

#### Agenda Item #1

#### OC DEVELOPMENT SERVICES REPORT

**DATE:** March 23, 2022

**TO:** Orange County Planning Commission

**FROM:** OC Development Services / Planning Division

**SUBJECT:** Public Hearing on the Appeal of the Director's Approval of Planning

Application PA21-0116 for a Site Development Permit

**PROPOSAL:** An appeal of the Director's January 21, 2022 approval of PA21-0116, a

proposal to demolish 768 square feet of existing retail, add 610 square feet of dining space, convert 390 square feet of retail into a new drive-thru food service shell, and add 300 square feet of exterior dining.

**ZONING:** Las Flores Planned Community (Planning Area 8)

**GENERAL** 1B "Suburban Residential"

PLAN:

LOCATION:

The project is located at 28622 Oso Pkwy., Rancho Santa Margarita,

within the fifth (5th) Supervisorial District (APN: 782-631-04)

**APPLICANT:** Peever Family Holdings I, LLC, Property Owner

Jeffrey Bergsma, Agent

**APPELLANT:** Jill Travers, Adjacent Property Owner

**STAFF** Cynthia Burgos, Contract Staff Planner

**CONTACT:** Phone: (714) 667-8898 E-mail: Cynthia.Burgos@ocpw.ocgov.com

#### **RECOMMENDED ACTION(S):**

OC Development Services/Planning recommends Planning Commission:

- 1. Receive the staff report and public testimony as appropriate: and
- 2. Deny the appeal of Planning Application PA21-0116

#### **BACKGROUND AND EXISTING CONDITIONS:**

The subject property, Lot 2 of Tract 14491 (28622 Oso Pkwy), is located within the unincorporated community of Rancho Santa Margarita in the County of Orange. The property is zoned Las Flores Planned Community and is located in the Neighborhood Center Planning Area. The lot is a rectangular shaped lot with flat topography over a project site that is 35,193 square feet in size and has an average width of 684 feet and an average depth of 345 feet. The property is currently developed with a shopping center and it is located at the corner of Antonio Parkway and Oso Parkway.

On June 30, 2021 Planning Application PA21-0116 was submitted by the applicant. PA21-0116 proposed to demolish 768 square feet of existing retail, add 610 square feet of dining space, convert 390 square feet of retail into a new drive-thru food service shell and add 300 square feet of exterior dining.

On July 15, 2021 Ms. Travers, the adjacent property owner, contacted staff to discuss the project and her concerns. Staff held multiple discussions in person, over the phone and through e-mail correspondences with both Ms. Travers and her architect regarding this project.

On January 21, 2022 the Planning Director approved PA21-0116, the approved Staff Report is included as Attachment 1.

On February 4, 2022, a timely appeal was filed by Jill Travers, the Letter of Appeal is included as Attachment 2. The Planning Commission hearing was scheduled for March 23, 2022 to meet the 60-day schedule for an appeal hearing.

Planning Application PA96-0055 was approved by the Planning Commission on June 18, 1996 for a Site Development Permit to develop a 35,193 square foot commercial center on a six-acre site in Planning Area 8 of the Las Flores Planned Community. The Shopping Center consists of five separate lots, Lot 1 has a service station, Lot 2 has retail, a restaurant and car wash, Lot 3 has a drive thru restaurant, Lot 4 has a drive thru restaurant, and Lot 5 has retail and restaurants. The original project was approved for and developed with 233 parking spaces when only 205 parking spaces were required. The parking provided was in accordance with the applicable zoning code ordinance at the time of approval and was evenly distributed throughout the commercial center.

Changed Plan CP960099 was approved for a sign program for the Chevron Service Station. Changed Plan CP20-0053 was approved on March 18, 2021 to expand and remodel the existing carwash business and add 469 square feet of new enclosed equipment areas. The Changed Plan also approved the remodel of the existing automotive service building, the conversion of the waiting area into a new showroom, created a new cleaning room with roll-up doors, converted 1,300 square feet of retail space into storage, and approved the creation of a new 1,655 square feet retail building.

As part of the car wash remodel 18 existing parking spaces were converted into 18 covered vacuum and detailing spaces. The project also added 20 new parking spaces bringing the total onsite parking to 235. Although CP20-0053 approved the project site with 235 parking stalls. Based upon a current review of the parking there is only 228 parking stalls on site. Although staff was unable to determine how seven (7) stalls were removed, the amount of parking provided still exceeded the required parking under the previously approved Site Development Permit.

#### **Proposed Project**

The applicant is seeking a Site Development Permit to demolish 768 square feet of existing retail, add 610 square feet of dining space, convert 390 square feet of retail into a new drive-thru food service shell, and add 300 square feet of exterior dining. All the proposed changes would be conducted on Lot 2.

#### **SURROUNDING LAND USES:**

Zoning and existing land uses for the project site and for other surrounding properties beyond are as follows.

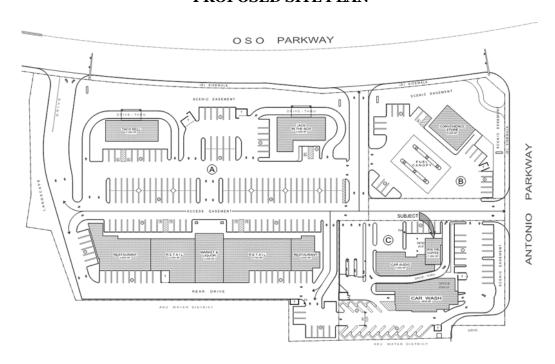
DIRECTION	ZONING DISTRICT	EXISTING LAND USE
Project Site	Las Flores Planned Community	Shopping Center
North	Las Flores Planned Community	Apartment Complex
South	Las Flores Planned Community	Shopping Center
East	Las Flores Planned Community	Church
West	Las Flores Planned Community	Santa Margarita Water District

#### **Aerial of Project Site**

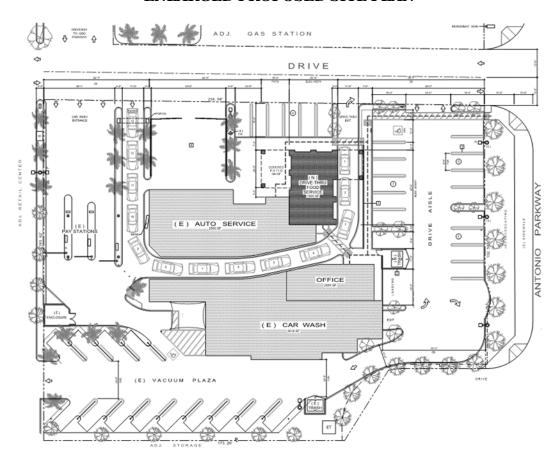
An aerial photograph of the Project site and surrounding properties within unincorporated Rancho Santa Margarita is provided below.



#### PROPOSED SITE PLAN



#### **ENLARGED PROPOSED SITE PLAN**



#### **DISCUSSION/ANALYSIS:**

The complete staff analysis of the proposed project is included in the Staff Report dated January 21, 2022 (Attachment 1). The analysis provided in this report is limited to the items raised by the appeal of Planning Application PA21-0116. The complete text of the appellant's objection is included in the formal appeal letter (Attachment 2) and can be reference by the Commissioners. The County's traffic engineer prepared a memo provided as Attachment 3 in response to the appeal and the applicant has also submitted a response to the appeal letter which is included as Attachment 4.

In the discussion below, the appellant's points are summarized and followed by staff's response.

1. <u>Appellant Objection</u>: The appellant stated that there are safety concerns for the public within the drive aisles on Lot 2. The main aisles which provide access to the entire shopping center and the ingress/egress on Antonio Pkwy have not been considered. Pushing out the building closer to the main drive aisle creates parking that backs into the main drive aisle along with diagonal traffic that flows from the gas station.

#### Response

a. The Orange County Zoning Code 7-9-70.4(c)(2) states: "Parking accessways from arterial highways shall not have parking spaces taking direct access there from and shall not be intersected by a parking aisle or another parking accessway for a minimum distance of thirty (30) feet for projects with 0-200 parking spaces, fifty (50) feet for 201-350 spaces, seventy (70) feet for 351-450 spaces, and ninety (90) feet for 451 spaces or more. All distances shall be measured from the curb face of the ultimate curb line of the adjacent street."

In this case the Shopping Center has a total of 228 parking spaces shared by several parcels with a reciprocal access easement from three access points. Antonio Parkway is a Major Arterial Highway and the distance from the curb face to the new parking spaces to which the appellant is referring is 104'. Therefore, the project meets the code requirement of being a minimum of 50' from an arterial highway. Moreover, there is a similar parking configuration in the rest of the shopping center. The applicant provided a study that included both a traffic study and a queuing study of the drive through and drive aisles that supports their assertion that the location of the parking would not be detrimental to the flow of traffic.

2. <u>Appellant Objection</u>: The appellant stated that the creation of a parking area to support the new retail on the east side of the building will create a hazardous condition for cars that are trying to enter the eastern parking lot in close proximity to the Antonio Parkway entrance.

#### <u>Response</u>

a. The parking spaces to which the appellant is referring to are not part of this application. This configuration was previously approved on March 18, 2021 under Changed Plan CP20-0053 which expanded the existing car wash by adding 18 new vacuum and detailing spaces and new

<sup>&</sup>lt;sup>1</sup> In the appeal letter the appellant raises the issue of access to a reciprocal easement, this issue was not included in the staff's response since the County is not a party to those agreements and does not enforce them through the land use planning process.

- encloses equipment rooms. PA21-0116 is not proposing to create a new parking area nor will there be any alterations to the Antonio Parkway entrance.
- b. Additionally, cars entering this area are not entering from a through-traffic lane. Antonio Parkway has an axillary deceleration lane. Thus, cars entering the shopping center are able to reduce their speed as they enter.
- 3. <u>Appellant Objection</u>: The appellant stated that information provided in prior applications for the shopping center is inaccurate.

#### Response

- a. Each Planning Application is reviewed and evaluated for consistency and accuracy, if however, there were issues with past applications then the appropriate action would have been for those applications to be appealed. Staff reviewed the submitted documents for this application and found the information provided for Lot 2 to be consistent with past applications and current conditions on site. Additionally, the complete project scope is contained within Lot 2 and does not make any alterations to the layout or structures in the surrounding parcels within the shopping center.
- 4. <u>Appellant Objection</u>: The appellant stated a separate drive-through food use should require an approval of a Use Permit.

#### Response

- a. The Los Flores Planned Community land use regulations identify cafes, restaurants, bars, and cocktail lounges as Principally Permitted Uses subject to an area plan and site plan. The Los Flores Planned Community land use regulations do not define the terms cafes, restaurants, bars, and cocktail lounges, however it does assert that the meaning and construction of words, phrases and terms used shall be the same as the County's Zoning Code. The County's Zoning Code definition of a restaurant includes drive-thru establishments. In addition, the proposed project does not modify the site development standards to be less restrictive than otherwise stated in the code. Because the proposed project consists of a use that is principally permitted and does not propose any deviation from required development standards, a Use Permit is not required.
- 5. <u>Appellant Objection</u>: The appellant stated that there was a lack of notification to the reciprocal lot landowners, which are part of the larger shopping center, and the Las Flores Community for a right to objection.

#### Response

- a. A public hearing is not required as part of the Site Development Permit process and as such no public noticing is required.
- b. Staff has had multiple meetings, in person, over the phone and by e-mail with both Ms. Travers and her architect to discuss this project.

#### REFERRAL FOR COMMENT AND PUBLIC NOTICE:

A copy of the planning application and the proposed site plan were distributed for review and comment to appropriate County division. Staff has reviewed all comments received, and where appropriate, has addressed the comments through recommended Conditions of Approval, which are provided as Attachment 1. Public notices were mailed to all owners of record within 300 feet of the subject property, and posted in front of the project site, the Orange County Hall of Administration at 333 W. Santa Ana Blvd., and in the lobby at the County Administration South building located at 601 N. Ross Street, Santa Ana, CA 92701, at least ten days prior to this public hearing, as required by established public hearing posting procedures. As of the writing of this staff report, no comments raising issues with the project have been received from OCFA or other County divisions.

#### **CONCLUSION:**

Staff has reviewed the submitted appeal letter and has determined that the issues raised have been adequately analyzed and addressed through the application review. The previous analysis and recommendations for the project, as well as the Directors action, remain valid.

Submitted by:

Justin Kirk, Planning Division Manager OC Development Services/Planning

Concurred by:

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Amanda Carr, Interim Deputy Director OC Public Works/Development Services

#### **ATTACHMENTS:**

- 1. Approved Staff Report
- 2. Appeal Letter
- 3. County's traffic engineer memo
- 4. Applicant's Response
- 5. Site Plans



#### OC DEVELOPMENT SERVICES REPORT

**DATE:** January 20, 2022

**TO:** Amanda Carr, Interim Deputy Director

**FROM:** OC Development Services / Planning Division

**SUBJECT:** Planning Application PA21-0116 for a Site Development Permit

**PROPOSAL:** The applicant is seeking a Site Development Permit to demolish 768

square feet of existing retail, add 610 square feet of dining space, convert 390 square feet of retail into a new drive-thru food service shell

and add 300 square feet of exterior dining.

Las Flores Planned Community (Planning Area 8)

**ZONING:** 

1B "Suburban Residential"

**GENERAL** 

PLAN:

The project is located at 28622 Oso Pkwy., Rancho Santa Margarita,

**LOCATION:** within the fifth (5th) Supervisorial District (APN: 782-631-04)

Peever Family Holdings I, LLC, Property Owner

**APPLICANT:** Jeffrey Bergsma, Agent

**STAFF** Cynthia Burgos, Contract Staff Planner

**CONTACT:** Phone: (714) 667-8898 E-mail: Cynthia.Burgos@ocpw.ocgov.com

#### **RECOMMENDED ACTION(S):**

OC Development Services/Planning recommends the:

- 1. Receive the staff report and public testimony as appropriate
- 2. Find that the proposed project is exempt from CEQA per Section 15301 (Class 1) provides for minor alterations and uses of existing utility facilities, Section 15302 (Class 2) allows for replacement or reconstruction, and Section 15304 (Class 4) allows minor alterations to land.
- 3. Approve Site Development Permit Planning Application PA21-0116 subject to the Findings and Conditions of Approval provided as attachments #1 and #2 to this report.

#### **BACKGROUND AND EXISTING CONDITIONS:**

The subject property, Lot 2 of Tract 14491 (28622 Oso Pkwy), is located within the unincorporated community of Rancho Santa Margarita in the County of Orange. The property is zoned Las Flores Planned Community, it is a rectangular shaped lot and flat in topography. The project site is 35,193 square feet in size and has an average width of 684 feet and an average depth of 345 feet. The property is currently developed with a shopping center and it is located at the corner of Antonio Parkway and Oso Parkway.

Planning Application PA96-0055 was approved by the Planning Commission on June 18, 1996 for a Site Development Permit to develop a 35,193 square foot commercial center on a six-acre site in Planning Area 8 of the Las Flores Planned Community. The Shopping Center consists of five separate lots, Lot 1 has a service station, Lot 2 has retail, a restaurant and car wash, Lot 3 has a drive thru restaurant, Lot 4 has a drive thru restaurant, and Lot 5 has retail and restaurants. The original project was approved for and developed with 233 parking spaces when only 205 parking spaces were required. The parking provided was in accordance with the applicable zoning code ordinance at the time of approval and was evenly distributed throughout the commercial center.

Changed Plan CP960099 was approved for a sign program for the Chevron Service Station. Changed Plan CP20-0053 was approved on March 18, 2021 to expand and remodel the existing carwash business and add 469 square feet of new enclosed equipment areas. The Changed Plan also approved the remodel of the existing automotive service building, the conversion of the waiting area into a new showroom, created a new cleaning room with roll-up doors, converted 1,300 square feet of retail space into storage, and approved the creation of a new 1,655 square feet retail building. As part of the car wash remodel 18 existing parking spaces were converted into 18 covered vacuum and detailing spaces. The project also added 20 new parking spaces bringing the total onsite parking to 235. Although CP20-0053 approved the project site with 235 parking stalls based on a current review of the parking there is only 228 parking stalls on site. Although staff was unable to determine how seven (7) stalls were removed, the amount of parking provided still exceeded the required parking.

#### **Proposed Project**

The applicant is seeking a Site Development Permit for the demolishment of 768 square feet of existing retail, the addition of 610 square feet of dining space, the conversion of 390 square feet of retail into a new drive-thru food service shell and the addition of 300 square feet of exterior dining. All the proposed changes would be conducted on Lot 2.

#### **SURROUNDING LAND USES:**

Zoning and existing land uses for the project site and for other surrounding properties beyond are as follows.

DIRECTION	ZONING DISTRICT	EXISTING LAND USE
Project Site	Las Flores Planned Community	Shopping Center
North	Las Flores Planned Community	Apartment Complex

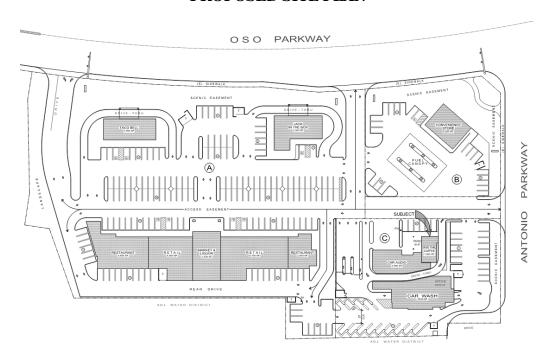
South	Las Flores Planned Community	Shopping Center
East	Las Flores Planned Community	Church
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#### **Aerial of Project Site**

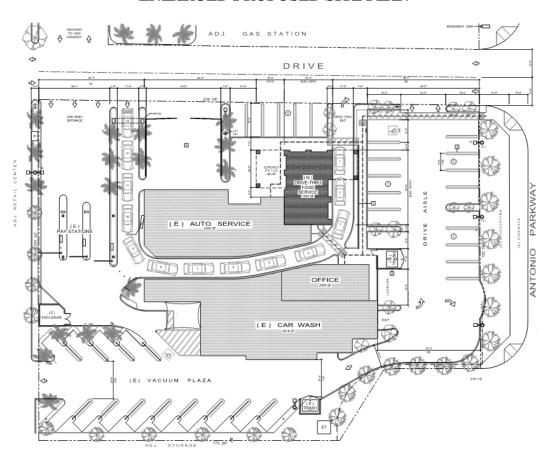
An aerial photograph of the Project site and surrounding properties within unincorporated Rancho Santa Margarita is provided below.



#### PROPOSED SITE PLAN



#### **ENLARGED PROPOSED SITE PLAN**



#### **DISCUSSION/ANALYSIS:**

Below is a table comparing the development standards for the Las Flores Planned Community district with the Applicant's proposal.

STANDARD	PERMITTED	PROPOSED
Building Site Area	No minimum	35,193 square foot (existing)
Structural Front Setback	20' minimum	29' (existing)
Structural Side Setback	20' minimum	60' right side (proposed) 43' left side (existing)
Structural Rear Setback	20' minimum	22' (existing)
Maximum Building Height	35' maximum	20' (proposed)
Trash and Storage Area	All storage, including cartons, containers or trash, shall be shielded from view within a building or area enclosed by a wall not less than six (6) feet in height.	8-foot tall trash enclosure with roof proposed

#### Restaurant with Drive thru

The applicant is requesting approval to demolish 768 square feet of existing retail to create a driveway for a new drive-thru food service shell. The applicant is also requesting to convert 390 square feet of existing retail space into a restaurant, add 610 square feet to the proposed restaurant and add 300 square feet of exterior dining area. These changes would create a new drive-thru restaurant that would be a total of 1,000 square feet of interior space with 300 square feet of exterior dining. Per Chapter V of the Las Flores Planned Community Specific Plan the proposed uses are permitted subject to approval of a Site Development Permit.

The building architecture is consistent with other buildings throughout the center. The proposed building will be 20' feet high at the highest point and will not exceed the permitted administrative height of 35 feet. The building will be located approximately 78'7" from the right-of-way line of Antonio Parkway. All setbacks for the proposed structure are in compliance with the Las Flores Planned Community.

The applicant is requesting to construct a new trash enclosure that will be 8-feet tall. The trash enclosure will include a roof and will be located approximately 43' feet from the right-of-way line of Antonio Parkway. Per the Las Flores Planned Community all storage including carton, container of trash, shall be shielded from view within a building or area enclosed by a wall not less than six (6) feet in height.

#### **Parking**

The last approved Changed Plan CP20-0053 identified a total of 235 parking stalls but based on the current review of the parking there is only 228 parking stalls on site. The existing automotive service business requires four (4) spaces, one (1) space for each car bay and one (1) space for 250 square feet of retail space. The proposed fast food restaurant will require a total of 13 parking stalls. Per the zoning code automobile car washing requires two (2) spaces per each washing stall, since the car wash is a drive thru carwash parking is determined based on the total number of cars able to be washed at the same time. Since the car wash can wash five (5) cars at the same time a total of 10 spaces are required. Currently the center has a total of 18 covered vacuum parking stalls, but they are proposing to reduce the number to 13 covered vacuum spaces on Lot 2. Based on the proposed additions and remodels a total of 35 parking spaces are required for the new uses. Since all five lots were approved as one shopping center a parking analysis for the whole shopping center is required. However, all the required parking spaces for the uses on Lot 2 will be provided on Lot 2 without modification to any other area of the shopping center. The table below summarizes the existing and proposed parking requirements for the whole shopping center.

CURRENT SHOPPING CENTER PARKING REQUIREMENT			
Land Use	Size	Parking Ratio	Spaces Required
Retail	15,200 SF	1/200	76
Auto service	2,500 SF (4 service bays)	One parking space per service bay	4
Office	2,000 SF (proposed)	1/250	8
Automobile washing and cleaning	4,500 SF (proposed)	2 spaces per each washing stall	10
Restaurant Summary			
Lot 2	1,300 SF (proposed)	1/100 for up to 4,000 SF 1/80 over 4,000 SF	13
Lot 3	2,500 SF	1/100 for up to 4,000 SF 1/80 over 4,000 SF	25
Lot 4	2,500 SF	1/100 for up to 4,000 SF 1/80 over 4,000 SF	25
Lot 5	4,500 SF	1/100 for up to 4,000 SF 1/80 over 4,000 SF	46
	2,000 SF	1/100 for up to 4,000 SF 1 /80 over 4,000 SF	20
Total Square Footage	37,000 SF	,	
Total Required Parki	ing		<b>22</b> 7
Total Provided Parking 228			228

The updated parking calculations for the shopping center ratio yields a total parking requirement of 227 parking spaces which results in a surplus of 1 parking stall on site.

#### REFERRAL FOR COMMENT AND PUBLIC NOTICE:

Copies of the planning application and proposed site plans were distributed for review and comment to appropriate County Divisions (Building and Traffic Engineering) and OCFA. Staff has reviewed all comments received, and where appropriate, has addressed the comments through recommended Conditions of Approval, which are provided as Attachment 2.

#### **CEQA COMPLIANCE:**

The proposed project is exempt from CEQA per Section 15301 (Class 1) provides for minor alterations and uses of existing utility facilities, Section 15302 (Class 2) allows for replacement or reconstruction, and Section 15304 (Class 4) allows minor alterations to land.

#### **CONCLUSION:**

Staff has closely reviewed the applicant's request for a Site Development Permit and found it to be compliant with the intent of Las Flores Planned Community Development Standards. Since the proposed project is an intensification of an existing use it has been determined that the proposed project will have a limited impact on the surrounding area. Staff supports the Site Development Permit proposal for the proposed project subject to the attached Findings and Conditions of Approval provided as Attachments 1 and 2.

Submitted by:

Laree Alonso, Interim Planning Division Manager OC Development Services

Approved by:

Amanda Carr, Interim Deputy Director OC Public Works/Development Services

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#### **ATTACHMENTS:**

1. Recommended Findings

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- 2. Recommended Conditions of Approval
- 3. Applicant's Letter of Justification
- 4. Environmental Documentation
- 5. Site Photos
- 6. Site Plans

#### **APPEAL PROCEDURE:**

Any interested person may appeal the decision of the Zoning Administrator on this permit to the OC Planning Commission within 15 calendar days of the decision upon submittal of required documents and a filing fee of \$500 filed at the County Service Center, 601 N. Ross Street, Santa Ana. If you challenge the action taken on this proposal in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this report, or in written correspondence delivered to OC Development Services/Planning Division.



# Attachment 1 Findings PA21-0116

1 COMPATIBILITY PA21-0116

That the location, size, design and operating characteristics of the proposed use will not create unusual conditions or situations that may be incompatible with other permitted uses in the vicinity.

2 GENERAL PLAN PA21-0116

That the use or project proposed is consistent with the objectives, policies, and general land uses and programs specified in the General Plan adopted pursuant to the State Planning and Zoning Law.

3 **ZONING** PA21-0116

That the use, activity or improvement(s) proposed, subject to the specified conditions, is consistent with the provisions of the Zoning Code, or specific plan regulations applicable to the property.

4 GENERAL WELFARE PA21-0116

That the application will not result in conditions or circumstances contrary to the public health and safety and the general welfare.

5 PUBLIC FACILITIES PA21-0116

That the approval of the permit application is in compliance with Codified Ordinance Section 7-9-711 regarding public facilities (fire station, library, sheriff, etc.).

#### 6 FISH AND GAME FEE EXEMPT PA21-0116

That pursuant to Section 711.4 of the California Fish and Game Code, this project is exempt from the required fees as it has been determined that no adverse impacts to wildlife resources will result from the project.

8 **ENVIRONMENTAL** PA21-0116

That the proposed project is exempt from CEQA because the Section 15301 (Class 1) provides for minor alterations and uses of existing utility facilities. Section 15302 (Class 2) allows for replacement or reconstruction, and Section 15304 (Class 4) allows minor alterations to land.



#### Attachment 2 Conditions of Approval PA21-0116

#### **BASIC/APPEAL EXACTIONS - Z06**

SC

Pursuant to Government Code Section 66020, the applicant is hereby informed that the 90-day approval period in which the applicant may protest the fees, dedications, reservations or other exactions imposed on this project through the conditions of approval has begun.

#### **BASIC/TIME LIMIT - Z02**

SC

This approval is valid for a period of 36 months from the date of final determination. If the use approved by this action is not established within such period of time, this approval shall be terminated and shall thereafter be null and void.

#### **BASIC/ZONING REGULATIONS - Z01**

BASIC

This approval constitutes approval of the proposed project only to the extent that the project complies with the Orange County Zoning Code and any other applicable zoning regulations. Approval does not include any action or finding as to compliance or approval of the project regarding any other applicable ordinance, regulation or requirement.

#### **CONSTRUCTION NOISE - N10**

SC

- A. Prior to the issuance of any grading permits, the project proponent shall produce evidence acceptable to the Manager, Building and Safety, that:
- (1) All construction vehicles or equipment, fixed or mobile, operated within 1,000 feet of a dwelling shall be equipped with properly operating and maintained mufflers.
- (2) All operations shall comply with Orange County Codified Ordinance Division 6 (Noise Control).
- (3) Stockpiling and/or vehicle staging areas shall be located as far as practicable from dwellings.
- B. Notations in the above format, appropriately numbered and included with other notations on the front sheet of the project's permitted grading plans, will be considered as adequate evidence of compliance with this condition.

#### **NOISE GENERATING EQUIPMENT - N08**

SC

Prior to the issuance of any building or grading permits, the applicant shall obtain the approval of the Manager, Building and Safety of an acoustical analysis report and appropriate plans which demonstrate that the noise levels generated by this project during its operation shall be controlled in compliance with Orange County Codified Ordinance, Division 6 (Noise Control). The report shall be prepared under the supervision of a County-certified Acoustical Consultant and shall describe the noise generation potential of the project during its operation and the noise mitigation measures, if needed, which shall be included in the plans and specifications of the project to assure compliance with Orange County Codified Ordinance, Division 6 (Noise Control).

#### **LIGHT AND GLARE: - 570**

RA

Prior to issuance of any building permit, the applicant shall demonstrate that all exterior lighting has been designed and located so that all direct rays are confined to the property in a manner meeting the approval of the Manager, Building and Safety (County Standard Condition LG01)

#### **Project Proposal**

11/1/2021

## Addition of Drive-thru Food Service to Existing Commercial Building Site 26822 Oso Parkway, Las Flores Commercial Center PA 96055

#### **Request a Site Development Permit:**

- 1. Demolish 768 sf of Carwash, convert to Drive-thru lane.
- 2. Remodel 390sf of retail to Food Service.
- 3. Addition of 610sf of Food Service/Drive-thru Shell Building.
- 4. Reconfigure multi-use site (Carwash, Auto Service, Office, & Retail) to accommodate drive-thru Food Service (1000sf) including (300sf) of exterior dining patio.
- 5. Total proposed Building area of 9118 sf.

#### **CEQA Exemption Exceptions Worksheet**

Project Name: Green N Clean Drive-thru

Project Number: PA 21-0116

Project Location: 28622 Oso Pkwy., Rancho Santa Margarita, CA 92688

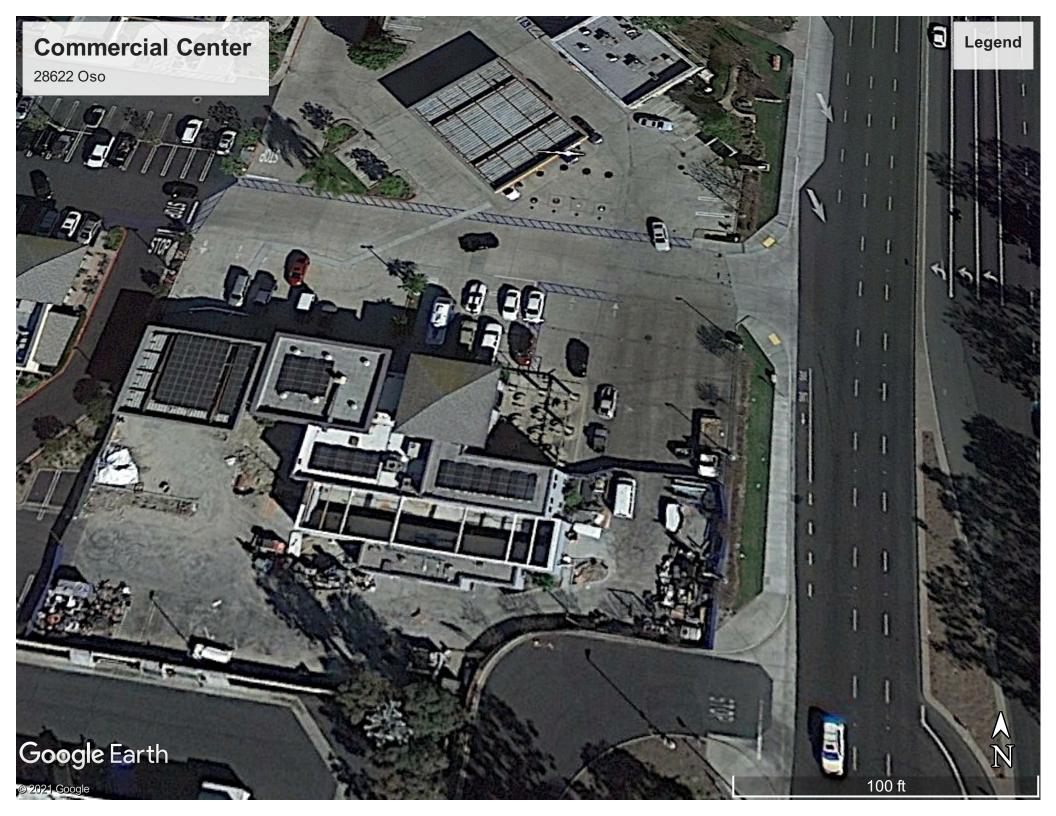
**Project:** The project consists of a Site Development Permit to demolish of 768 square feet of existing retail, the addition of 610 square feet, the conversion of 390

square feet of retail into a new drive-thru food service shell (no interior dining) and the addition of 300 square feet of exterior dining.

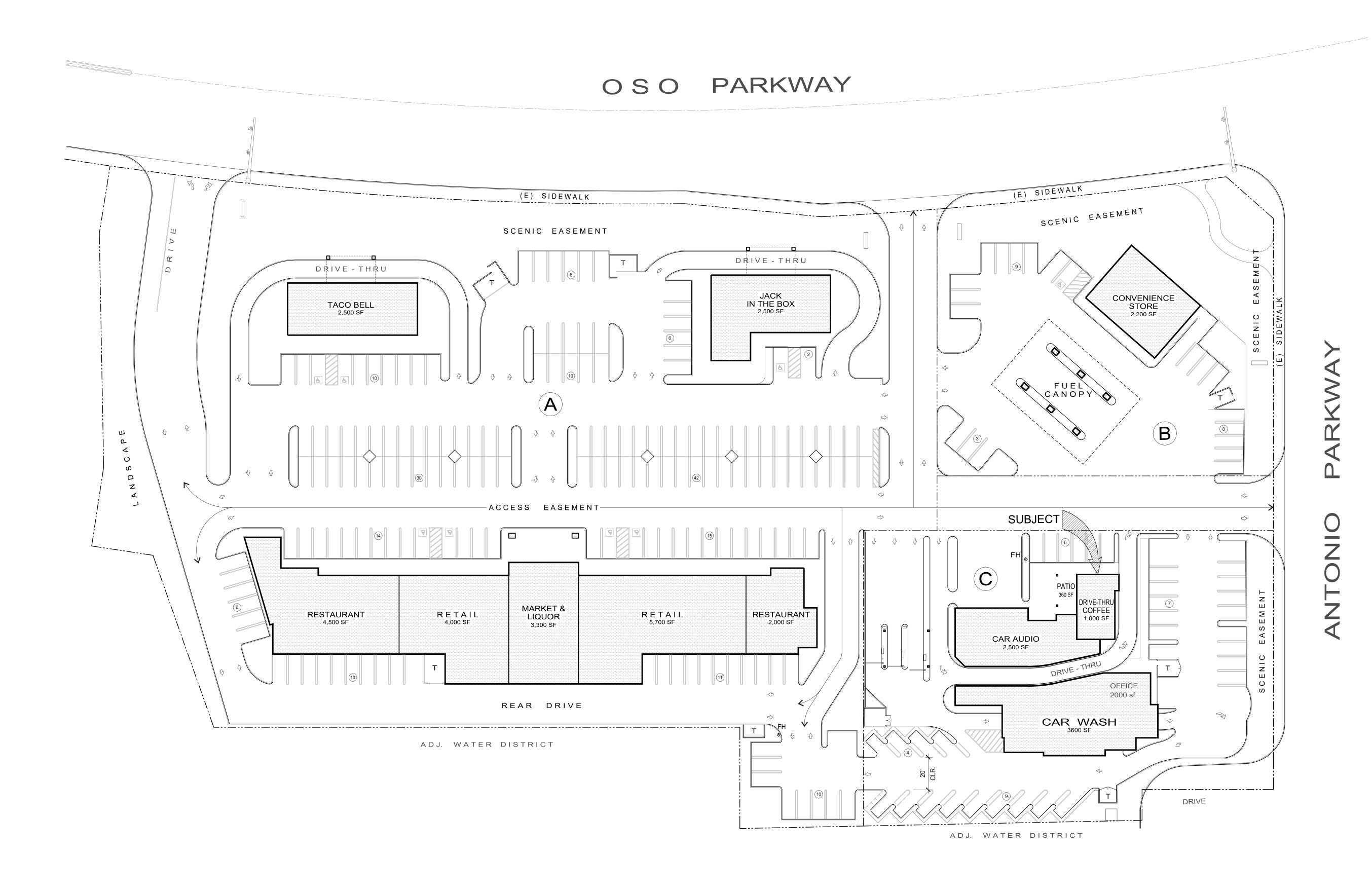
Eligible Orange County Local CEQA Exemption(s)	Analysis
None	None
Eligible State CEQA Guidelines Exemption(s)	Analysis
Class 1 – Existing Facilities	Minor alterations and uses of existing public facilities
Class 2 – Replacement or reconstruction	Replacement or reconstruction of an existing commercial structure
Class 4 - Minor Alterations to Land	Minor temporary use of land having negligible or no permanent effects on the environment
Exemption Exceptions (Guidelines §15300.2)	Analysis
<b>§15300.2(a)</b> 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 all instances, except where the project may	This exception does not nullify the use of the Class 1, 2 and 4 exemption.
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.	

## **CEQA Exemption Exceptions Worksheet**

Eligible Orange County Local CEQA Exemption(s)	Analysis
§15300.2(c) Significant Effect due to Unusual Circumstances. 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.	This exception does not nullify the use of the Class 1, 2 and 4 exemption.  In the 2015 California Supreme Court Case (Berkeley Hillside Preservation v. City of Berkeley) the court created a two-part test to determine if unusual circumstances are operative that would nullify the use of an exemption: 1) Is there an unusual circumstance? 2) If yes, is there a reasonable possibility it will create a significant impact?  • The project is within a developed commercial shopping center.  • The proposed improvements are similar to the existing uses on the shopping center.  • Project implementation will not result in significant impacts.  The test for Unusual Circumstances has not been met because unusual circumstances are not present.
<b>§15300.2(d)</b> 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.	This exception does not nullify the use of the Class 1, 2 and 4 exemption.  The project site is not located near scenic resources.
§15300.2(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.	This exception does not nullify the use of the Class 1, 2 and 4 exemption.  The project site is not located near any hazardous waste sites.
§15300.2(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.	This exception does not nullify the use of the Class 1, 2 and 4 exemption.  The project site is not a historical resource.









## VICINITY MAP

COMPLY WITH CODES:
2019 CBC, CMC, CPC, CEC, CFC,
CAL ENERGY & GREEN BLBG.

### ENTITLEMENTS:

PA 96055

PC 20 - 053

PA 21 - 0116 (PROPOSED)

## STATISTICS

	USE	AREA	PARKING SPACES
A	RESTAURANTS RETAIL	11, 500 SF 208 SEATS / 4 13, 000 SF → 3,000 SF STORAGE	52 120
		SUB TOTAL PROVIDED	( 172 )
B	CONVENIENCE STORE	2, 200 SF	(20)
$\bigcirc$	SUBJECT COMMERCIAL BUILDING	9118 SF	(36) 🛨
	DUILDING	TOTAL PROVIDED	( 228 )

## REFER TO A1 FOR USE BREAKDOWNS

## INDEX

A0 MASTER PLAN

A1 SITE PLAN A2 FLOOR PLANS

A3 ELEVATIONS

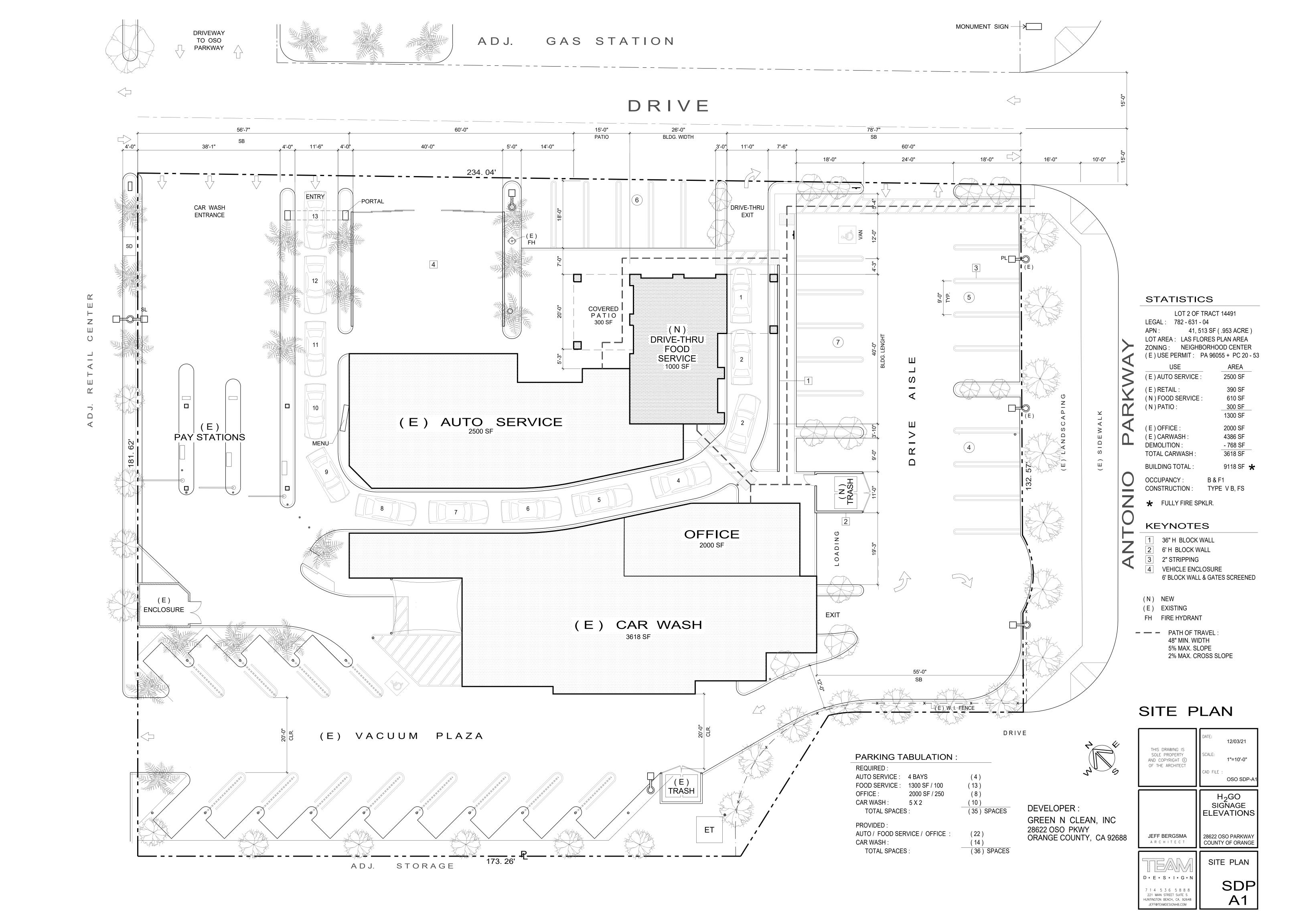
## MASTER SITE PLAN

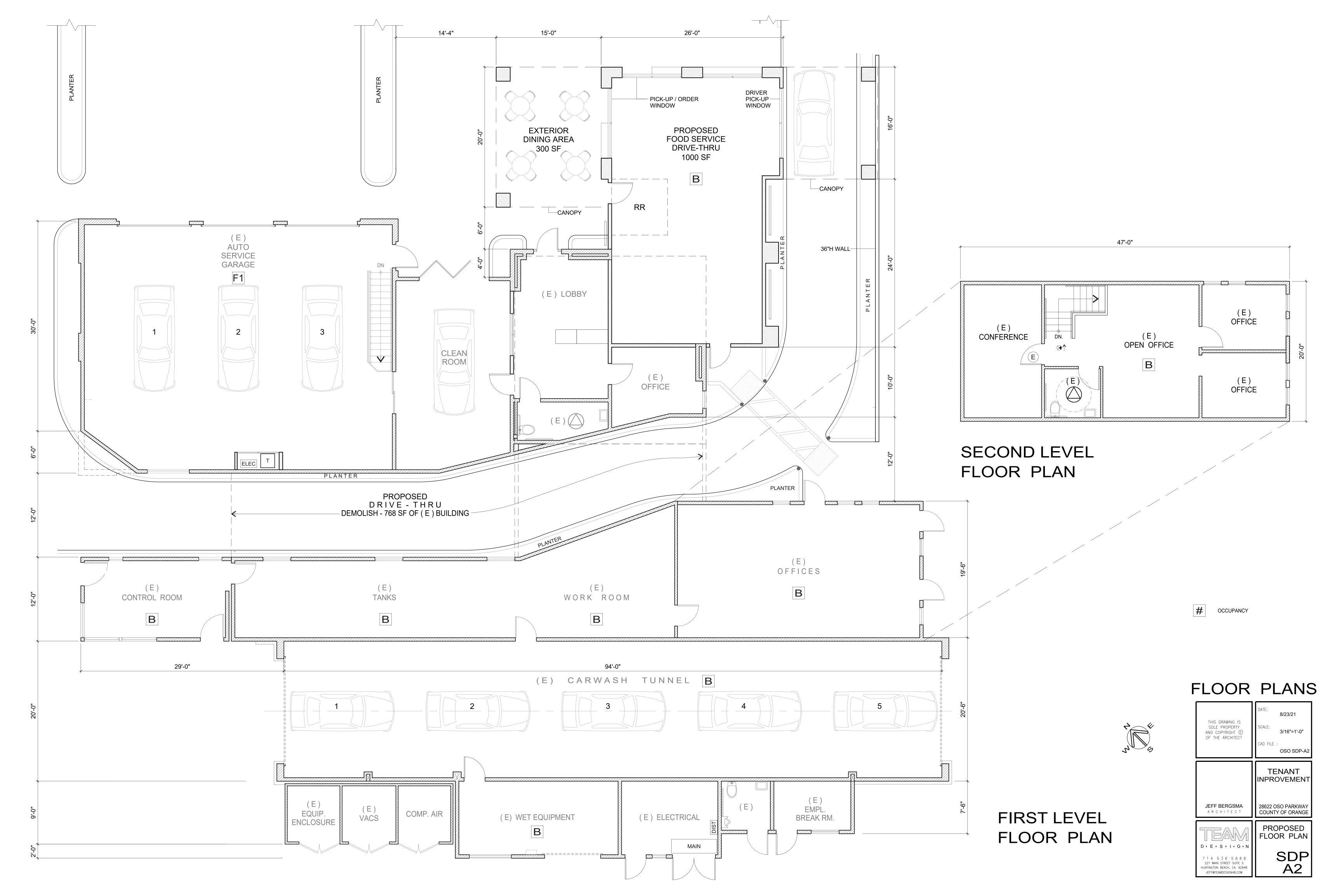


	DATE: 11/01/21
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	CAD FILE : OSO SDP-A0

	LAS FLORES COMMERCIAL CENTER
JEFF BERGSMA ARCHITECT	OSO & ANTONIO PARKWAYS COUNTY OF ORANGE

	MASTER PLAN
D • E • S • I • G • N  7 1 4 5 3 6 5 8 8 8 221 MAIN STREET SUITE S HUNTINGTON BEACH, CA. 92648 JEFF@TEAMDESIGNHB.COM	SDP A0







#### PA21-0116 Appeal

The justification for this appeal is based on the following:

- 1) The safety concerns of the public within the drive aisles on Lot 2, the ingress/egress of the Antonio entrance created by the enlargement of the retail building on Lot 2, and the proposed new drive-thru Starbucks.
- 2) The prior approval in March, 2021, of PA20-0053 by the Orange County Planning Department which created a new one-way traffic situation between Lots 2 and Lot 5. This approval ignores a reciprocal easement agreement, due to the submission of a fraudulent site plan by the applicant. This compromises the function on Lot 5.
- 3) The lack of notification to the reciprocal lot land owners, which are part of the larger shopping center as a whole, and the Las Flores Community for a right to objection.

Should the approval of PA21-116 be upheld, we feel the public safety will be put into jeopardy. While the drive-thru queue lane did undergo a traffic study, the main drive aisles which provide access to the entire shopping center and the ingress/egress on Antonio Pkwy have not been considered. Pushing out the building closer to the main drive aisle creates parking that backs into the main drive aisle, along with diagonal traffic that flows from the gas station, causes this to be a grossly negligent situation. It will also be exacerbated when tanker fuel trucks are refueling the gas station.

In addition, the creation of a parking area to support the new retail on the east side of the building will create a hazardous condition for cars that are trying to enter that eastern parking lot in close proximity to the Antonio drive entrance. A car waiting to enter the parking area could result in a rear end collision with cars turning in off of Antonio, which is a 50mph street. Cars waiting to exit the Antonio entrance from the main drive aisle, must wait for 50 mph traffic to clear. (Please see Exhibit D for illustration).

Prior to this planning application, which is currently under consideration, the applicant obtained a change plan approval in March of 2021, numbered CP20-0053. The site plan submitted for this application was fraudulent, changing the original approved flow of traffic, so that the car wash could add vacuums across the back of their parcel, and have most of their

customers exit the rear of lot 2, across lot 5. This created a new one-way only traffic direction across the reciprocal easement agreement between Lots 2 and 5, therefore depriving Lot 5 of the reciprocity of use of the easement and compromising function of Lot 5. (Please see existing site plan Exhibit #1 that indicates the original site plan, the directional arrows of traffic flow in a counter clockwise pattern, and the fraudulent site plan Exhibit #A submitted by the applicant. Please note also, a statement, Exhibit #2 by the original architect regarding the site plan and safety concerns).

Plaza de Las Flores shopping center was originally developed in 1997 (PA96-0055), which consists of five separate parcels, and was the only commercial land in the community of Las Flores. At that time, approval of the development established the five-parcel center as a whole, with consideration for approved uses, aesthetics, and community standards.

The approved change plan (CP20-0053) to an "express" car wash concept exiting most of their cars across the rear of Lot 5 was never disclosed to the ownership of Lots 3, 4, and 5, and therefore denied objection and appeal as part of the shopping center. The granting of a change of use permit, by the County Administrator, from a hand car wash to an "express" car wash was based on erroneous and misleading information supplied by the applicant. As a consequence, that approval, (CP20-0053) with an erroneous existing site plan established a newly approved "existing" site plan as a basis for this current application (PA21-116). Exhibit #3

# The following should be considered:

Did the applicant apply for the first change plan (CP20-0053) with erroneous information as a segway to then applying for this planning application change (PA21-116)? Why was a second application made six months from the first one, with new developments to the lot? Lastly, why is a separate drive-through food use, not being considered as a second drive-through on this parcel, and require a Conditional Use Permit?)

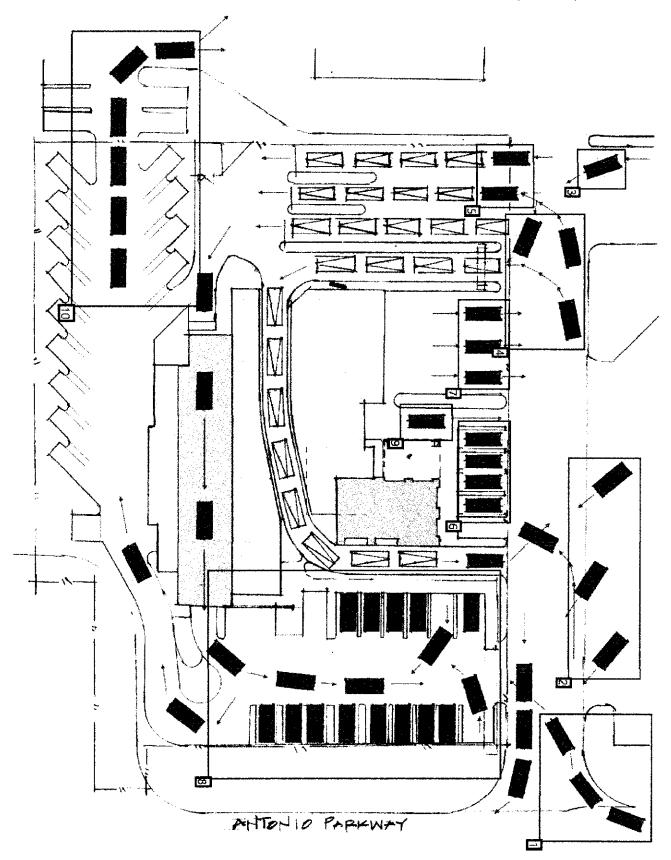
The current site development permit application is untenable in that it misrepresents the current site conditions, is completely lacking in traffic engineering data, or studies showing or mitigating the impact of the modifications to adjacent sites, adjacent streets and pedestrians. This includes 3 local schools within one mile, whose students walk or bike to the center in order to patronize it at lunchtime and after school. Also to be

considered is the liability caused to the reciprocal parcels without their owner's knowledge of this pending approval.

Without this level of scrutiny, review, and oversight, this applicant is likely to build and construct improvements that will potentially cause significant liability in the event of a traffic accident, pedestrian injury, or other use related incidents, which could also impact the County of Orange because of its planning approval. The County has based its decision on a flawed premise and we ask that you deny the application, or at the very least, request further traffic studies involving the drive aisles and ingress/egress on Antonio for safety. Please also give the community of Las Flores a voice in this decision by requiring a conditional use permit with a public hearing.

We thank you for your consideration.

EXHIBIT D -SITE PLAN WITH DRIVE THROUGH COMMENTS (page 1 of 2)



# EXHIBIT D -SITE PLAN WITH DRIVE THROUGH COMMENTS (page 2 of 2)

### Comment: 1

Vehicles will be decelerating rapidly to make the right turn to enter the driveway off of Antonio Parkway. They will be coming up quickly on vehicles that are slowed or stopped waiting for traffic to clear so they can enter the small parking lot created to serve the retail use at the carwash. They will also be conflicting with vehicles leaving that parking lot to turn left in order to get back to Oso Parkway, and with vehicles exiting the drive-through fane and backing out of the nose-in parking stalls. This a very unsafe condition with the confluence of so many new and existing traffic sources.

#### Comment: 2

Vehicles entering and exiting the gas station fueling area are doing so in an unstructured manner. This is an existing condition, but now with the addition of the many additional traffic nodes at this location, these vehicles add further conflicts that could block the drive aisle.

## Comment: 3

Vehicles approaching from Oso Parkway waiting to enter carwash or D/T queuing lanes

#### Comment: 4

Vehicles approaching from Antonio Parkway or the gas station waiting to enter carwash or fast food queuing lanes

#### Comment: 5

Vehicles in line for carwash blocking main drive aisle.

### Comment: 6

Vehicles in "nose in" spaces that when backing out of stalls will stop traffic in main drive aisle. This condition exists in front of the existing retail building, but very far away from any main site entry off of the streets.

### Comment: 7

Vehicles exiting auto service bays that have to back up into main drive aisle to exit.

#### Comment: 8

Roughly 50% of all express carwash patrons choose to not vacuum their vehicles. That means that a fairly large percentage of vehicles will be making a left-turn from the wash tunnel and exiting through the retail parking lot. The retail parking lot is a deadend lot where if drivers did not find an empty parking stall, they would have three options:

- 1) Back up to exit the same way they entered.
- 2) Execute a three-point turn.
- 3) Continue forward where they would come in nose-to-nose conflict with vehicles exiting the carwash

## Comment: 9

The site plan labels this as a "show vehicle" so presumably it would have to back out of the space its shown in and onto the main drive aisle in order to exit the facility.

## Comment: 10

The new carwash circulation pattern reverses 180° the existing pattern where all vehicles exiting the tunnel make a left turn where they are detailed. Customers then enter their vehicles and exit northbound to the 30' wide main drive aisle. This design directs 80% of the carwash traffic to the rear of the property onto 24' drive aisles that were not originally designed for that level of additional traffic load from the carwash.

Attachment 3





To:

Cynthia Burgos, Development Services

From:

Denis Bilodeau PE, Manager Traffic Engineering

Date:

February 22, 2022

Subject:

PA21-0116 appeal

Please find our response to the two traffic related questions posed in the appeal of PA21-0116

1. The appellant stated that there are safety concerns for the public within the drive aisles on Lot 2. The main drive aisles which provide access to the entire shopping center and the ingress/egress on Antonio Pkwy have not been considered. Pushing out the building closer to the main drive aisle creates parking that backs into the main drive aisle, along with diagonal traffic that flows from the gas station.

The OC Zoning Code 7-9-70.4(c)(2) provides: "Parking accessways from arterial highways shall not have parking spaces taking direct access there from and shall not be intersected by a parking aisle or another parking accessway for a minimum distance of thirty (30) feet for projects with 0—200 parking spaces, fifty (50) feet for 201—350 spaces, seventy (70) feet for 351—450 spaces, and ninety (90) feet for 451 spaces or more. All distances shall be measured from the curb face of the ultimate curbline of the adjacent street."

In this case, there are 228 total parking spaces shared by several parcels with a reciprocal access easement from three access points. Antonio Parkway is a Major Arterial Highway. The distance from the curb face to the new parking spaces in which the appellant is referring is 104'. As shown above, the minimum standard is 50' as shown above.

2. The appellant stated that the creation of a parking area to support the new retail on the east side of the building will create a hazardous condition for cars that are trying to enter the eastern parking lot in close proximity to the Antonio Drive entrance.

The parking spaces in which the appellant is referring are not a part of this application. This configuration was previously approved 3/18/2021 under Changed Plan CP20-0053 which expanded the existing car wash by adding 18 new vacuum and detailing spaces and new enclosed equipment rooms. The Changed Plan also included the remodel of the existing automotive service building, a new 1,655 square feet retail shell building and also added 20 new parking stalls for the new and existing retail areas.

Attachment 4

## **COMMENTS ON PA21-0116 APPEAL**

In response to the Appeal designated as PA21-0116 (the "Appeal"), the owner of Lot 2 (the "Applicant"), attaches a map as <u>Exhibit "A"</u>, showing the overall shopping center site, and submits the following comments and facts:

# Response to Paragraph #1.

In response to Paragraph #1 of the Appeal, since Paragraph #1 is really a summary of the balance of the Appeal, no separate reply is provided. The issues summarized in Paragraph #1 are discussed in detail below.

# Response to Paragraph #2.

In response to Paragraph #2, it is appropriate that there be a one-way traffic flow between Lot 2 and Lot 5, near the western corner of the Lot 2. The Applicant, as the owner of Lot 2, and the Applicant's invitees have the right to pass across *all of the driveway areas* on Lot 5. This right is found Paragraph 2.1(h) of the document entitled Reciprocal Restriction Agreement and Grant and Establishment of Easements (the "Easement Agreement") recorded on July 31, 1996 as Document No. 19960392581. A copy of the Easement Agreement is attached as Exhibit "B".

The route from the western corner of Lot 2 over the driveway areas of Lot 5 provides a means for vehicles from Lot 2 to exit at the only signalized exit from the shopping center, located at the northern corner of Lot 5. Exhibit "C", attached, shows the exit from Lot 2 on to Lot 5 near the western corner of Lot 2. Since this exit is onto a driveway area located on Lot 5, it is authorized by the Easement Agreement.

The owner of Lot 5 and its invitees do not have similar access rights across all of the driveway areas of Lot 2. The Lot 5 easement rights are "one-way" in this regard, notwithstanding the fact that the word "reciprocal" appears on the title of the Easement Agreement. The owners of Lots 2 and 5 have different rights. The owners of Lot 2 and their invitees have rights to pass across all of the driveway areas of Lot 5, but the owners of Lot 5 and their invitees have more restricted easement rights to pass across Lot 2 to reach the non-signalized exit at Antonio Parkway. These driveway areas on Lot 5 are populated with adjacent parking spaces, as one would expect.

There is no exit to Antonio Parkway along the back (south western) side of Lot 2 for the owner of Lot 5 or its invitees to use. Not surprisingly Lot 5's access rights are along the northeast side of Lot 2, directly to the Antonio Parkway access area only.

There is nothing fraudulent about the exit from Lot 2 near the western corner of Lot 2. These rights are spelled out in the Easement Agreement. Nor is there anything fraudulent about the use of the route over the driveway areas of Lot 5 to reach the only signalized exit from the shopping center. These rights are also spelled out in the Easement Agreement.

## Response to Paragraph #3.

In response to Paragraph #3, we note that the phrases "into jeopardy" and "grossly negligent situation" are used in the Appeal. These are strong phrases, but the facts backing them up are not facts at all; instead, they are feelings. The first line of the second sentence of the Appeal states "we feel the public safety . . . "

This "feelings" comment conveniently ignores the traffic study information submitted by Applicant in support of its application and the sign-off from the Fire Authority and the County's traffic engineers. The traffic study information that was provided included both a traffic study and a queuing study of the drive through and drive aisles.

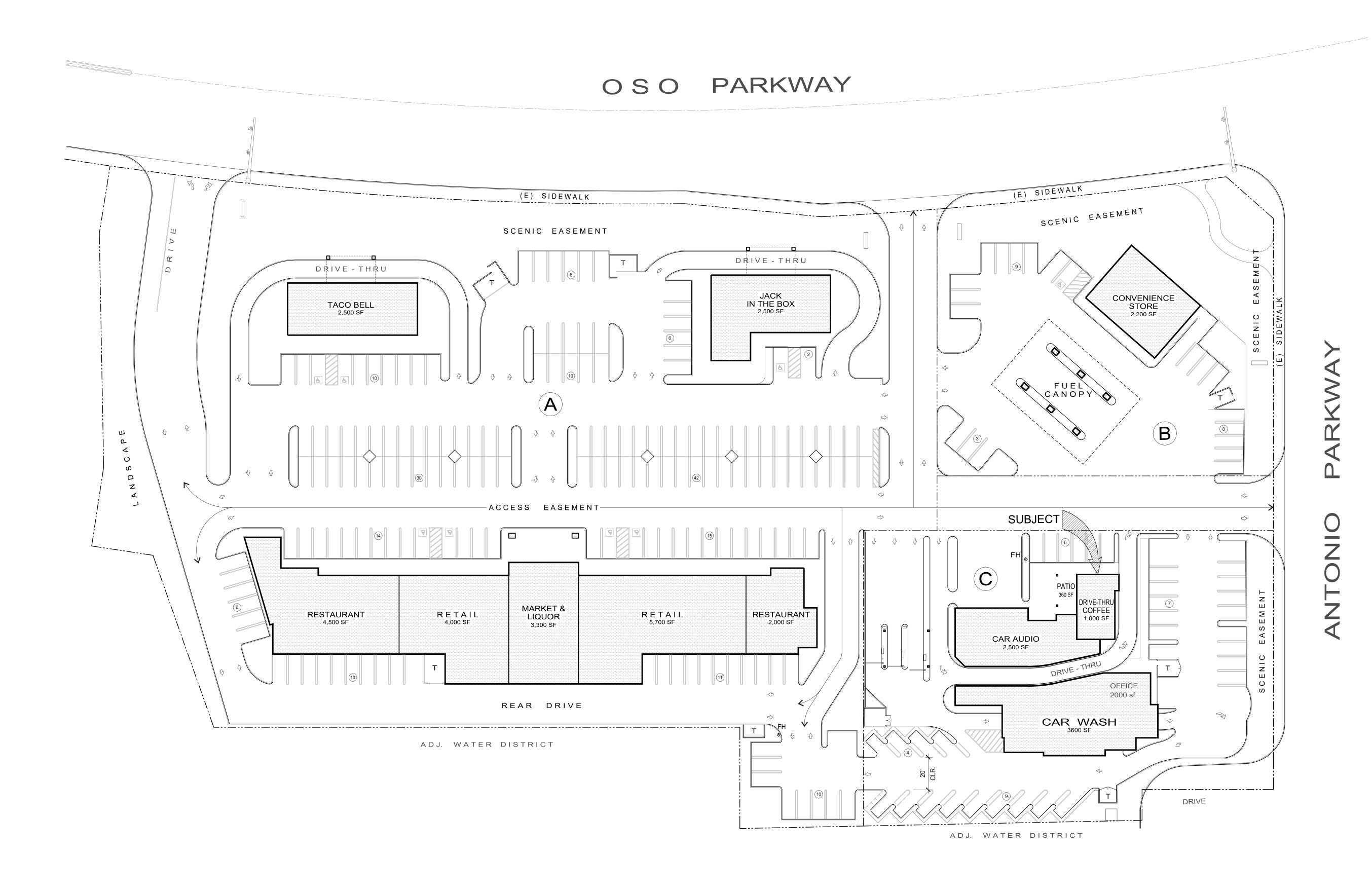
There is nothing unsafe about six parking spaces from which one can back out into the access easement for Antonio Parkway. There are over 60 such spaces which back out into driveway areas on Lot 5. The access easement to Antonio Parkway is 30 feet wide, 5 feet wider than code requires. Such a car backing up will minimally slow traffic well before the stop sign that stops cars wishing to exit the shopping center onto Antonio Parkway. That is not a bad thing.

Safety is an important issue and the Applicant has provided the information to show that the proposed use is indeed a safe use. The access to Antonio Parkway near the street, is not being reconfigured. At worst, cars traveling along the driveway area toward Antonio Parkway, well back from Antonio Parkway, will occasionally have to reduce their speed to accommodated a driver backing out. Entering cars are already entering from a deceleration lane on Antonio Parkway, which ends on the southeast side of Lot 2. Cars entering there are not entering from a through-traffic lane. As discussed above, this traffic circulation has been studied, a study has been submitted, and the Fire Authority has signed off.

Fuel tanker trucks have been servicing Lot 1 for decades now. These trucks have not caused issues on Lot 2 or on the access area being discussed. Such trucks are a red herring in the context of a drive-through restaurant on Lot 2.

The "reciprocal access" issue is raised again here. As discussed in detail above, true reciprocal rights do not exist. There are one-way rights to pass from Lot 2 onto Lot 5 generally, to promote use of the shopping center's sole signalized exit, which abuts Lot 5. The Lot 5 rights with respect to Lot 2 are in a defined area in order to allow access to a non-signalized access to Antonio Parkway.

Attachment 5





# VICINITY MAP

COMPLY WITH CODES:
2019 CBC, CMC, CPC, CEC, CFC,
CAL ENERGY & GREEN BLBG.

# ENTITLEMENTS:

PA 96055

PC 20 - 053

PA 21 - 0116 (PROPOSED)

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# MASTER SITE PLAN



	DATE: 11/01/21
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	LAS FLORES COMMERCIAL CENTER
JEFF BERGSMA ARCHITECT	OSO & ANTONIO PARKWAYS COUNTY OF ORANGE

	MASTER PLAN
D • E • S • I • G • N  7 1 4 5 3 6 5 8 8 8 221 MAIN STREET SUITE S HUNTINGTON BEACH, CA. 92648 JEFF@TEAMDESIGNHB.COM	SDP A0

