

CITY COUNCIL OF THE CITY OF OXNARD

ORDINANCE NO. 3003

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OXNARD CREATING A MINISTERIAL SITE PLAN REVIEW PROCESS IN DIVISION 2A OF ARTICLE VII OF CHAPTER 16 OF THE OXNARD CITY CODE (OCC) SECTIONS 16-523 THROUGH 16-523.12, RELATED TO THE AMENDMENT AND ADOPTION OF THE 2021-2029 HOUSING ELEMENT. FILED BY CITY OF OXNARD, COMMUNITY DEVELOPMENT DEPARTMENT, 214 SOUTH C STREET, OXNARD, CA, 93030.

WHEREAS, the City Council of the City of Oxnard has considered Zone Text Amendment (ZTA) PZ No. 21-580-03, filed by the City of Oxnard Community Development Department, to amend Chapter 16 of the Oxnard City Code (OCC) creating a ministerial Site Plan Review (SPR) process to implement the 2021-2029 Housing Element. To comply with State law, the proposed ordinance provides a process for conducting a ministerial (non-discretionary) review of by-right development in OCC Chapter 16, Article VII, Section sections 16-523 through 16-523.12; and

WHEREAS, the Planning Commission held a public hearing on September 2, 2021 to review and provide input on the 2021-2029 Final Housing Element, Staff's recommended text and map changes to the General Plan Land Use Element, Draft amendments to Chapter 16 of the Oxnard City Code and recommended zoning map amendments to facilitate construction of housing units as stipulated in the Final Housing Element; and

WHEREAS, the Planning Commission held a public hearing on September 16, 2021 to consider approving resolutions recommending that the City Council of the City of Oxnard amend the 2030 General Plan by adopting the 2021-2029 Final Housing Element Update and incorporating it as Chapter 8 of the 2030 General Plan (General Plan Amendment PZ No. 20-620-03), text and map changes to the General Plan Land Use Element (General Plan Land Use Element/Text and Map Amendment Nos. PZ 21-620-02 and PZ 21-620-03), amendments to Chapter 16 of the Oxnard City Code (Zoning Code Text Amendments No. PZ 21-580-03), and zoning map amendments to facilitate construction of housing units as stipulated in the Final Housing Element (Zoning Map Amendments No. PZ 21-580-04); and

WHEREAS, the Planning Commission received written and verbal comments from the public; and

WHEREAS, The City prepared an Initial Study - Mitigated Negative Declaration (IS/MND - No. 2021-01) for the proposed 2021-2029 Housing Element and related actions in accordance with CEQA Guidelines, Section 15070; and

WHEREAS, the Planning Commission adopt Resolution 2021-26 recommending that the City Council approve Planning & Zoning Permit No. 21-580-03 (Zone Text Amendment) for implementation of the City's housing element; and

WHEREAS, on October 5, 2021, the City Council of the City of Oxnard conducted a duly noticed public hearing to consider the Applicant's request to approve Planning and Zoning Permit No. 21-580-03 (Zone Text Amendment) in accordance with the OCC, and

WHEREAS, the City Council received written and verbal comments from the public; and

WHEREAS, the City Council finds proposed Zoning Text Amendment is in the public interest and reflects the input from residents, stakeholders in the community, and decision-makers. There are no changes recommended under the proposed ZTA that would reduce or compromise existing standards that protect the health, safety or general welfare of the City; and

WHEREAS, the proposed ZTA does not involve any direct physical changes to the environment. There are no changes in landforms as a part of the proposed ZTA and all public services for existing land uses will remain as-is, with no changes and no diminishment of service or safety; and

WHEREAS, the proposed ZTA to Chapter 16 of the OCC would establish specific provisions consistent with the action items and policy directives in the 2030 General Plan, as amended under PZ Permit No. 20-620-03, General Plan Amendment replacing in its entirety the current Chapter 8 (2013-2021 Housing Element) with the 2021-2029 Housing Element and PZ No. 21-620-02, update to General Plan Land Use Element (Chapter 3) text by amending the General Commercial and Business Research Park land use descriptions to allow up to 30 dwelling units with 20% lower income units per acre when identified by a zoning suffix of "-AHP" (Affordable Housing Permitted) or "-AHD" (Affordable Housing Discretionary); and

WHEREAS, the adoption of ZTA to City's General Commercial zone would facilitate by-right development in the Affordable Housing Permitted (AHP) Additive Zones at the default density of 30 du/acre, provided that a minimum of 20% of units are affordable to lower income households, per State requirements; and

WHEREAS, the City Council determined that this action is exempt from environmental review pursuant to the California Environmental Quality Act (CEQA) Guidelines Sections 15060(c)(2) and (3) and 15061(b)(3) as this ZTA is a regulatory action which will not result in direct or reasonably foreseeable indirect physical change in the environment and when it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment are not subject to CEQA; and

WHEREAS, it is in the public interest, consistent with the 2030 General Plan, to establish a process for ministerial review of development relating to the provision of affordable housing in specific zones in the City.

NOW, THEREFORE, the City Council of the City of Oxnard does ordain as follows:

Section 1. Oxnard City Code Chapter 16, Article VII, Division 2A entitled “Site Plan Review Permit”, sections 16-523 through 16-523.12 are amended to read, as follows:

“DIVISION 2A. SITE PLAN REVIEW PERMIT

16-523. Purpose and intent

16-523.1 Review Authority

16-523.2 Procedure for Site Plan Review

16-523.3 Review and Decision

16-523.4 Required Findings

16-523.5 Notice of Action

16-523.6 Effective Date of Decision

16-523.7 Expiration Date and Extension

16-523.8 Application Fee

16-523.9 Appeals

16-523.10 Modification to Site Plan Review Permit

16-523.11 As-Built Development

16-523.12 CEQA

ARTICLE VII. PERMIT PROCEDURES

DIVISION 2A. SITE PLAN REVIEW

SEC. 16-523. PURPOSE AND INTENT.

This division establishes the procedures for conducting a non-discretionary ministerial Site Plan Review for certain development applications, as identified in this chapter. This process requires the Director to verify that certain new or expanded uses, activities, structures, or development of land complies with all applicable ordinances of the City.

SEC. 16-523.1. REVIEW AUTHORITY

The Community Development Director (“Director”) is the review authority for an application that requires Site Plan Review. The Director may approve or deny the application. The Director may refer an application to another Review Authority for a decision on the non-discretionary Site Plan Review.

SEC. 16-523.2. PROCEDURE FOR SITE PLAN REVIEW.

(A) Whenever this chapter provides that a particular use or development may be permitted by Site Plan Review, a Site Plan Review permit shall be issued by the Community Development Department. A Site Plan Review permit may also be used for developments where the state has mandated that the City's approval must be ministerial.

- (B) An application for a Site Plan Review Permit may be filed by:
- (1) The owner(s) of the subject property,
 - (2) An authorized agent representing the property owner(s), or
 - (3) The City.

(C) Each application for a Site Plan Review Permit or modification to a Site Plan Review Permit must be filed with the Director on a City application form, together with required fees and/or deposits, and all other information and materials as identified in the City's submittal checklist. The City may ask an applicant to clarify, or provide additional materials to address questions or concerns during the review process.

(D) The application shall be reviewed by the Development Advisory Committee for consistency with applicable regulations and standards. The intent of this review is to provide interdepartmental perspective and coordination prior to project approval with the goal of streamlining the building permit process. This review is non-discretionary, though the Committee may provide conditions of approval to ensure compliance with applicable regulations and standards.

(E) The applicant shall be informed in writing within 30 calendar days of application submittal or as required by the Government Code, that either the application is complete and has been accepted for processing, or that the application is incomplete and that additional information, specified in writing, shall be provided before it can be accepted for processing.

(F) If the applicant does not complete their application within 90 days after notification that the application is incomplete, the application shall be deemed withdrawn, unless a written request for extension is filed by the applicant and granted for good cause by the Director for a period not to exceed an additional 90 days. If an extension is not granted, or if the extension expires, the application shall be considered withdrawn. A courtesy letter from the City should be sent to the applicant documenting the withdrawal. A new application, including fees, plans, exhibits, and other materials that will be required to commence processing of any development project on the same property.

(G) All Site Plan Review permits shall be subject to review to ensure compliance with all applicable objective standards. The review shall be conducted by the Director.

(H) No public notifications or public meetings or hearings shall be required for ministerial Site Plan Review Permits.

(I) Where a Site Plan Review permit is processed concurrently with a required discretionary permit, the Review Authority with jurisdiction over the discretionary permit

shall also have review authority over the Site Plan Review permit. However, the review of the Site Plan Review permit shall remain ministerial pursuant to the provisions of this section.

SEC. 16-523.3. REVIEW AND DECISION.

The Director must determine whether the proposed use, activity, building, alteration, or addition, is permitted and conforms to all the applicable regulations and standards of this Chapter, other applicable regulations and standards. A Site Plan Review permit shall only be issued after the Director makes the required findings in section 16-523.4. and other applicable findings required under this chapter.

SEC. 16-523.4. REQUIRED FINDINGS.

The Review Authority must make the following findings:

(A) The project is consistent with the applicable General Plan policies and is in conformance with applicable zoning regulations contained in this chapter and other adopted standards.

(B) There are adequate infrastructure and public services available to serve the proposed development, including sewerage, water, fire and police protection, storm drainage facilities, and legal access to the lot.

(C) The proposed development is on a legally created lot.

SEC. 16-523.5. NOTICE OF ACTION.

After taking action on an application, the Director shall notify the applicant of the decision. The decision may be in the form of a letter or in the form of a stamp, signature, or other official notation or documentation on the site plan. The Site Plan Review permit will be identified by the Community Development Department on the City's Development Project List.

SEC. 16-523.6. EFFECTIVE DATE OF DECISION.

The decision is effective upon issuance of Notice of Action.

SEC. 16-523.7. EXPIRATION DATE AND EXTENSION.

(A) A Site Plan review shall expire **24 36** months from the date of issuance if the use, building, structure, or other improvements for which the permit has been issued has not been established or commenced in compliance with the issued permit or unless a time extension is approved. If the approved application is not used within the time limit, the approval becomes null and void.

(B) Notwithstanding Subsection A, above, where an application, including required fees, requesting an extension is timely filed prior to such expiration date, the Director may approve a one-time extension of the time limit in Subsection A, above, for a period

of not to exceed one year. In considering a time extension, the Review Authority must make the following findings:

- (1) The granting of the extension must be based upon a finding of good cause.
- (2) All original findings for approval can still be made.

SEC. 16-523.8. APPLICATION FEE.

(A) Fees for filing an application for a Site Plan Review permit shall be the same as the fees for a Development Design Review Permit and Development Advisory Committee fees set by resolution of the City Council.

SEC. 16-523.9. APPEALS.

The Director's decision to approve a Site Plan Review is final and is not subject to appeal, except as follows: An application for a Site Plan Review Permit shall only be appealable if the matter is denied with written findings justifying the denial. The denial may be appealed to the Hearing Officer within ten days of the date of the issuance of the written decision. An appeal shall be granted if the Director's decision does not include written findings or if the written findings do not justify the denial consistent with state or local law.

SEC. 16-523.10. -MODIFICATIONS TO SITE PLAN REVIEW PERMITS.

(A) **Minor Modification:** Minor changes to an approved Site Plan Review permit that substantially conform to the approved or issued permit are eligible for review as a Minor Modification. A minor modification may allow for an increase or decrease of the following elements of the approved development, by no more than 10 percent:

- (1) Approved building height
- (2) Approved setback distances
- (3) Landscape coverage
- (4) Building floor area
- (5) Site building coverage
- (6) Other approved numerical elements

In no case may the increase or decrease be below the minimum or exceed maximum standards established by the City Code.

(B) Modifications to building elevations may be considered under a Minor Modification, provided that modified elevations comply with applicable objective design standards and applicable zoning regulations contained in this chapter and other adopted standards.

(C) An application for a Minor Modification shall be filed with the Director. Three copies of the site plan, elevation and landscape plan, if applicable, shall be submitted with a letter outlining the requested modification(s).

(D) Fees for filing an application for a Minor Modification shall be set by resolution of the city council.

(E) Upon review of the application for a Minor Modification, the Director shall issue a written decision approving, conditionally approving or denying the application within the time period prescribed by State law.

(F) The Director's decision to approve a Minor Modification to a Site Plan Review is final and is not subject to appeal, except as follows: An application for a minor modification shall only be appealable if the matter is denied with written findings justifying the denial. The denial may be appealed to the Hearing Officer within ten days of the date of the issuance of the written decision. An appeal shall be granted if the Director's decision does not include written findings or if the written findings do not justify the denial consistent with state or local law.

(G) **Major Modification:** Changes to an approved Site Plan Review permit that do not qualify as Minor Modifications under Subsection A or B shall be reviewed under a new Site Plan Review application.

SEC. 16-523.11. AS-BUILT DEVELOPMENT.

Applications for legal as-built development without an effectuated Site Plan Review permit that is considered nonconforming only due to the absence of a Site Plan Review permit, shall be processed in the same manner as a Minor Modification under Section 16-523.10. The Site Plan Review permit for the as-built development may allow for Minor Modification to the existing development pursuant to Section 16-523.10 as allowed under the Minor Modification process.

SEC. 16-523.12. CEQA

The Site Plan Review Permit is defined as ministerial within the meaning of CEQA and Cal. Public Resource Code 21080(b)(1). The Site Plan Review Permit review process applies a series of fixed standards and objective measurements and does not intend to involve the use of personal or subjective judgments in deciding whether or how the project should be carried out."

Section 2. If any section, sentence, clause or phrase of this Ordinance is determined to be invalid, illegal or unconstitutional by a decision or order of any court of competent jurisdiction, then decision or order shall not affect the validity and enforceability of the remaining portions of this Ordinance. The City Council declares that it would have passed and adopted this Ordinance, and each section, sentence, subsection, clause, phrase, part or portion thereof, regardless of the fact that any one or more sections, sentences, subsections, clauses, phrases, be declared invalid or unconstitutional.

Section 3. Cumulative Ordinance. Nothing in this Ordinance shall be interpreted to allow any land use which is not expressly listed as permitted or conditionally permitted within the City's Zoning Code.

Section 4. Exempt from CEQA. The City Council determines and finds that the adoption of this Ordinance is exempt from review under the California Environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2) and (3) and 15061(b)(3) of the Guidelines to the California Environmental Quality Act because the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment.

Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. Therefore, CEQA does not apply to this action.

Section 5. Pursuant to Government Code Section 36933(c)(1), the City Attorney was designated to prepare, and the City Clerk published, a summary of this Ordinance, and a certified copy the Ordinance was posted in the Office of the City Clerk a minimum of five days before the City Council's adoption of the Ordinance.

Section 6. The City Clerk shall certify as to the adoption of this Ordinance and shall cause summary thereof to be published within fifteen calendar (15) days of the adoption and shall post a certified copy of this Ordinance, including for and against the same, in the office of the City Clerk, in accordance with Government Code Section 36933. Ordinance No. 3003 was first read on October 5, 2021, and finally adopted on October 19, 2021, to become effective thirty (30) days thereafter.

PASSED AND ADOPTED this 19th day of October 2021 by the following vote:

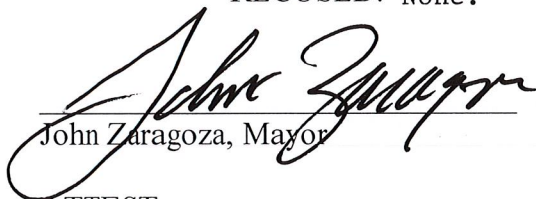
AYES: Councilmembers Basua, Lopez, MacDonald, Madrigal, Perello, Teran and Zaragoza.

NOES: None.

ABSENT: None.

ABSTAIN: None.

RECUSED: None.



John Zaragoza, Mayor

ATTEST:



Rose Chaparro, City Clerk

APPROVED AS TO FORM:



Stephen M. Fischer, City Attorney

10/18/2021