundaries of the City's RiverPark Specific Plan.
- B. The City and the prior owner of the Property entered into that certain Development Agreement dated as of November 18, 2008, and which was recorded against the Property on December 1, 2008, as Instrument No. 20081201-00172496-0 in the Ventura County Recorder's Office and re-recorded against the Property on December 17, 2008, as Instrument No. 20081217-00180417-0 in the Ventura County Recorder's Office (the "Original Development Agreement"), as amended by that certain First Amendment to Development Agreement dated as of November 9, 2010, and recorded against the Property on January 6, 2011, as Instrument No. 20110106-00003776-0 in the Ventura County Recorder's Office (the "First Amendment to Development Agreement"). The Original Development Agreement as amended by the First Amendment to Development Agreement, together with any extensions or amendments approved administratively, are referred to herein collectively as the "Development Agreement."
- C. As of the date of this Second Amendment, Developer is in full compliance with the terms, conditions, and obligations of the Development Agreement, as amended.

- D. The City has recently adopted updated development impact fees (the “2020 Development Impact Fees”) related to the installation of public infrastructure to accommodate future development planned to occur in the City. The bulk of the development within the RiverPark Specific Plan Area has already occurred. In conjunction with such development, the public infrastructure associated with and necessary for the development of the RiverPark Specific Plan has already been constructed.
- E. Developer and the City intend hereby to amend the Development Agreement to establish a mechanism for the payment of certain 2020 Development Impact Fees that are to be applied within the RiverPark Specific Plan area as described below.
- F. Developer and the City each desire to obtain the agreement of one another to the provisions of the Development Agreement, as amended by this Second Amendment.
- G. On December 16, 2021, the Planning Commission held a duly noticed public hearing wherein the Planning Commission reviewed this Second Amendment.
- H. On March 15, 2022, the City Council held a duly noticed public hearing on this Second Amendment in accordance with Government Code Section 65868.
- I. The City Council has given notice of its intention to consider this Second Amendment, has conducted public hearings thereon pursuant to the relevant portions of the Government Code, and has found that the provisions of this Second Amendment are consistent with the City’s General Plan, City zoning ordinances, and the RiverPark Specific Plan, as amended. The City Council has also specifically considered the impacts and benefits of this Second Amendment upon the welfare of the residents of the City and the surrounding region. The City Council has determined that this Second Amendment is beneficial to the residents of the City and is consistent with the present public health, safety, and welfare needs of the residents of the City and the surrounding region.
- J. The City has determined that the actions to be taken pursuant to this Second Amendment will not result in environmental impacts which are new or substantially changed from those already analyzed and addressed in the RiverPark FEIR and subsequent addenda, and, therefore has determined that none of the elements set forth in Public Resources Code Section 21166 or Section 15162 of the CEQA Guidelines exists and therefore has determined, in accordance Public Resources Code Section 21166 and Section 15162 of the CEQA Guidelines, that no subsequent or supplemental Environmental Impact Report, Negative Declaration or Mitigated Negative Declaration is required to be prepared prior to adopting the Ordinance approving this Second Amendment.

NOW, THEREFORE, in consideration of the foregoing Recitals, which are hereby incorporated into the operative provisions of this Second Amendment by this reference and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the City and Developer agree as follows:

Section 1. Extension of the Term of the Development Agreement.

The term of the Development Agreement, and in particular Section 2 of the Original Development Agreement, is hereby amended to extend such term through and including July 1, 2028. Therefore, the first sentence of Section 2 of the Original Development Agreement is hereby amended and replaced as follows: "This Agreement shall become operative and commence upon the Effective Date and shall remain in effect through and including July 1, 2028, unless the term is modified by mutual written consent of the City and the Developer."

Section 2. Application of 2020 Development Impact Fees and Credits Thereon.

In light of the public infrastructure already constructed in conjunction with development on the Project, the City agrees that through July 1, 2028, the maximum amount of any traffic impact fees assessed shall be limited to the rate in effect immediately prior to the City's adoption of the 2020 Development Impact Fees, which are reflected on the City's fee chart dated as of September 24, 2018. The City further agrees that the 2020 Development Impact Fees related to the Park Development Fee shall not apply to the Project.

In lieu of the 2020 Development Impact Fees related to the Mobility Fee, the RiverPark Commercial Area Developers shall pay an alternative Mobility Fee based on the project density. Based on the average density of the added residential units of 1.71 persons per residential unit, the alternative Mobility Fee for the Multi-Family residential would be \$1,347.05 per unit. Credits for the reasonable cost of design, engineering, land and construction costs of the public bicycle and pedestrian facilities constructed as part of the buildout of the RiverPark Specific Plan area, not otherwise used to offset mobility fees or other required fees which have already been credited, shall be granted for the alternative Mobility Fee on a first-come, first-served basis among all developers in the RiverPark Specific Plan area. Under no circumstances shall Developer be entitled to a refund of the fee credits or a transfer to a third party (i.e., an entity that does not qualify as Developer or permitted assignee under this Agreement) of the fee credits obtained pursuant to this Section. Developer is not guaranteed that any credits will still be available at the time of the imposition of any fees. Developer shall provide all funding necessary for a mutually agreed upon third party consultant to verify all costs used to obtain fee credits.

The City acknowledges that, as specified in the RiverPark Specific Plan, the Project includes public recreation and open space areas, including parks, trails and other open spaces (collectively, the "Public Recreation Areas"). The City acknowledges that the value of such Public Recreation Areas exceed the Quimby Fees under Government Code Section 66477 and that the City would otherwise be entitled to impose on the Project and that no Quimby Fees or other park-related fees shall be due from Developer in connection with any portion of the Project. This waiver of payment of current and future City Quimby Fees and park-related fees shall remain in effect for the term of this Agreement, including any extensions thereof, or until the initial buildout of the Project occurs, whichever term is longer.

In lieu of the 2020 Development Impact Fees related to the Growth Requirement Capital Fee (aka Growth Development Fee), Developer shall pay an alternative Growth Requirement Capital Fee based on the project density. Based on the average density of the added residential units of 1.65 persons per residential unit, the Growth Requirement Capital Fee for the Multi-

Family residential would be \$2,290 per unit, in full satisfaction of the City's growth development requirements and Resolution Numbers 10,275, 10,996 and 12,975.

Further, the City acknowledges that Developer shall have the option of either: (i) paying a public art fee in the amount of \$0.28 per square foot of the roofed area per building, or (ii) providing art onsite equal in value to the public art fee amount set forth in clause (i) above, in full satisfaction of the City's public art requirements and City Council Resolution 14,124. Developer shall maintain public art installations on the Property in perpetuity, if installed.

Further, Section 6 of the Development Agreement shall be deleted in its entirety and replaced with the following:

"6. Project's Payment of Development Impact and Capital Fees. Except as modified by this Second Amendment, Developer shall pay all development impact and capital fees applicable to the Project at such time and in such manner as is provided in the Development Fees document from the City with an effective date of September 24, 2018. Such existing fees shall be fixed for the term of this Second Amendment. The Existing Fees shall consist of those development impact and capital fees in existence as of September 24, 2018, including but not limited to Sewer Connection Fees, Water System Connection Fees, Water Service and Meter Charges, Storm Drain Fees, Traffic Impact Fees, Undergrounding of Overhead Utility Lines, and Air Quality Impact Fees. The Existing Fees shall only include such fees that are retained by the City and not paid to another governmental agency, and that offset or reimburse the City for the increased impacts on the City's public improvements due to development. Any increase in any fee applicable to such Project shall only be applicable to the Project to the extent that any such fee increase is applied consistently and proportionately in accordance with applicable law."

Section 3. Future Affordable Housing.

The City's Affordable Housing Ordinance (Ordinance 2980) requires that residential projects containing more than ten (10) units shall provide ten percent (10%) of the total number of units as affordable units, with half being affordable to persons of lower income and half being affordable to persons of very low income; however, the City's Affordable Housing Ordinance does not apply to new housing projects located in areas subject to a specific plan adopted by the City that requires such projects to provide as many or more affordable units for lower and very low income persons and families as the City's Affordable Housing Ordinance. The City and Developer have agreed to an alternative affordable housing program for the Property subject to this Second Amendment. In lieu of the ten percent (10%) requirement under the City's Affordable Housing Ordinance stated above, all new residential projects developed on the Property after the date of this Second Amendment containing ten or more dwelling units to be offered for rent shall include a number of dwelling units equal to not less than fifteen percent (15%) of the total number of dwelling units in the project offered for rent at the following levels: five percent (5%) shall be rented at an affordable rent to persons and families of very-low income, five percent (5%) shall be rented at an affordable rent to persons and families of lower income, and five percent (5%) shall be rented at an affordable rent to persons and families of

moderate income, as defined in California Health and Safety Code Sections 50105, 50079.5, 50093, respectively. Upon certificate of occupancy of the for-rent Affordable Housing Units for Very Low, Low and Moderate Income Households each such units shall be rented at rents that are Affordable to Very Low, Low, or Moderate Income Households for a period of fifty-five (55) years. Such units shall otherwise comply with the requirements in the City's Affordable Housing Ordinance. For Moderate Income units, however, the maximum affordable rent shall be calculated as defined in Health and Safety Code 50053(b)(5).

Section 4. Expiration of Town Center Development Agreement.

The City and Developer acknowledge the existence of a "Development Agreement/Oxnard Town Center Project" ("Town Center Development Agreement"), which was entered into between the City and Warmington-Semler Partners, and recorded on October 2, 1986 as Instrument No. 86-137015 in the Ventura County Recorder's Office. The Town Center Development Agreement is an encumbrance against the Property. The City acknowledges and agrees that the Town Center Development Agreement has expired by its terms and is no longer in force and effect. Further, the City acknowledges and agrees that the Town Center Development Agreement has been superseded and replaced by the Development Agreement. The City agrees to take appropriate steps to release the Town Center Development Agreement from the Property.

Section 5. Maintenance Agreement for Access Road with Caltrans.

Developer agrees to enter into a maintenance agreement for the access drive and road located just north of the US 101 (Ventura Freeway) and to the East of Ventura Boulevard ("Access Road") with the City (the "Maintenance Agreement"). The Maintenance Agreement will be entered into after Developer or its assignee secures entitlements for that certain project known as "Fore Riverpark" that is currently pending before the City.

Section 6. Miscellaneous Provisions.

(a) Entire Agreement. Except for the Development Agreement, which this Second Amendment amends, this Second Amendment represents the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior agreements and understandings, whether oral or written, between the parties with respect to the matters contained in this Second Amendment.

(b) Section Headings. The section headings contained in this Second Amendment are for convenience and identification only and shall not be deemed to limit or define the contents to which they relate.

(c) Counterparts. This Second Amendment and any modifications hereto may be executed in any number of counterparts with the same force and effect as if executed in the form of a single document.

(d) Waiver. No waiver of any provision of this Second Amendment shall be effective unless in writing and signed by a duly authorized representative of the party against whom enforcement of a waiver is sought.

(e) Severability. If any term, covenant, condition or provision of this Second Amendment, or the application thereof to any person or circumstance, shall to any extent be held by a court of competent jurisdiction or rendered by the adoption of a statute by the State of California or the United States invalid, void or unenforceable, the remainder of the terms, covenants, conditions or provisions of this Second Amendment, or the application thereof to any person or circumstance, shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby; provided that the invalidity or unenforceability of such provision does not adversely affect the benefits accruing to, or the obligations imposed upon, any party hereunder.

(f) No Reliance on Other Parties. All parties to this Second Amendment declare that, prior to the execution of this Second Amendment, they have informed themselves of sufficient relevant data, either through experts or other sources of their own selection, and have sought and obtained legal counsel, in order that they might intelligently exercise their own judgment in evaluating the contents of this Second Amendment and making the decision to execute it. The parties hereto each represent and acknowledge that in executing this Second Amendment, they do not rely and have not relied upon any representation or statement not set forth herein made by any other party to this Second Amendment or their respective legal counsel with regard to the subject matter, basis or effect of this Second Amendment.

(g) Construction. The provisions of this Second Amendment shall be liberally construed to effectuate its purpose. The language of this Second Amendment shall be construed according to its plain meaning and shall not be construed for or against any party, as each party has participated in the drafting of this Second Amendment and has had its legal counsel review it. Whenever the context and construction so require, all words used in the singular shall be deemed to be used in the plural and vice versa.

(h) Successors and Assigns. This Second Amendment shall be binding on and shall inure to the benefit of the parties and their respective legal representatives, successors and assigns.

(i) Governing Law. The validity and interpretation of this Second Amendment shall be governed by the laws of the State of California without giving effect to the principles of conflict of laws.

(j) Authorizations. Each party certifies and warrants that all individuals executing this Second Amendment and other related documents on its behalf have the capacity and have been duly authorized to do so. Each party shall also indemnify the other parties to this Second Amendment and hold them harmless from any and all damages, costs, attorneys' fees, and other expenses, if a signatory is not so authorized.

(k) Effective Date. After this Second Amendment has been signed by authorized representatives of each of the parties hereto, this Second Amendment shall become effective on the date on which the ordinance approving this Second Amendment becomes operative under Government Code Section 36937.

(l) Definitions. All terms not specifically defined in this Second Amendment shall have the meanings ascribed to them in the Development Agreement.

(m) Impact of Second Amendment on Development Agreement. Unless otherwise specifically amended by this Second Amendment, all provisions of the Development Agreement, as previously amended, shall remain in full force.

(n) Intentionally Omitted.

(o) Recordation of this Second Amendment. Pursuant to Government Code Section 65868.5, the City Clerk shall record a copy of this Second Amendment with the Ventura County Recorder's Office within ten (10) days after the mutual execution of this Second Amendment.

Section 7. Section 23 is added the Development Agreement to read as follows:

"23. Selection of Local Subcontractors

In order to promote and maximize the employment of City of Oxnard and Ventura County residents on the Project, Owner, to the extent allowed by law, commits to make a good faith effort to achieve a goal of at least 35% of subcontractors performing Project work be primarily located in Ventura County."

IN WITNESS WHEREOF, the parties to this Second Amendment have each executed this Second Amendment as of the date first written above.

[Signatures on following pages]

THE CITY:

CITY OF OXNARD, a public body,
corporate and politic

Date:

Sept. 6, 2022

By:

John C. Zaragoza
Mayor John C. Zaragoza.

ATTEST:

By:

R. Chaparro 9/6/22
City Clerk - R. Chaparro

APPROVED AS TO FORM:

By:

Stephen Fischer for
City Attorney

[Signatures continue on next page]

CALIFORNIA ACKNOWLEDGMENT

CIVIL CODE § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of Ventura }

On September 6, 2022 before me, Elyssa Nycole Vasquez, Notary Public
Date Here Insert Name and Title of the Officer

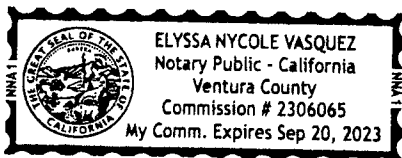
personally appeared John C. Zaragoza

Name(s) of Signer(s)

who 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.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Place Notary Seal and/or Stamp Above

Signature

Elyssa Nycole Vasquez
Signature of Notary Public

OPTIONAL

Completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: Second Amendment to Development Agreement #7113

Document Date: September 6, 2022

Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: John C. Zaragoza

☐ Corporate Officer – Title(s): _____

☐ Partner – ☐ Limited ☐ General

☐ Individual ☐ Attorney in Fact

☐ Trustee ☐ Guardian or Conservator

☒ Other: Mayor

Signer is Representing: City of Oxnard

Signer's Name: _____

☐ Corporate Officer – Title(s): _____

☐ Partner – ☐ Limited ☐ General

☐ Individual ☐ Attorney in Fact

☐ Trustee ☐ Guardian or Conservator

☐ Other: _____

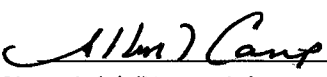
Signer is Representing: _____

DEVELOPER:

OXNARD COASTAL INVESTMENTS, LLC,
a California limited liability company

By: 
Name: Dave O. White
Title: Managing Member

VENTURA LAND DEVELOPMENT COMPANY,
a California limited liability company

By: 
Name: ALLEN F. CAMP
Title: MANAGER

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA

COUNTY OF

Ventura

) SS:

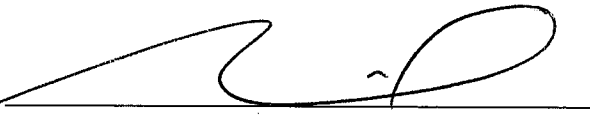
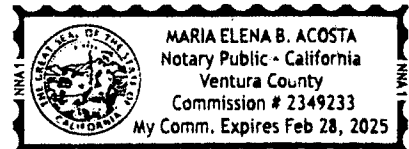
On August 4, 2022 before me, Maria Elena B. Acosta, Notary Public
 Notary Public (insert name and title of the officer),

personally appeared Dave D. White, who 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.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature:

[Seal]

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)

COUNTY OF Ventura)

SS:

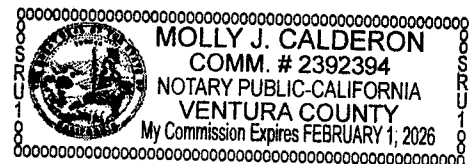
On August 09, 2022 before me, Molly J. Calderon, Notary Public
Notary Public (insert name and title of the officer),

personally appeared Allen F. Camp, who 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.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: Molly J. Calderon



[Seal]

EXHIBIT 1

THE PROPERTY

All that certain real property situated in the County of Ventura, State of California, described as follows:

LOTS 8 AND 9 OF TRACT NO. 4334, IN THE CITY OF OXNARD, COUNTY OF VENTURA, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 114, PAGES 62 TO 66 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

EXCEPTING THEREFROM AN UNDIVIDED ONE-HALF INTEREST IN AND TO ALL OIL, GAS, OTHER HYDROCARBON SUBSTANCES AND MINERALS IN AND UNDER THE PROPERTY HEREIN DESCRIBED, WITHOUT, HOWEVER, THE RIGHT TO ENTER UPON THE SURFACE THEREOF OR WITHIN OR WITHIN 500 FEET BENEATH THE SURFACE THEREOF AS RESERVED IN THE DEED RECORDED IN BOOK 4723, PAGE 472 OF OFFICIAL RECORDS.

ALSO EXCEPTING THEREFROM THE REMAINDER OF ALL THE OIL, GAS, OTHER HYDROCARBON SUBSTANCES AND MINERALS IN AND UNDER SAID PROPERTY, WITHOUT, HOWEVER THE RIGHT TO ENTER ON THE SURFACE THEREOF OR WITHIN 500 FEET BENEATH THE SURFACE THEREOF AS RESERVED IN THE DEEDS RECORDED DECEMBER 3, 1986 AS INSTRUMENT NO. 86-175822 THROUGH 86-175828, OF OFFICIAL RECORDS.

Assessor's Parcel Number: **132-0-100-085 & 132-0-100-095**



NOTICE OF EXEMPTION (NOE)

☐ **To:** Office of Planning and Research
P.O. Box 3044, Room 113
Sacramento, CA 95812-3044

From: City of Oxnard
Community Development Department
214 South C Street
Oxnard, CA 93030

☐ **To:** Ventura County Clerk-Recorder &
Registrar of Voters
Hall of Administration, Main Plaza
800 South Victoria Avenue,
Ventura, CA 93009-1260

Project Title: Fore Development Agreement Amendment

Project Applicant: RiverPark Apartments Owner, LLC (Property Owner)

Project Location - Specific: 2700-2750 North Ventura Road, Oxnard, CA, 93036, Ventura County, APN 132-0-100-595.

Description of Nature, Purpose and Beneficiaries of Project: Planning and Zoning Permit No. 24-670-01 (Development Agreement Amendment): A request for a Development Agreement Amendment to remove a section of the agreement regarding the acquisition of a service road from Caltrans, as the road is no longer a part of the development. The project is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Sections 15060(c)(2) and 15061(b)(3) ("general rule" or "common sense") and of Title 14, Article 18, 15620 of the California Code of Regulations (statutory). Filed by Riverpark Apartments Owner, LLC, 1741 Village Center Circle, Las Vegas, NV 89134.

Name of Public Agency Approving Project (Lead Agency): City of Oxnard

Name of Person or Agency Carrying Out Project (Applicant): Jonathan Cornelius,
Designated Agent

Exempt Status: (check one):

- ☐ Ministerial (Sec. 21080(b)(1); 15268);
- ☐ Declared Emergency (Sec. 21080(b)(3); 15269(a));
- ☐ Emergency Project (Sec. 21080(b)(4); 15269(b)(c));
- ☐ Categorical Exemption:
- ☒ Statutory Exemptions. State code number: Section 15061(b)(3) and Section 15378(b)(5)

Reason(s) why project is exempt: Pursuant to the 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 request proposes no development and does not constitute a project. Therefore, it can be seen with certainty that there is no possibility that this amendment to the development agreement, located at 2700 and 2750 North Ventura Road, would have a significant effect on the environment (CEQA Guidelines Section 15061(b)(3) and Section 15378(b)(5)).

Lead Agency Contact Person: Daniel Houck, Associate Planner, 805-385-7556

Joe Pearson II, AICP
Planning and Environmental Services Manager
City of Oxnard

Date

Note: Authority cited: Sections 21083 and 21110, Public Resources Code.
Reference: Sections 21108, 21152, and 21152.1, Public Resources Code.

RESOLUTION NO. 2024-XX

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF OXNARD RECOMMENDING THAT THE CITY COUNCIL ADOPT AN ORDINANCE APPROVING THE THIRD AMENDMENT TO DEVELOPMENT AGREEMENT NO. 7113 (PLANNING AND ZONING PERMIT NO. 24-670-01) LOCATED AT 2700 AND 2750 NORTH VENTURA ROAD (APN 132-0-100-595). FILED BY RIVERPARK APARTMENTS OWNER, LLC, 1731 VILLAGE CENTER CIRCLE, LAS VEGAS, NV 89134.

WHEREAS, on September 10, 2002 the City Council approved the entitlements for The RiverPark Specific Plan to guide future development on the 702-acre project site; and

WHEREAS, On November 18, 2008, the City Council adopted Ordinance No. 2787, approving Planning and Zoning Permit No. 08-670-03 (Development Agreement No. A-7113) between the owners of the Project site and the City of Oxnard; and

WHEREAS, On November 9, 2010, the City Council adopted the first Development Agreement Amendment which maintained development fees at certain levels for an extended period of time, based on market conditions at the time; and

WHEREAS, On April 5, 2022, the City Council adopted the Second Development Agreement Amendment , which allowed for a time extension, impact fee modifications, defined future affordable housing requirements, and defined off-site maintenance requirements; and

WHEREAS, the Planning Commission of the City of Oxnard (“**Planning Commission**”) has considered an application for Planning and Zoning Permit No. 24-670-01 (“**Project**”), a second amendment to Development Agreement No. A-7113 (Development Agreement) between the CITY OF OXNARD, a municipal corporation of the State of California (the “City”) and RIVERPARK APARTMENTS OWNER, LLC a California limited liability company (collectively referred to “Applicant” or “Developer” in the record of proceedings); and

WHEREAS, the Third Development Agreement Amendment shall allow for the removal of a section in the prior development agreement amendment that mandated a maintenance agreement for the acquisition of a service road from Caltrans, which would be used to serve the project site. The Caltrans road will no longer be acquired, deeming the section irrelevant. The proposed changes are included in Exhibit A to this Resolution; and

WHEREAS, on March 21, 2024, the Planning Commission of the City of Oxnard (“**Planning Commission**”) conducted a duly noticed public hearing where written and oral comments were received and reviewed to consider an application for a Development Agreement (PZ 24-670-01) in accordance with Chapter 16-575 of the Oxnard City Code; and

WHEREAS, the Planning Commission finds, after due study, deliberation and a duly noticed public hearing on March 21, 2024, and received and reviewed written and oral comments, presented by staff and the Applicant with a series of questions, and that the project meets the criteria set out in California Government Code 65864 through 65869.5; 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 does not constitute a project under CEQA, therefore, it

is exempt under CEQA Guidelines Section 15061(b)(3) and Section 15378(b)(5), as it can be seen with certainty that there is no possibility that this amendment to the development agreement would have a significant effect on the environment.

WHEREAS, the Applicant agrees that at its own expense, to indemnify and defend the City of Oxnard and its agents, officers and employees from and against any claims, actions or proceedings to attack, set aside, void or annul the approval of this resolution or any actions or proceedings, acts or determinations taken, done or made before the approval of this resolution that were part of the approval process.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Oxnard recommends that the City Council (i) adopt an ordinance approving Planning and Zoning Permit No. 24-670-01 (Amendment No. 3 to Development Agreement No. A - 7113) to amend the Development Agreement pursuant to Exhibit A, hereto attached.

SECTION 1. The Recitals above are true and correct and incorporated herein by this reference.

SECTION 2. The Planning Commission finds that the Fore Property Development Agreement Amendment is internally consistent with all other provisions of the City of Oxnard 2030 General Plan.

SECTION 3. The Planning Commission finds that the Fore Property Development Agreement Amendment will not be detrimental to the public interest, health, safety, convenience, or welfare of the City.

SECTION 4. The Planning Commission finds that the project site associated with the Fore Property Development Agreement Amendment is physically suitable in terms of design, location, operating characteristics, shape, size, topography, and the provision of public and emergency vehicle access, and public services and utilities and is served by highways and streets adequate in width and improvement to carry the kind and quantity of traffic the proposed use would likely generate, to ensure that the proposed use(s) and/or development will not endanger, jeopardize, or otherwise constitute a hazard to the property or improvements in the vicinity in which the property is located.

SECTION 5. The Planning Commission determines that the development that would be authorized for the project site by the proposed Fore Property Development Agreement Amendment is the best use for the subject project site.

SECTION 6. The Planning Commission determines that the Fore Property Development Agreement Amendment is in the best interests and welfare of the City and its residents.

SECTION 7. In recommending adoption of this Resolution for the Fore Property Development Agreement Amendment, the Planning Commission finds and determines the project is

in compliance with the California Environmental Quality Act because it can be seen with certainty that there is no possibility that this amendment to the development agreement would have a significant effect on the environment and should be exempt under CEQA Guidelines Section 15061(b)(3) and Section 15378(b)(5).

SECTION 8. Until such time that the City Council approves the Fore Property Development Agreement Amendment, the underlying Development Agreement shall remain in full force and effect and shall apply to the property affected by this Resolution.

SECTION 9. The Secretary shall certify the adoption of this Resolution.

PASSED and ADOPTED by the Planning Commission of the City of Oxnard on this 21st day of March 2024 by the following vote:

Ronald Arruejo, 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 March, 2024, and carried by the following vote:

AYES: Commissioner(s):

NOES: Commissioner(s):

ABSENT: Commissioner(s):

ABSTAIN: Commissioner(s):

RECUSED: Commissioner(s):

Joe Pearson II, AICP, Secretary

Fore Property Development Agreement Amendment No. 3 (PZ 24-670-01)
Planning Commission Hearing Date: March 21, 2024
Resolution No. 2024- XX
Page 4 of 4

EXHIBIT A

THIRD DEVELOPMENT AGREEMENT TEXT
(See Attachment B of Planning Commission staff report)

Fore Property Development Agreement Amendment

Planning and Zoning Permit PZ No.
24-670-01 (Third Development Agreement Amendment)

Applicant: RiverPark Apartment Owners, LLC

Daniel Houck, Associate Planner

Joe Pearson II, Planning and Environmental Services Manager

Planning Commission
March 21, 2024



Project Description

- The proposed Development Agreement Amendment (DAA) will allow for:
 - The removal of Section 5, which mandated a maintenance agreement with the City of Oxnard for a service road the City was acquiring that the property would use to service the proposed residential apartment project on the parcel.
- No physical development is proposed with this request. Any future development proposals would be required to comply with the 2030 General Plan, the RPSP, and applicable development standards. All future proposals would also be subject to compliance with the State California Environmental Quality Act (CEQA) Guidelines.

Project Location

Subject Site: 2700 and 2750 North Ventura Road

Location: This project site is located southwesterly of the intersection of North Ventura Road and Town Center Drive, within the RiverPark Specific Plan Area.

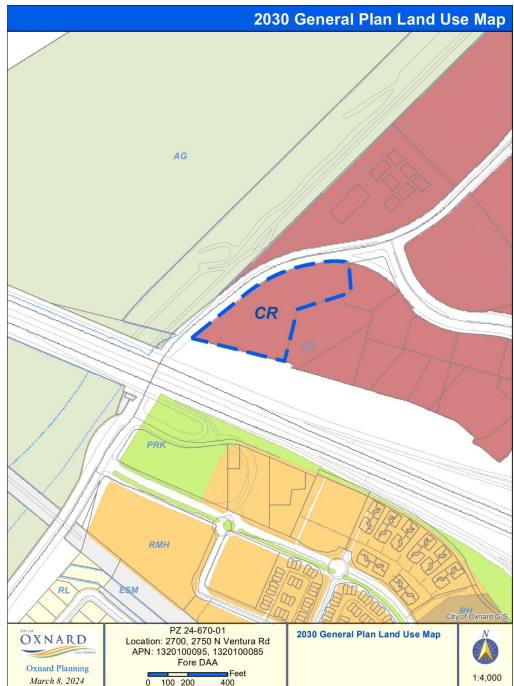


Project Location

LOCATION	ZONING	2030 GENERAL PLAN	EXISTING LAND USE
Project Site	The RiverPark Specific Plan	Commercial Regional	Fore Apartments at Riverpark (Under Construction)
North	The RiverPark Specific Plan	Commercial Regional	Light Industrial Development
East	The RiverPark Specific Plan	Commercial Regional	Commercial/senior living facility
South	The RiverPark Specific Plan	Residential: Medium-High, and Park	Wagon Wheel
West	The RiverPark Specific Plan	Commercial Regional	Santa Clara River

General Plan & Zoning Maps

General Plan Land Use



Commercial Regional (CR)

Zoning Designation



Residential Very High/Commercial Regional (RVH/CR)

Background - RiverPark Apartments

- April 5, 2022, City Council approved an amendment to The RiverPark Specific Plan (PZ 20-630-01) to:
 - Introduce a new high density land use designation within Planning Districts B, C, and D (Residential:Very High (30-80 units/acre));
 - Create a new development type (Apartments - Urban);
 - Revise planning area boundaries;
 - Update the Land Use Table; and
 - Update exhibits for consistency with proposed changes.
- The new land use designation was applied in combination with the existing Commercial: Regional land use.
- This will allowed for 333 units to be developed on the project parcel.

Background - RiverPark Apartments (Continued)

- On May 23, 2022, the Community Development Director approved of the project to allow a 333 unit apartment building on the parcel.
- On July 21, 2022, Planning Commission heard an appeal of the project and upheld the Director's initial approval. (PZ 19-200-16)
- On July 18th a Minor Modification was approved by staff that maintained the proposed residential building at 333 units, however, taking up a compressed footprint.
 - This was due to fall through of the expected acquisition of an access road from Caltrans by the City of Oxnard. The state level of Caltrans opted not to approve of the conveyance of the road.
 - Necessitated an alternative for providing a service road for the project.
 - The building was compressed, losing 25 bedrooms, and increasing the height to provide the Fire Department and Environmental Resources with the access road on the property.

Project Changes



Background - Development Agreement

- On November 18, 2008, the City Council adopted Ordinance No. 2787, approving Planning and Zoning Permit No. 08-670-03 (Development Agreement No.A-7113) between the owners of the Project site and the City of Oxnard.
- The Development Agreement (DA) has been amended on two previous occasions, November 9, 2010 and September 6, 2022.

Development Agreement Amendment

- Proposed Changes for Amendment 3:
 - The removal of Section 5
 - This section is no longer relevant.
 - It mandated a maintenance agreement with the City of Oxnard for a service road the City was acquiring from Caltrans.
 - The road was to be used as an access road for the proposed residential apartment project on the parcel for the Fire Department and Environmental Services.
 - Caltrans retreated from the deal and the property underwent a redesign of the proposed apartment building to address the need for an access road. This was approved through a minor modification.

- Policy ICS-1.2
 - Development Impacts to Existing Infrastructure
 - Doesn't create impacts on existing infrastructure
- Policy ICS 1.4
 - Infrastructure Conditions of Approval
 - Should only be approved if it demonstrates adequate public services and required infrastructure
- Policy ICS 20.10
 - Adequate Emergency Access and Routes
 - Must provide adequate emergency access

Environmental Determination:

Pursuant to the 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 request proposes no development and does not constitute a project. Therefore, it can be seen with certainty that there is no possibility that this amendment to the development agreement, located at 2700 and 2750 North Ventura Road, would have a significant effect on the environment (CEQA Guidelines Section 15061(b)(3) and Section 15378(b)(5)). Staff recommends that the Planning Commission accept the Notice of Exemption.

Public Notice

- Notice of PC hearing was provided:
 - Newspaper,
 - On-site posting; and
 - Mailed to property owners within 300 feet.

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 2024-XX recommending City Council approval of Planning and Zoning Permit No. 24-670-01 (Third Amendment to Development Agreement No.A-7113) for the Fore Property, subject to certain findings.



Questions