



ADMINISTRATIVE REPORT

TO: Planning Commission

FROM: Katrina Rice Schmidt, AICP, City Planner

REPORT DATE: July 23, 2007

MEETING DATE: August 1, 2007

SUBJECT: GENERAL PLAN AMENDMENT (GPA 07-01) AND NEW ORDINANCE REGULATING FORMULA RETAIL ESTABLISHMENTS IN THE CITY OF OJAI, INCLUDING THE ADDITION OF A HISTORIC COMMERCIAL DOWNTOWN (HCD) OVERLAY DISTRICT ON THE GENERAL PLAN AND ZONING MAPS (TA 07-02)

RECOMMENDATION

Adopt a Resolution recommending that the City Council:

1. Conduct a public hearing to receive public testimony on the amendments to the City General Plan and Zoning Ordinance, and environmental determination;
2. Adopt a Resolution and Findings accepting the CEQA Environmental Determination of Exemption, and approving a General Plan Amendment that adds the Historic Commercial Downtown (HCD) Overlay District to the Land Use Element text and to the General Plan Land Use Map, and approving a Text Amendment of the Ojai Municipal Code adding Section 10-2.1713 (Formula Retail Establishments) and Renumbering Existing Section 10-2.1713 (Applicable Regulations) to Section 10-2.1714, and adding the HCD Overlay District to Section 10-2.202 (Zoning Map) and to Table 2-1 (Zoning Districts), and Repealing Ordinance Number 794.
3. Conduct the first reading of the Ordinance by title only, and pass to second reading.

BACKGROUND AND DISCUSSION

Since the beginning of 2007, the City has held six public meetings regarding the issue of regulating formula retail stores in Ojai. In response to public concern over the proliferation of chain stores in Ojai, the City Council adopted Ordinance No. 794, an urgency measure adopting an interim ordinance prohibiting the approval or issuance of building or other development permits for formula retail es city-wide, until such time that a permanent ordinance is adopted. On July 18, 2007, staff brought a draft permanent ordinance to the Planning Commission for review and consideration at a public hearing. It was evident from the staff presentation, Planning Commission comments, and

public comments that views regarding the regulation of formula retail establishments were varied and ran the full spectrum from questioning why regulating formula establishments was needed at all to the opposite view of desiring to prohibit formula establishments city-wide. Several of the Commissioners suggested that it was important to maintain a balance of maintaining community character by regulating formula establishments, keeping in mind the importance of having a full array of products and services in town so that residents and visitors could walk to goods and services instead of having to travel to Ventura and beyond.

Approach

As stated at the July 18, 2007 meeting, there are several approaches to formulating a permanent ordinance. The three major approaches are: 1) Regulation, 2) Number, and 3) Location. Staff's original recommendation was to take the location approach, by prohibiting formula retail establishments in the downtown core, as a way to protect the small historical character of the downtown. This approach left many commercially zoned properties free from formula business regulation at the entrance to town on both the west and east edges of the City limits. This approach was unacceptable to several of the members of the public, especially those who prefer a city-wide regulatory approach. After much deliberation, most of the Planning Commission seemingly expressed a desire to have a larger physical area of protection beyond the historic commercial downtown from any more formula retail establishments. In response, staff is now recommending a combination approach of location and regulation.

Basically, the new approach consists of prohibiting formula retail and restaurant establishments from the Historic Commercial Downtown area, located roughly from Cañada Street east to Drown Avenue and from Aliso Street south to Topa Topa Street. Secondly, the approach would create a zone outside of the HCD that allows formula establishments, but regulates them. Thirdly, the parcels that front Maricopa Highway, west of the "Y" intersection would not be regulated by the new ordinance and policies. However, if a formula retail business were to locate on a property fronting on Maricopa Highway, all environmental, design, sign and other existing regulations and policies would apply. This approach would allow formula retail in the City and thus would fare better if confronted with claims of restraint of trade issues, rather than the approach of prohibiting formula establishments city-wide.

Regulations for formula retail establishments for the C-1 and VMU Zoning Districts other than those parcels fronting Maricopa Highway would be regulated by:

- limiting street-level frontage of 25 linear feet maximum; and
- limiting total floor area to 2,000 square feet; and
- prohibiting drive-through facilities; and
- limiting formula retail to one per building; and
- limiting formula retail establishment to one per lot less than 40,000 square feet and 1 formula establishment per 20,000 square feet for lots with more than 40,000 square feet of lot area.

ENVIRONMENTAL REVIEW

The Ordinance is exempt from the California Environmental Quality Act (CEQA) under CEQA Guidelines 15378, 15061(b)(3), 15183, and Public Resources Code Section 21083.3(e).

- (a) Under CEQA Guidelines Section 15061(b)(3), CEQA review is not required because there is no possibility that this Ordinance may have a significant effect upon the environment.
- (b) Under CEQA Guidelines Section 15378, the proposed amendments are not a project under CEQA because they will not cause a "direct physical change in the environment" or a "reasonably foreseeable indirect physical change in the environment" because they do not authorize any specific development activity or promote new construction or growth.
- (c) Any potential indirect physical change in the environment is speculative and not reasonably foreseeable.

CONCLUSION

In accordance with past practice, a General Plan Amendment is adopted by Resolution and Zoning changes are adopted by Ordinance. Staff recommends that the Planning Commission adopt the Resolution (Attachment A) recommending that the City Council adopt a General Plan Resolution (Attachment B) and Zoning Ordinance amendments (Attachment C) regarding the regulation of formula retail establishments in the City of Ojai.

ATTACHMENTS

- A: Draft Planning Commission Resolution & Findings
- B: Draft City Council Resolution & Findings (with attached HCD map)
- C: Draft Ordinance (with attached HCD map)

**CITY OF OJAI
PLANNING COMMISSION
RESOLUTION NO. 07-04**

**A RESOLUTION OF THE CITY OF OJAI PLANNING COMMISSION
RECOMMENDING THAT THE CITY COUNCIL APPROVE
GENERAL PLAN AMENDMENT (GPA 07-01) AND NEW ORDINANCE REGULATING
FORMULA RETAIL BUSINESSES IN THE CITY OF OJAI,
INCLUDING THE ADDITION OF A HISTORIC COMMERCIAL DOWNTOWN (HCD)
OVERLAY DISTRICT ON THE GENERAL PLAN AND ZONING MAPS (TA 07-02)**

WHEREAS, Ojai is a community with a very special environment, both natural and man-made, and the qualities of both must be respected so that the uniqueness of Ojai can flourish without inappropriate changes; and

WHEREAS, Ojai is a vital and active City that retains a small town atmosphere and a strong sense of community; and

WHEREAS, Ojai is both a tourist destination and a residential town, and the creation of a desirable living, working, and business environment that is responsive to residents will automatically provide a destination of interest to visitors; and

WHEREAS, regulating commercial development and formula retail serves to preserve the "small town character" of Ojai. A primary object of the General Plan is to maintain and enhance Ojai's special character and small town atmosphere; and

WHEREAS, as stated in the Land Use Element of the General Plan: "It is the Ojai General Plan's approach to preserve the community's "small town" character by using the physical, environmental, and social aspects of the community that form its character as the criteria for determining the appropriateness of new development"; and

WHEREAS, Land Use Element Policy LU-17 states that it is important to balance small town life with a vibrant tourist economy by "Recogniz[ing] and support[ing] visitor serving uses as an integral part of community life, and ensur[ing] that visitor serving uses and activities are designed and managed in such a manner that they are secondary to Ojai's small town character and identity as a desirable place to live;" and

WHEREAS, formula retail businesses are, by their very nature, standardized (including their architecture, décor, color schemes and signage) and not unique, and therefore do not enhance the unique small town character that the City Council finds necessary to maintain a viable visitor industry in Ojai; and

WHEREAS, on July 9, 2007 the Historic Preservation Commission considered and defined the boundaries of the Historic Commercial Downtown, dominated by historic structures such as the Arcade, the Post Office, the Oaks Hotel, the Library and St. Thomas Aquinas Chapel, as shown in the maps attached to the draft Resolution and draft Ordinance (attachments B and C respectively), and incorporated herein by reference; and

WHEREAS, the Historic Commercial Downtown is a special and unique asset within the City, which would be negatively impacted by the presence of formula establishments that are out of harmony with the Historic Commercial Downtown and which do not contribute to the City's small town atmosphere; and

WHEREAS, the City has a legitimate interest in seeking to maintain the ambience of its Historic Commercial Downtown because thousands of visitors each year are attracted to such district who come to enjoy and experience the unique character of the Historic Commercial Downtown. The character of the Historic Commercial Downtown is recognized throughout the State of California, and is a key component in the City's visitor economy. The General Plan Amendment (GPA 07-01) and Zoning Ordinance Amendment (TA 07-02) advances this interest by limiting the location of formula retail businesses, thereby ensuring that their presence is consistent with the City's land use goals. Formula businesses have, by their nature, a greater potential to conflict with the City's small town character and atmosphere than unique one-of-a-kind businesses; and

WHEREAS, the General Plan Amendment (GPA 07-01) and Zoning Ordinance Amendment (TA 07-02) are not premised on maintaining local ownership of businesses, or protecting existing business, or preventing formula retail business from doing business in the City. The purpose of General Plan Amendment (GPA 07-01) and Zoning Ordinance Amendment (TA 07-02) is to maintain Ojai's unique, special character, the diversity and vitality of the City's Historic Commercial Downtown and the quality of life of Ojai residents; and

WHEREAS, the approval of additional building or other permits within the Historic Commercial Downtown for new formula businesses that are contrary to the City's small town character would threaten the public health, safety and welfare; and

WHEREAS, the Planning Commission finds, as support for carefully regulating formula retail, that other California small cities or towns that have significant tourist economies do not have a significant component of formula retail establishments or are not known as destinations for formula retail business (for example, Calistoga, St. Helena, and Coronado); and

WHEREAS, the Planning Commission finds as support that other cities have sought to regulate formula retail businesses to protect and preserve special characteristics of their city or town, including Bainbridge Island, Washington; Arcata, California; Bristol, Rhode Island; Calistoga, California; Carmel-by-the-Sea, California; Coronado, California; Pacific Grove, California; Port Jefferson, New York; and Port Townsend, Washington; and

WHEREAS, certain businesses that provide necessary services to the citizens of Ojai such as banks, health care and fitness establishments, professional services, and similar service establishments, when developed consistent with City's zoning and design guideline regulations, have a positive impact on the community and are exempt from the provisions of this ordinance; and

WHEREAS, formula retail establishments can provide useful goods to the citizens of Ojai and should be permitted within defined areas of the City's boundaries outside of the Historic Commercial Downtown, provided the design of such establishments should be regulated to preserve the City's small town character; and

WHEREAS, to further ensure the preservation of the character and vitality of the Historic Commercial Downtown, the City's Land Use Element should be amended to add a description of the purpose of the Historic Commercial Downtown overlay zone; and

WHEREAS, in light of the foregoing considerations, the Planning Commission has determined that the public welfare of the City's residential, retail, business and tourist based community character, as articulated by the principles upon which the General Plan is premised, will be best preserved by adopting regulations prohibiting building or other permits for the establishment of new formula retail stores within the Historic Commercial Downtown, and by regulating the design of such stores in the rest of the City; and

WHEREAS, the Planning Commission, on August 1, 2007, held a noticed public hearing on the General Plan Amendment (GPA 07-01) and Zoning Ordinance Amendment (TA 07-02) and environmental exemption from the California Environmental Quality Act, took and considered all public testimony, documentary evidence and staff recommendations submitted at such public hearing and recommended adoption thereof by the City Council;

NOW, THEREFORE THE OJAI PLANNING COMMISSION HEREBY FINDS, DETERMINES, DECLARES, RESOLVES AND RECOMMENDS AS FOLLOWS:

SECTION 1. That the City Council determine that the above set forth findings are true and correct regarding General Plan Amendment (GPA 07-01) and Zoning Ordinance Amendment (TA 07-02) and CEQA exemption and are incorporated herein by reference.

SECTION 2. That the City Council adopt a Resolution (Attachment B) that approves a General Plan Amendment that adds the Historic Commercial Downtown (HCD) Overlay District to the Land Use Element and Land Use Map of the General Plan.

SECTION 3. That the City Council adopt an Ordinance (Attachment C) that would amend the Zoning Ordinance by adding the HCD (Historic Commercial Downtown) Overlay District to the Zoning Map, and amend the Zoning Ordinance by adding the HCD Overlay District to the Zoning District text, and amend the Zoning Ordinance by replacing existing Section 10-2.1713 with a new Section 10-2.1713 (Formula Retail Businesses), attached hereto and incorporated herein by reference and moving existing Section 10-2.1713 (Applicable Regulations) to Section 10-2.1714.

SECTION 4. That the City Council repeal Ordinance Number 794, "An Urgency Measure Of The Ojai City Council Adopting An Interim Ordinance Prohibiting The Approval Or Issuance Of Building Or Other Development Permits For Formula Retail Businesses In The City" as of the effective date of the new Ordinance, "An Ordinance Of The City Of Ojai Amending The Ojai Municipal Code Adding Section 10-2.1713 (Formula Retail Establishments) And Renumbering Existing Section 10-2.1713 (Applicable Regulations) To Section 10-2.1714, Adding The HCD (Historic Commercial Downtown) Overlay District To Section 10-2.202 (Zoning Map) And To Table 2-1 (Zoning Districts), And Adding Section 10-2.704 (HCD Overlay Zone)".

SECTION 5. Environmental Determination. The Planning Commission determines that the following findings reflect the independent judgment of the Planning Commission and recommends that the City Council find that General Plan Amendment (GPA 07-01) and Zoning Ordinance

Amendment (TA 07-02) is exempt from the California Environmental Quality Act (CEQA) under CEQA Guidelines 15378, 15061(b)(3), 15183, and Public Resources Code Section 21083.3(e) for the following reasons:

(a) Under CEQA Guidelines Section 15061(b)(3), CEQA review is not required because there is no possibility that General Plan Amendment (GPA 07-01) and Zoning Ordinance Amendment (TA 07-02) may have a significant effect upon the environment.

(b) Under CEQA Guidelines Section 15378, the proposed amendments are not a project under CEQA because they will not cause a "direct physical change in the environment," or a "reasonably foreseeable indirect physical change in the environment" because they do not authorize any specific development activity or promote new construction or growth.

(c) Any potential indirect physical change in the environment is speculative and not reasonably foreseeable.

(d) Under CEQA Guidelines Section 15183 and Public Resources Code Section 21083.3(e), the proposed amendments are consistent with the City's General Plan. The following policies set forth in the Land Use Element of the City's General Plan support adoption of General Plan Amendment (GPA 07-01) and Zoning Ordinance Amendment (TA 07-02):

(1) LU-2: Preserve...a traditional small town downtown which is pedestrian friendly, of higher intensity than the balance of the community, and which has a unique historical architectural character.

(2) LU-6: Maintain an adequate inventory of commercial lands for the provision of goods and services to the community that...are visually attractive and compatible in intensity, building scale, and architectural design with the community's natural environment and small town character.

(3) LU-7: Promote a mix of attractive, employment-generating business park and industrial land uses that provide a sound and diversified economic base, and that are compatible with the community's overall small town character.

(4) LU-17: Recognize and support visitor serving uses as an integral part of community life, and ensure that visitor serving uses and activities are designed and managed in such a manner that they are secondary to Ojai's small town character and identity as a desirable place to live.

(5) LU-18: Limit the rate of residential, commercial, and office development as necessary to preserve the attributes and physical features which comprise Ojai's small town character as expressed in the General Plan.

PASSED, APPROVED AND ADOPTED by the Planning Commission this 1st day of August, 2007 by the following roll call vote:

AYES:

NOES:

ABSENT:

Tucker Adams, Chair, Ojai Planning Commission

ATTEST:

Katrina Rice Schmidt, AICP, City Planner

CITY OF OJAI

RESOLUTION NO. _____

***A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OJAI
AMENDING THE LAND USE ELEMENT OF THE CITY'S
ADOPTED GENERAL PLAN TO INCLUDE THE
HISTORIC COMMERCIAL DOWNTOWN OVERLAY ZONE***

WHEREAS, Ojai is a community with a very special environment, both natural and man-made, and the qualities of both must be respected so that the uniqueness of Ojai can flourish without inappropriate changes; and

WHEREAS, Ojai is both a tourist destination and a residential town, and the creation of a desirable living, working, and business environment that is responsive to residents will automatically provide a destination of interest to visitors; and

WHEREAS, a primary object of the General Plan is to maintain and enhance Ojai's special character and small town atmosphere; and

WHEREAS, as stated in the Land Use Element of the General Plan: "It is the Ojai General Plan's approach to preserve the community's "small town" character by using the physical, environmental, and social aspects of the community that form its character as the criteria for determining the appropriateness of new development"; and

WHEREAS, Land Use Element Policy LU-17 states that it is important to balance small town life with a vibrant tourist economy by "Recogniz[ing] and support[ing] visitor serving uses as an integral part of community life, and ensur[ing] that visitor serving uses and activities are designed and managed in such a manner that they are secondary to Ojai's small town character and identity as a desirable place to live;" and

WHEREAS, on July 9, 2007 the Historic Preservation Commission considered and defined the boundaries of the Historic Commercial Downtown, dominated by historic structures such as the Arcade, the Post Office, the Oaks Hotel, the Library and St. Thomas Aquinas Chapel, as shown in the map attached hereto as Attachment A, and incorporated herein by reference; and

WHEREAS, the Historic Commercial Downtown is a special and unique asset within the City that must be protected, and which would be negatively impacted by the presence of certain business establishments that are out of harmony with the Historic Commercial Downtown and which do not contribute to the City's small town atmosphere; and

WHEREAS, the City has a legitimate interest in seeking to maintain the ambience of its Historic Commercial Downtown because thousands of visitors each year are attracted to such district who come to enjoy and experience the unique character of the Historic Commercial Downtown. The character of the Historic Commercial Downtown is recognized throughout the State of California, and is a key component in the City's visitor economy; and

WHEREAS, to ensure the preservation of the character and vitality of the Historic Commercial Downtown, the City's Land Use Element should be amended to identify and describe the Historic Commercial Downtown overlay zone; and

WHEREAS, the City Council has also reviewed and adopted an ordinance, which ordinance advances the interest of preserving and maintaining the character of the Historic Commercial Downtown by limiting the location of formula retail establishments to areas outside of the Historic Commercial Downtown, thereby ensuring that their presence is consistent with the City's land use goals. Formula establishments have, by their nature, a greater potential to conflict with the City's small town character and atmosphere than unique one-of-a-kind establishments; and

WHEREAS, the Planning Commission has determined to recommend to the City Council the adoption of the zoning ordinance, and the amendment of the General Plan in order to provide consistency between the General Plan and the zoning ordinance; and

WHEREAS, the City has held numerous public hearings in order to include as much public participation as possible in the determination of the adoption of the General Plan amendment and the zoning ordinance; and

WHEREAS, the Planning Commission, on August 1, 2007, held a noticed public hearing on the amendment of the General Plan and the zoning ordinance, took and considered all public testimony, documentary evidence and staff recommendations submitted at such public hearing and recommended adoption thereof by the City Council;

NOW, THEREFORE, the Ojai City Council hereby finds, determines, declares, resolves and recommends as follows:

SECTION 1. The City Council determines that the above set forth findings are true and correct and are declared to be a part of this Resolution and are incorporated herein by reference.

SECTION 2. The City's General Plan Land Use Element is hereby amended by adding to the Section entitled "Development Review," in the Chapter entitled "Implementation and Monitoring Program," the following paragraph immediately after the paragraph entitled "*Special Housing Overlay (SPL)*" on page 29 of the Land Use Element:

"Historic Commercial Downtown Overlay (HCD): The primary purpose of the area designated Historic Commercial Downtown is to identify the core of the City's small town historic commercial district for the purpose of preserving the unique small town character and tourist attracting nature of the downtown area. Appropriate uses within the overlay would include unique specialty retail (e.g., handicraft shops, art galleries, antique stores), personal services, professional and business offices, financial institutions and unique restaurants."

SECTION 3. Environmental Determination. The City Council determines that the following findings reflect the independent judgment of the City Council. The City Council finds that this Resolution is exempt from the California Environmental Quality Act (CEQA) under CEQA Guidelines 15378, 15061(b)(3), 15183, and Public Resources Code Section 21083.3(e) for the following reasons:

(a) Under CEQA Guidelines Section 15061(b)(3), CEQA review is not required because there is no possibility that this Resolution may have a significant effect upon the environment.

(b) Under CEQA Guidelines Section 15378, the proposed amendment is not a project under CEQA because it will not cause a "direct physical change in the environment," or a "reasonably foreseeable indirect physical change in the environment" because it is restrictive in nature and does not authorize any specific development activity or promote new construction or growth.

(c) Any potential indirect physical change in the environment is speculative and not reasonably foreseeable.

(d) Under CEQA Guidelines Section 15183 and Public Resources Code Section 21083.3(e), the proposed amendments are internally consistent with all other adopted Elements of the General Plan. The following policies set forth in the Land Use Element of the City's General Plan support adoption of this Resolution:

(1) LU-2: Preserve... a traditional small town downtown which is pedestrian friendly, of higher intensity than the balance of the community, and which has a unique historical architectural character.

(2) LU-6: Maintain an adequate inventory of commercial lands for the provision of goods and services to the community that... are visually attractive and compatible in intensity, building scale, and architectural design with the community's natural environment and small town character.

(3) LU-7: Promote a mix of attractive, employment-generating business park and industrial land uses that provide a sound and diversified economic base, and that are compatible with the community's overall small town character.

(4) LU-17: Recognize and support visitor serving uses as an integral part of community life, and ensure that visitor serving uses and activities are designed and managed in such a manner that they are secondary to Ojai's small town character and identity as a desirable place to live.

(5) LU-18: Limit the rate of residential, commercial, and office development as necessary to preserve the attributes and physical features which comprise Ojai's small town character as expressed in the General Plan.

PASSED, APPROVED AND ADOPTED by the City Council this ____ day of _____,
2007 by the following roll call vote:

AYES:

NOES:

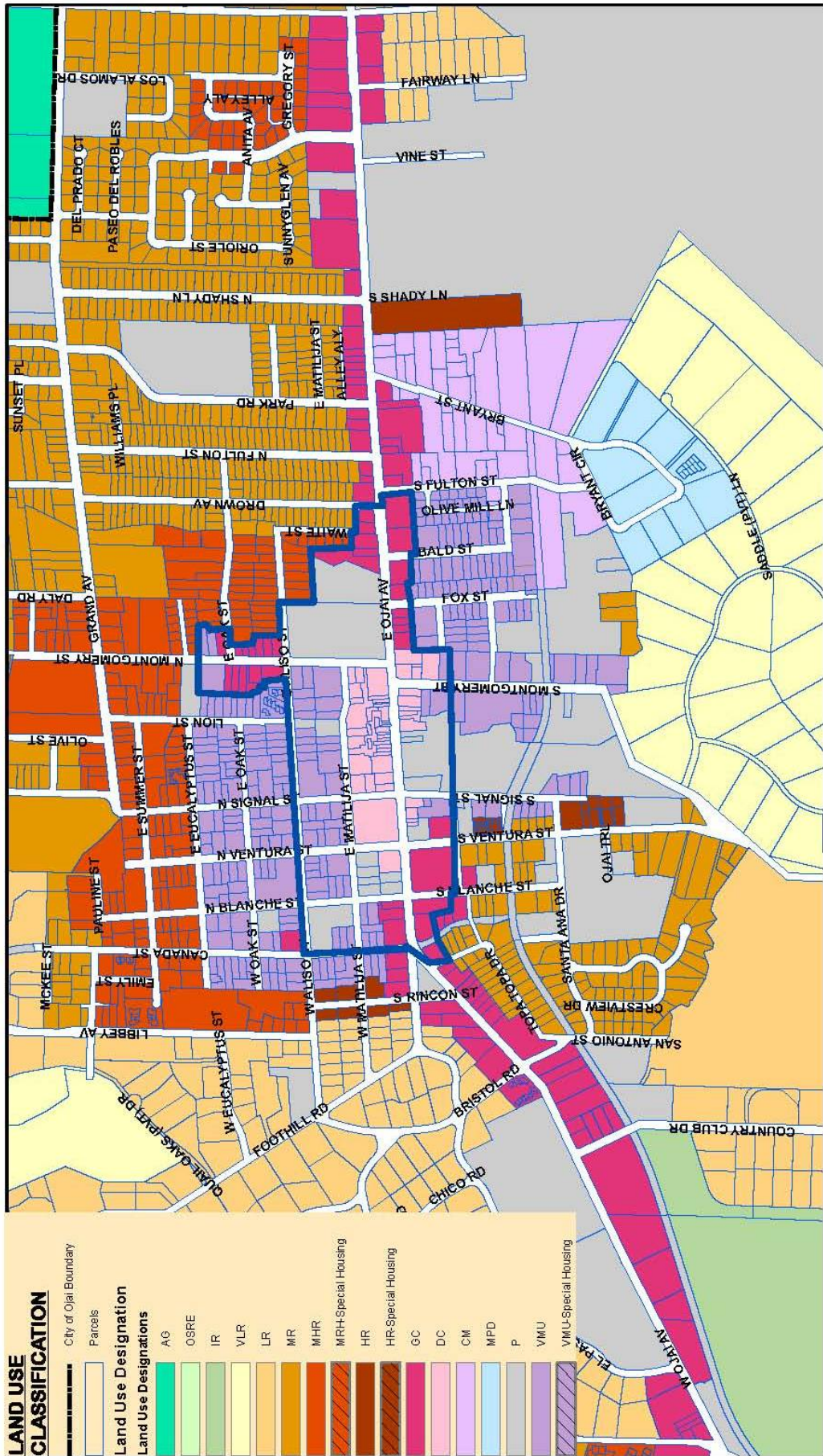
ABSTAIN:

ABSENT:

Carol Smith, Mayor

ATTEST:

Carlton Strobel, City Clerk



LAND USE CLASSIFICATION

- City of Ojai Boundary
- Parcels
- Land Use Designation
- Land Use Designations
- AG
- OSRE
- IR
- VLR
- LR
- MR
- MHR
- MRH-Special Housing
- HR-Special Housing
- GC
- DC
- CM
- MPD
- P
- VMU
- VMU-Special Housing



PROPOSED GENERAL PLAN LAND USE MAP OVERLAY - HISTORIC COMMERCIAL DOWNTOWN
Identified by Historic Preservation Commission on July 9, 2007
CITY OF OJAI

600 Feet
CREATED JULY 26, 2007

CITY OF OJAI

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY OF OJAI
AMENDING THE OJAI MUNICIPAL CODE ADDING SECTION 10-2.1713 (FORMULA
RETAIL ESTABLISHMENTS) AND RENUMBERING EXISTING SECTION 10-2.1713
(APPLICABLE REGULATIONS) TO SECTION 10-2.1714, ADDING THE HCD
(HISTORIC COMMERCIAL DOWNTOWN) OVERLAY DISTRICT TO SECTION 10-2.202
(ZONING MAP) AND TO TABLE 2-1 (ZONING DISTRICTS), AND
ADDING SECTION 10-2.704 (HCD OVERLAY ZONE)**

WHEREAS, Ojai is a community with a very special environment, both natural and man-made, and the qualities of both must be respected so that the uniqueness of Ojai can flourish without inappropriate changes; and

WHEREAS, Ojai is a vital and active City that retains a small town atmosphere and a strong sense of community; and

WHEREAS, Ojai is both a tourist destination and a residential town, and the creation of a desirable living, working, and business environment that is responsive to residents will automatically provide a destination of interest to visitors; and

WHEREAS, regulating commercial development and formula retail serves to preserve the "small town character" of Ojai. A primary object of the General Plan is to maintain and enhance Ojai's special character and small town atmosphere; and

WHEREAS, as stated in the Land Use Element of the General Plan: "It is the Ojai General Plan's approach to preserve the community's "small town" character by using the physical, environmental, and social aspects of the community that form its character as the criteria for determining the appropriateness of new development"; and

WHEREAS, Land Use Element Policy LU-17 states that it is important to balance small town life with a vibrant tourist economy by "Recogniz[ing] and support[ing] visitor serving uses as an integral part of community life, and ensur[ing] that visitor serving uses and activities are designed and managed in such a manner that they are secondary to Ojai's small town character and identity as a desirable place to live;" and

WHEREAS, formula retail establishments are, by their very nature, standardized (including their architecture, décor, color schemes and signage) and not unique, and therefore do not enhance the unique small town character that the City Council finds necessary to maintain a viable visitor industry in Ojai; and

WHEREAS, on July 9, 2007 the Historic Preservation Commission considered and defined the boundaries of the Historic Commercial Downtown, dominated by historic structures such as the Arcade, the Post Office, the Oaks Hotel, the Library and St. Thomas Aquinas Chapel, as shown in the map attached hereto as Attachment A, and incorporated herein by reference; and

WHEREAS, the Historic Commercial Downtown is a special and unique asset within the City, which would be negatively impacted by the presence of formula establishments that are out of

harmony with the Historic Commercial Downtown and which do not contribute to the City's small town atmosphere; and

WHEREAS, the City has a legitimate interest in seeking to maintain the ambience of its Historic Commercial Downtown because thousands of visitors each year are attracted to such district who come to enjoy and experience the unique character of the Historic Commercial Downtown. The character of the Historic Commercial Downtown is recognized throughout the State of California, and is a key component in the City's visitor economy. This ordinance advances this interest by limiting the location of formula retail establishments, thereby ensuring that their presence is consistent with the City's land use goals. Formula establishments have, by their nature, a greater potential to conflict with the City's small town character and atmosphere than unique one-of-a-kind establishments; and

WHEREAS, this ordinance is not premised on maintaining local ownership of establishments, or protecting existing business, or preventing formula retail business from doing business in the City. The purpose of this ordinance is to maintain Ojai's unique, special character, the diversity and vitality of the City's Historic Commercial Downtown and the quality of life of Ojai residents; and

WHEREAS, the approval of additional building or other permits within the Historic Commercial Downtown for new formula establishments that are contrary to the City's small town character would threaten the public health, safety and welfare; and

WHEREAS, the City Council finds, as support for carefully regulating formula retail, that other California small cities or towns that have significant tourist economies do not have a significant component of formula retail establishments or are not known as destinations for formula retail business (for example, Calistoga, St. Helena, and Coronado); and

WHEREAS, the City Council finds as support that other cities have sought to regulate formula retail establishments to protect and preserve special characteristics of their city or town, including Bainbridge Island, Washington; Arcata, California; Bristol, Rhode Island; Calistoga, California; Carmel-by-the-Sea, California; Coronado, California; Pacific Grove, California; Port Jefferson, New York; and Port Townsend, Washington; and

WHEREAS, certain establishments that provide necessary services to the citizens of Ojai such as banks, health care and fitness establishments, professional services, and similar service establishments, when developed consistent with City's zoning and design guideline regulations, have a positive impact on the community and are exempt from the provisions of this ordinance; and

WHEREAS, formula retail establishments can provide useful goods to the citizens of Ojai and should be permitted within defined areas of the City's boundaries outside of the Historic Commercial Downtown, provided the design of such establishments is regulated to preserve the City's small town character; and

WHEREAS, in light of the foregoing considerations, the City Council has determined that the public welfare of the City's residential, retail, business and tourist based community character, as articulated by the principles upon which the General Plan is premised, will be best preserved by adopting regulations prohibiting building or other permits for the establishment of new formula retail stores within the Historic Commercial Downtown, and by regulating the design of such stores in the rest of the City; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF OJAI, CALIFORNIA DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. The City Council determines that the above set forth findings are true and correct and are declared to be a part of this Ordinance and are incorporated herein by reference.

SECTION 2. Title 10, Chapter 2, Section 10-2.202 of the Ojai Municipal Code (Code) is hereby amended to add the Historic Commercial Downtown (HCD) Overlay District to the Zoning Map, as such district is depicted on Attachment A, attached hereto and incorporated herein by reference.

SECTION 3. Title 10, Chapter 2, Table 2-1 of the Code is hereby amended by adding the HCD Overlay District to Table 2-1 (Zoning Districts), as follows:

Zoning District Symbol	Zoning District Name	General Plan Land Use Designation Implemented by Zoning District
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HCD	Historic Commercial Downtown	All
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SECTION 4. Title 10, Chapter 2, Article 17 of the Code is hereby amended by replacing existing Section 10-2.1713 with a new Section 10-2.1713 (Formula Retail Establishments), as follows:

"Sec. 10-2.1713. Formula Retail Establishments.

(a) *Purpose.* The purpose of this Section is to regulate the location and design of formula retail and restaurant establishments in order to maintain the tourist attracting small town character of the City's unique commercial areas and quality of life for visitors and residents.

(b) *Regulation.*

(1) Formula Retail establishments are prohibited in the Historic Commercial Downtown Overlay District.

(2) Any building permit for a use permitted in the C-1 Zoning District or the VMU Zoning District, other than within the HCD Overlay District, that is also a Formula Retail establishment, shall be subject to the following restrictions:

(A) A Formula Retail establishment shall not have a street-level frontage of greater than 25 linear feet on any street or have its retail space occupy more than two stories or two store fronts. For purposes of this section, "street level frontage" shall include frontage on private parking lots and access ways where the commercial building does not abut a public street.

(B) A Formula Retail establishment shall not exceed 2,000 square feet of net total floor area.

(C) No drive-through facilities are permitted.

(D) A Formula Retail establishment may not be located where such location would result in more than one Formula Retail establishment operating within a single building.

(E) The number of Formula Retail establishments per lot and the maximum Formula Retail establishment density shall be as follows:

Lot Size	Maximum Density of Formula Retail Establishments
Lots with less than 40,000 square feet of lot area	1
Lots with 40,000 or more square feet of lot area	1 Formula Retail establishment per 20,000 square feet of lot area.

(F) A Formula Retail establishment shall be designed to reflect the City's small town character and to integrate existing community architectural and design features which will preserve such small town character.

(3) Notwithstanding Section 10-2.1713(b)(2), the restrictions set forth in Sections 10-2.1713(b)(2)(A) through (E), inclusive, shall not apply to any Formula Retail establishment fronting the Maricopa Highway within the City.

(c) *Applicability.* This Section is in addition to, and not in replace of, any other regulations set forth elsewhere in Title 10. In the event of a conflict between the provisions of this Section, and any other regulations in Title 10, the provisions of this Section shall prevail.

(d) *Definitions.* "Formula Retail" means a type of retail sales or rental activity and retail sales or rental establishment, including restaurants, hotels and motels, which, along with ten or more other establishments, maintains two or more of the following features: standardized array of merchandise or standardized menu; standardized façade; standardized décor and color scheme; uniform apparel; standardized signage; trademark or service mark.

(1) "Standardized array of merchandise" shall be defined as 50% or more of in-stock merchandise from a single distributor bearing uniform markings.

(2) "Trademark" shall be defined as a word, phrase, symbol or design, or a combination or words, phrases, symbols or designs that identifies and distinguishes the source of the goods from one party from those of others.

(3) "Servicemark" shall be defined as word, phrase, symbol or design, or a combination or words, phrases, symbols or designs that identifies and distinguishes the source of a service from one party from those of others.

(4) "Décor" shall be defined as the style of interior finishings, which may include but is not limited to, style of furniture, wallcoverings or permanent fixtures.

(5) "Color Scheme" shall be defined as selection of colors used throughout, such as on the furnishings, permanent fixtures, and wallcoverings, or as used on the façade.

(6) "Façade" shall be defined as the face or front of a building, including awnings, looking onto a street or an open space.

(7) "Uniform Apparel" shall be defined as standardized items of clothing including but not limited to standardized aprons, pants, shirts, smocks or dresses, hat, and pins (other than name tags) as well as standardized colors of clothing.

(8) "Signage" shall be defined as business sign pursuant to Section 10-2.1607(c) of the Zoning Regulations.

(9) "Standardized" does not mean identical, but means "substantially the same."

(e) *Exemptions.* Notwithstanding Section 10-2.1713(d), the following shall not be included within the definition of "Formula Retail":

(1) Banks.

(2) Health care and fitness centers.

(3) Establishments that primarily provide a service to the customer, including professional services, real estate offices, insurance offices, copy centers, and mail centers.

(4) The sale of goods in a service establishment described in (3), above, that is ancillary, subordinate and incidental to the provision of services to a customer.

(f) *Existing Formula Retail Establishments.* Formula Retail establishments located in the HCD Overlay District, C-1 Zoning District and VMU Zoning District existing on the date of adoption of this Ordinance are subject to Title 10, Chapter 2, Article 13 (Nonconforming Uses, Structures, and Parcels)."

SECTION 5. Title 10, Chapter 2, Article 17 of the Code is hereby amended by adding Section 10-2.1714, and moving existing Section 10-2.1713 (Applicable Regulations) to Section 10-2.1714.

SECTION 6. Title 10, Chapter 2, Article 7 of the Code is hereby amended by adding a new Section 10-2.704, as follows:

"Section 10-2.704. Historic commercial downtown (HCD) overlay district. The HCD overlay district is intended to prohibit the location of formula retail and restaurant establishments in the district in order to maintain the tourist attracting small town character of the City's unique commercial downtown and quality of life for visitors and residents. The provisions of Section 10-2.1713 are hereby incorporated by reference into this Article 7."

SECTION 7. Ordinance Number 794, "An Urgency Measure Of The Ojai City Council Adopting An Interim Ordinance Prohibiting The Approval Or Issuance Of Building Or Other Development Permits For Formula Retail Establishments In The City," is hereby repealed as of the effective date of this Ordinance.

SECTION 8. Environmental Determination. The City Council determines that the following findings reflect the independent judgment of the City Council. The City Council finds that this Ordinance is exempt from the California Environmental Quality Act (CEQA) under CEQA Guidelines 15378, 15061(b)(3), 15183, and Public Resources Code Section 21083.3(e) for the following reasons:

(a) Under CEQA Guidelines Section 15061(b)(3), CEQA review is not required because there is no possibility that this Ordinance may have a significant effect upon the environment.

(b) Under CEQA Guidelines Section 15378, the proposed amendments are not a project under CEQA because they will not cause a "direct physical change in the environment," or a "reasonably foreseeable indirect physical change in the environment" because they are limiting in nature and do not authorize any specific development activity or promote new construction or growth.

(c) Any potential indirect physical change in the environment is speculative and not reasonably foreseeable.

(d) Under CEQA Guidelines Section 15183 and Public Resources Code Section 21083.3(e), the proposed amendments are consistent with the City's General Plan. The following policies set forth in the Land Use Element of the City's General Plan support adoption of this Ordinance:

(1) LU-2: Preserve...a traditional small town downtown which is pedestrian friendly, of higher intensity that the balance of the community, and which has a unique historical architectural character.

(2) LU-6: Maintain an adequate inventory of commercial lands for the provision of goods and services to the community that...are visually attractive and compatible in intensity, building scale, and architectural design with the community's natural environment and small town character.

(3) LU-7: Promote a mix of attractive, employment-generating business park and industrial land uses that provide a sound and diversified economic base, and that are compatible with the community's overall small town character.

(4) LU-17: Recognize and support visitor serving uses as an integral part of community life, and ensure that visitor serving uses and activities are designed and managed in such a manner that they are secondary to Ojai's small town character and identity as a desirable place to live.

(5) LU-18: Limit the rate of residential, commercial, and office development as necessary to preserve the attributes and physical features which comprise Ojai's small town character as expressed in the General Plan.

SECTION 9. Severability. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the final decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council declares that it would have adopted this Ordinance, and each section, subsection, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more sections, subsections, phrases or portions might be declared invalid or unconstitutional.

SECTION 10. The City Clerk shall cause this Ordinance to be published once, within fifteen (15) calendar days after its passage, in the *Ojai Valley News*, a newspaper of general circulation, printed, published and circulated in the City, and shall cause a copy of this Ordinance and its certification, together with proof of publication, to be entered in the Book of Ordinances of the City.

SECTION 11. This Ordinance shall become effective on the thirty-first (31st) day after its passage.

CITY OF OJAI, CALIFORNIA

Carol Smith, Mayor

STATE OF CALIFORNIA)

COUNTY OF VENTURA)

CITY OF OJAI)

I, Carlon Strobel, City Clerk of the City of Ojai do hereby certify that the foregoing Ordinance was introduced at a regular meeting of the City Council of the City of Ojai held on _____ and adopted at a regular meeting held on _____ by the

following vote:

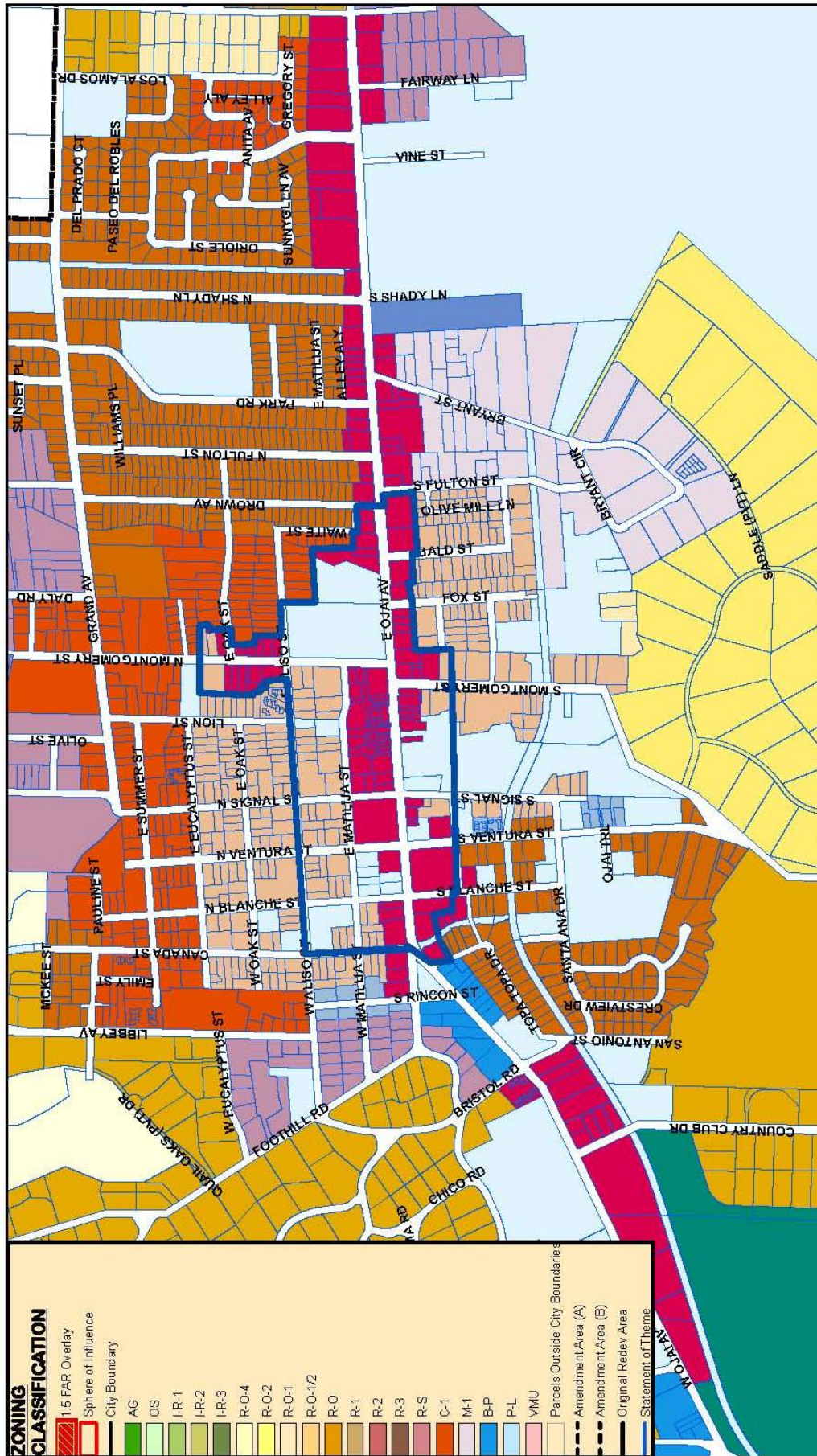
AYES:

NOES:

ABSTAIN:

ABSENT:

Carlon Strobel
City Clerk for the City of Ojai



CITY OF OJAI



PROPOSED ZONING OVERLAY - HISTORIC COMMERCIAL DOWNTOWN
Identified by Historic Preservation Commission on July 9, 2007

600 Feet
CREATED JULY 26, 2007

