

OC PLANNING REPORT

DATE: November 8, 2023

TO: Orange County Planning Commission

FROM: OC Development Services / Planning

SUBJECT: Public Hearing on Planning Application PA21-0111 for a Use Permit to establish a planned (unit) development for a 44-unit project. VTTM 19161 is being processed concurrently and will be presented to the Subdivision Committee if the Planning Application is approved.

PROPOSAL: A request for a Use Permit to establish site-specific development standards for the development of a 44-unit planned development on a 2.57-acre site in the unincorporated Yorba Linda area.

ZONING: C1(SR)(H) "Local Business" District with Sign Restriction and Housing Opportunities overlay zoning designations

GENERAL PLAN: 1B "Suburban Residential" (0.5 – 18 DU/AC)

LOCATION: The Project is located at 6821 Fairlynn Boulevard (at the intersection of Esperanza Road), in the unincorporated Yorba Linda area, within the Third (3rd) Supervisorial District. (APN 349-071-17.)

APPLICANT: ROI Esperanza LLC, Property owner  
Alex Wong, Applicant

STAFF CONTACT: Kevin Canning, Contract Planner  
Phone: (714) 667-8847  
Email: Kevin.Canning@ocpw.ocgov.com

**RECOMMENDED ACTIONS**

OC Development Services recommends that the Planning Commission:

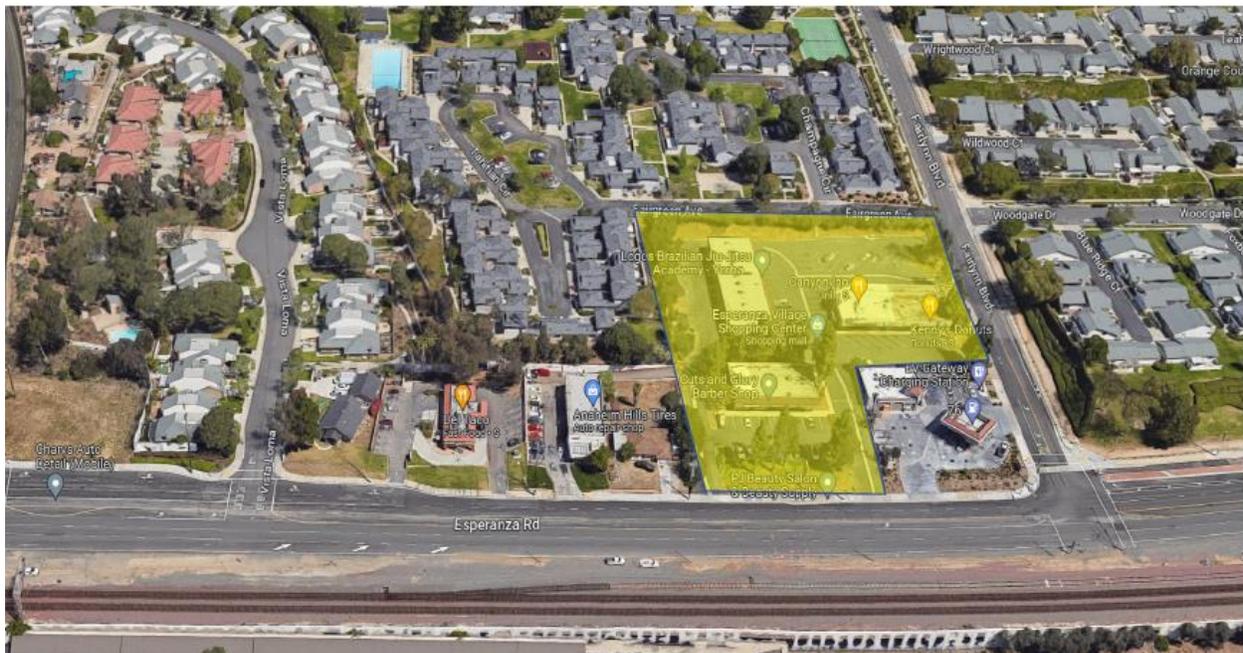
- a) Receive staff report and public testimony as appropriate;

- b) Find that Mitigated Negative Declaration (MND) IS 21-0111 is adequate and satisfies the requirements of the California Environmental Quality Act (CEQA), and adopt MND IS 21-0111 and its proposed Mitigation Measures;
- c) Find that the Project site’s Zoning designation of C1(SR)(H) “Local Business” District with Sign Restriction and Housing Opportunities overlay zoning designations is inconsistent with its General Plan designation of 1B “Suburban Residential”, and that pursuant to the Housing Accountability Act, a Zone Change is not required;
- d) Find that the Project’s proposed development plan is consistent with the applicable General Plan designation;
- e) Approve Planning Application PA21-0111 for a Use Permit to establish a Planned Development subject to the Findings and Conditions of Approval attached to this staff report.

### **PROPOSED PROJECT**

The proposed project would replace the existing developed retail center, which has approximately 20,000 square feet in three single-story multi-tenant standalone commercial buildings with surface parking and ornamental landscaping. The project site wraps around an existing gas service station located at the intersection that will remain.

The applicant is seeking a Use Permit to establish a planned (unit) development to set site-specific development standards such as for building setback, building heights and fence and wall heights. The Use Permit also proposes a modification to off-street parking standards to permit unassigned open parking spaces to be greater than 200 feet from eight of the proposed units. The parking modification is discussed further below. An associated map, Vesting Tentative Tract Map 19161, will be considered by the Subdivision Committee following approval of the Use Permit.



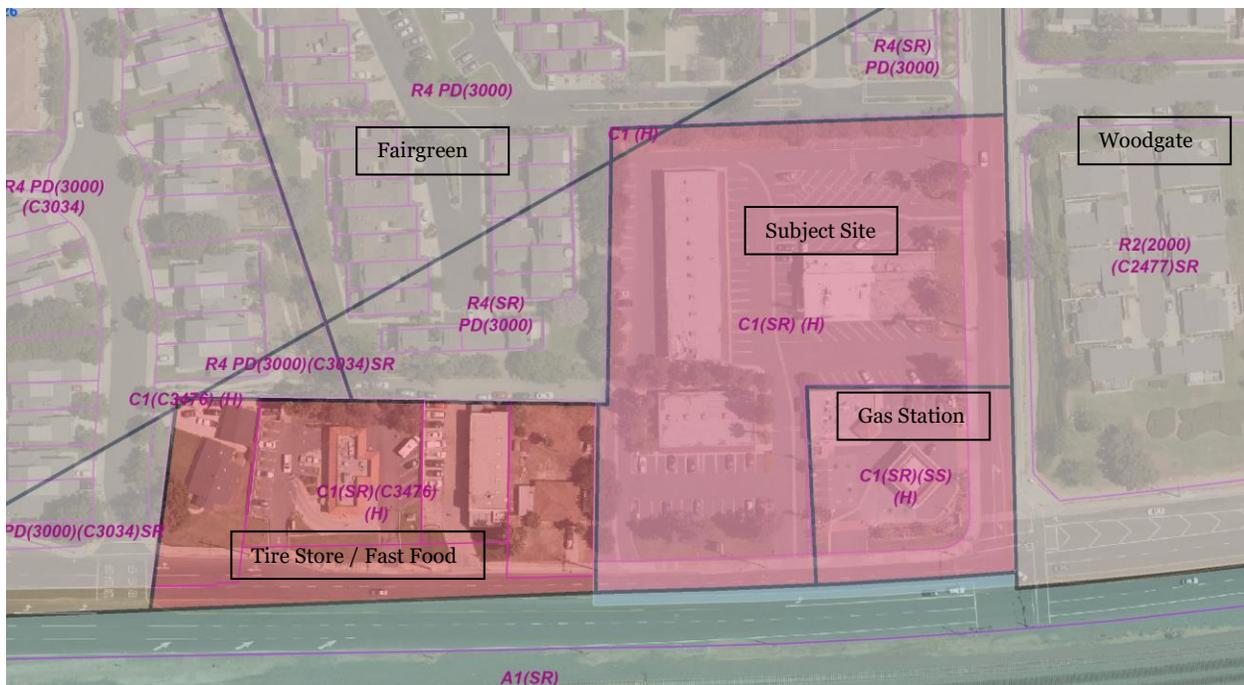
The applicant is proposing to develop the 2.57-acre Project site with a 44-unit townhome planned development with several small passive use pocket parks and private interior streets. The planned units will consist of the 44 attached townhome units in 8 three-story (35 feet in height) structures with either 5 or 6 units in each structure. Three basic floorplans will offer three bedrooms and 3.5 baths, ranging in living area from 1,670 to 1,950 square feet. Each unit will have an attached two-car garage. The proposed density will be 17.1 dwelling units per acre as permitted by the 1B Suburban Residential General Plan designation.

**SURROUNDING LAND USE**

The Project site is zoned C1 “Local Business” District with (SR) Sign Restriction and (H) Housing Opportunities overlay zoning designations. Zoning and existing land uses for other surrounding properties near the Project site are as follows:

| Direction       | Zoning   | Existing Land Use   |
|-----------------|--|---|
| Subject Site    | C1 ‘Local Business’ District with (SR) Sign Restrictions and (H) Housing Opportunities   | Commercial, food and retail center                            |
| North/Northwest | R4 ‘Suburban Multifamily’ with (SR) Sign Restrictions and PD(3000) Planned Development with 3,000 square feet land area per unit | Attached townhomes, planned development (Fairgreen community) |
| West            | C1 ‘Local Business’ District with (SR) Sign Restrictions, (H) Housing Opportunities and Ordinance C3476                          | Automotive (tire) sales and fast food restaurant              |
| East            | R2(2000) ‘Multifamily Dwelling’ with 2,000 square feet land area per unit, (SR) Sign Restrictions and Ordinance C2477            | Attached townhomes, planned development (Woodgate community)  |

**ZONING DESIGNATIONS**



The SR Sign Restrictions overlay zone is intended to minimize the number of signs in an area designated SR and to encourage the use of sound planning and design principles in the use of signs to complement the main use of the property and not disrupt nearby visual amenities and vistas within the scenic corridors. It has been applied to both commercially and residentially zoned properties and does not affect the underlying permitted uses and development standards.

The Housing Opportunities Overlay (“HOO”) regulations are contained in Orange County Codified Ordinances section 7-9-143, *et. seq.* The HOO allows for residential rental projects that are 100% affordable to be located in commercial districts including in C1 Local Business Districts, as here. The HOO also permits increased housing density, up to 70 dwelling units per net acre, and building heights up to 65 feet.

On the tire sales and fast food site, Ordinance C3476 refers to a contained within the 1984 zone change from A1 ‘General Agricultural’ to C1 ‘Local Commercial’ that added a requirement for a Site Development review to ensure compatibility of the future commercial uses with the adjacent residential development. On the Woodgate townhomes site, Ordinance C2477 refers to a condition within a 1971 zone change to R2(2000) to require landscaping along Esperanza Road and a minimum lot size of 8,000 square feet (as a condominium project, the building sites do exceed 8,000 square feet, and the density of the project is controlled by the (2000) area per unit in the zoning designation).

## **DISCUSSION/ANALYSIS**

### **Inconsistency between General Plan and Zoning**

The applicant is processing the application under the provisions of the Housing Accountability Act (Government Code Section 65589.5) which amended state law to address the housing availability crisis by establishing measures to promote and facilitate the development of all housing types, not only affordable housing. Pursuant to the Housing Accountability Act, a local approving authority may not require a zone change where the Project is consistent with objective general plan standards and criteria but where the zoning for the Project site is inconsistent with the general plan. In such a case, the Project shall be reviewed using standards and criteria that are consistent with the Project’s General Plan designation.

For the subject application, the site’s General Plan designation is ‘Suburban Residential’, which allows residential development at densities between 0.5 to 18.0 dwelling units per acre. The General Plan contains no other objective land use standards for this site. The project proposes a residential development at 17.1 units per acre and is consistent with all applicable objective standards in the General Plan.

The site’s Zoning designation is C1 “Local Business” District with (SR) Sign Restriction and (H) Housing Opportunities overlay zoning designations. The C1 District does not allow residential development, and the HOO permits only rental housing projects that are 100% affordable for low or very low income households. On a commercially zoned property as is the case here, the HOO would allow for densities of up to 70 dwelling units per acre (net) and structures of up to 65 feet in height.

Because the C1 Zoning designation does not allow residential development (and the HOO doesn't apply here because the project is not 100% affordable), but the Suburban Residential General Plan designation allows housing, there is an inconsistency between the General and the Zoning. As a result, pursuant to the Housing Accountability Act, Government Code section 65589.5(j)(4), the County cannot require a zone change. The applicant brought the application under the Housing Accountability Act, which requires specific processing and approvals.

Planning Staff used development standards for a “Planned Development” (PD) to evaluate the Project. The PD standards are consistent with the Suburban Residential General Plan designation under the Zoning Code, which the County may use to apply objective standards for the project pursuant to the Housing Accountability Act. While the use of the PD option would allow the applicant to propose any standard for a setback, or other development standard, the subject project is proposing setbacks and maximum structure heights consistent with those required or permitted within the adjacent two residential developments.

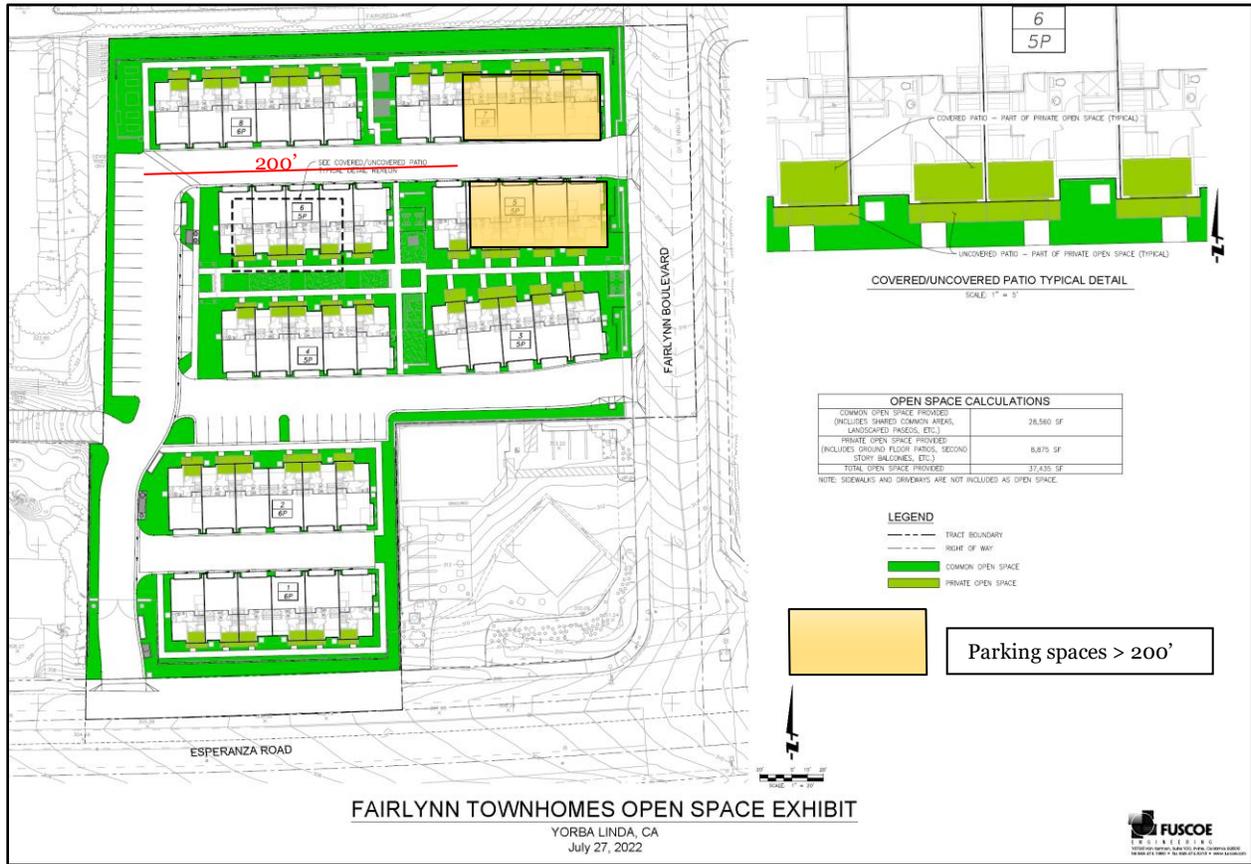
Planned Development

The proposed project will be developed as a planned (unit) development. A PD is permitted in any single-family or multi-family residential zoning district subject to the approval of the Planning Commission. The purpose of a PD "Planned Development" is to provide flexibility whereby land may be developed utilizing innovative site planning techniques (such as clustering of units and shared parking) to produce a project that will preserve and enhance community health, safety, and general welfare.

Below is a table listing the site-specific development standards, and as depicted on the project plans, to be established for the proposed planned development.

| <b>PROJECT STANDARD</b>   | <b>PROPOSED</b>   | <b>PD STANDARD</b>   |
|---|---|--|
| Building Site Area  | 2.57 acres (existing)   | N/A  |
| Area per Unit   | 2500  | N/A  |
| Maximum Building height   | 35'   | 35'  |
| Building Site Coverage  | 35%   | 40%  |
| Structural Setback (from street frontage property line)                 | 15' minimum (Fairlynn Blvd)<br>20' minimum (Esperanza Rd)                       | As approved  |
| Structural Setback (from interior property line)                        | 28'   | As approved  |
| Parking<br>2.5 spaces per unit (2 covered)<br>0.2 guest spaces per unit | 88 covered spaces<br>22 uncovered spaces<br>11 guest spaces<br>121 spaces total | 88 covered spaces<br>22 uncovered spaces<br>9 guest spaces<br>119 spaces total |
| Walls/Retaining walls   | 6' max (along street frontage)  | N/A  |

**PROPOSED PARKING PLAN**



Parking Standard Modification

Parking standards for the proposed three-bedroom units would require 2.5 spaces for each unit, two of which must be covered spaces. Guest parking is assessed at 0.2 spaces per unit. The project would require a total of 119 spaces and proposes 121 spaces. Unassigned spaces, which includes guest spaces and the addition 0.5 spaces per unit, must be off-street spaces and be located a distance of 200 feet walking distance from the unit.

The proposed plan would have eight units in the northeast corner of the site with unassigned parking at a distance of 275 to 300 feet from these units. The developer has proposed this in order to locate a row of parking along the westerly property line which would provide for additional separation of the new units from the existing units in the Fairgreen project. There is also a drainage line and easement serving the Fairgreen project along this property line and relocating this drainage line could disrupt the drainage coming from Fairgreen.

The Zoning Code allows modification to parking standards with the approval of a Use Permit. In assessing the request, staff concluded that the unassigned parking was directly visible from and reasonably proximate to the affected units and that the additional walking distance was not unreasonable. Staff supports this parking modification request.



**REFERRAL FOR COMMENT AND PUBLIC NOTICE**

The application was distributed to various County departments for review and comment. All comments received were able to be accommodated through minor plan revisions or proposed conditions of approval. The City of Yorba Linda reviewed the plans, and other than some clarifying questions, had no comment on the project.

**CEQA COMPLIANCE**

In accordance with the California Environmental Quality Act (CEQA) Guidelines, an Initial Study/Mitigated Negative Declaration (IS/MND) was prepared for the proposed project in accordance with CEQA Guidelines Section 15070. The County provided the mandatory 20-day period, from July 25 through August 24, for public and agency review. In addition, and in compliance with the Governor’s Executive Order No. N-54-20, Section 8(b), the Notice of Intent to Adopt a Mitigated Negative Declaration and proposed IS/MND were uploaded to the State Clearinghouse CEQAnet Web Portal. The State Clearinghouse assigned SCH No. 2023070560 to the Project. However, the proposed Project does not qualify as a project of Statewide, Regional, or Areawide Significance per CEQA Guidelines Section 15206, therefore additional public review time was not required. In The public Notice of Intent to Adopt a Mitigated Negative Declaration was also provided in the following manner:

- Filed with the Orange County Clerk-Recorder from July 25 through August 24, 2023;

- Posted at the public entrance of the County Administrative South building from July 25 through August 24, 2023;
- Posted at the entrance to the Esperanza Village (Project Site) on July 25, 2023

During the public review period, comments were received on the proposed IS/MND from interested public agencies and private parties. Comments received after the close of the public comment period were also accepted and considered in the Final Initial Study/Mitigated Negative Declaration.

Four public agency comments were received and were addressed as necessary through the application of mitigation measures. Comments of support for the project were received from 38 individuals. Twenty-two persons or organizations submitted comments expressing concerns about or opposition to the proposed project.

The main topics of the comments on the IS/MND and brief staff responses are provided below:

- Displacement of current businesses

The subject site is private property. Staff notes that one comment was received from a commercial property manager (who also manages the commercial development on the subject site) who stated that there were additional commercial centers in the vicinity and that the subject site was no longer viable as a commercial shopping center.

- Density and Character of Development

The project proposes development standards that are consistent with those applicable to the adjacent residential projects. It is noted that while the adjacent sites were/are allowed to develop to a height of 35 feet, they were not constructed to that height, whereas the subject project will utilize the height allowance. The type and character of the proposed development is consistent with the surrounding townhome projects.

- Parking

The most common concern expressed was that the proposed project would have insufficient off-street parking and that there would be spill-over into the adjacent residential projects. The subject project provides slightly more than the minimum number of off-street parking required. Regarding the proposed parking modification request of unassigned spaces greater than 200 feet from a unit, staff notes that the two adjacent projects have multiple situations in each where such a condition exists. Although staff could not locate County records of the adjacent projects to confirm, it does note that at the time of their construction (based upon Assessor's records), the County standards did permit parking to be based upon unit square footage rather than bedroom count. If this methodology was in fact used, staff estimates that as many as 50 or more additional off-street parking spaces would have been required in the adjacent projects, which may account for current parking issues.

- Aesthetics

The proposed Project proposes three-story, 35-foot high townhomes. Although it is located slightly below the adjacent Fairgreen project, the top floor of the proposed units would be visible

from portions of Fairgreen. The design of the proposed units includes no exterior balconies or decks on the third level.

- Traffic

The traffic analysis demonstrates that compared to the existing shopping center, and using Institute of Transportation Engineer (ITE) standards, the proposed project would generate less average daily traffic (by 731 fewer trip ends) and less traffic on both the morning and evening peak hours. It is also noted that the project was below the threshold to require a Vehicle Miles Traveled (VMT) analysis.

Comments related to displacement, character of development and parking do not raise an environmental issue and thus, do not require a response related to the IS/MND. None of the comments presents substantial evidence of a fair argument that the proposed project may have a significant impact on the environment.

All mitigation measures for the proposed project are included in the Mitigation Monitoring and Reporting Program (MMRP) and will be carried forward with the implementation of the project.

## CONCLUSION

Staff has determined that the proposed project complies with the requirements of Government Code Section 65589.5(j)(4) in that the proposed project is consistent with the applicable Suburban Residential General Plan designation and with the Planned Development standards of the County Zoning Code. Staff supports the proposal and recommends the approval of PA21-0111, a Use Permit to establish a planned development and to modify parking standards, subject to Findings and Conditions of Approval provided in Attachments 1 and 2.

Submitted by:



Kevin Canning, Contract Planner  
Planning, OC Development Services

Concurred by:



Justin Kirk, Deputy Director  
OC Public Works/Development Services

## ATTACHMENTS

1. Recommended Findings
2. Recommended Conditions of Approval
3. Final IS/MND
  - a. Appendices at <https://ocds.ocpublicworks.com/service-areas/oc-development-services/planning-development/current-projects/3rd-district/pa-21-0111>
4. Technical Site Plan
5. Architectural Elevations and Floor Plans
6. Fairlynn Village Concept and Open Space Plan
7. Site Photos
8. VTTM 19131 (for information only, not part of this application)

**APPEAL PROCEDURE:**

Any interested person may appeal the decision of the Planning Commission on this permit to the Orange County Board of Supervisors within 15 calendar days of the decision upon submittal of required documents and a filing deposit of \$500 filed at the County Service Center, 601 N Ross St., 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.