



Meeting Date: 7/28/2009

ACTION	TYPE OF ITEM
<input type="checkbox"/> Approved Recommendation	<input type="checkbox"/> Info/Consent
<input type="checkbox"/> Ord. No(s) _____	<input type="checkbox"/> Report
<input type="checkbox"/> Res. No(s) _____	<input checked="" type="checkbox"/> Public Hearing
<input type="checkbox"/> Other _____	<input type="checkbox"/> Other _____

Prepared By: Kathleen Mallory, AICP, Contract Planner

Agenda Item No. K-1

Reviewed By: City Manager [Signature] City Attorney [Signature] Finance [Signature] Other (Specify) \_\_\_\_\_

**DATE:** July 28, 2009

**TO:** City Council

**FROM:** Susan L. Martin, AICP, Planning Manager [Signature]  
Development Services Department

**SUBJECT:** Major Modification to PZ 06-570-09, Amending Part 2 of Ordinance No. 2790, for Property Located on the Northeast Corner of South Victoria Avenue and Hemlock Street. Filed by Tucker Investment Group/Courtyard at Mandalay Bay, LLC, 5010 Parkway Calabasas, Suite 105, Calabasas, CA 91302.

**RECOMMENDATION**

That City Council approve the first reading by title only and subsequent adoption of an ordinance to extend the existing commercial non-conforming uses for a period up to fifteen (15) years from the date of said Ordinance.

**DISCUSSION**

On January 6, 2009, the City Council approved a general plan amendment, zone change, special use permit, and tentative subdivision map for the construction of 116 for sale residential condominium units. A provision of the zone change ordinance was the allowance of the continued operation of the non-conforming commercial uses for five (5) years from the effective date of the ordinance. Due to economic conditions, the applicant is requesting to modify this provision so that the commercial use may be permitted within the existing non-conforming shopping center for a period of ten (10) years; and that the commercial use may, at the approval of the Development Services Director, be permitted within the existing non-conforming shopping center for an additional period of five (5) years for a total of fifteen (15) years from the effective date of the ordinance. The Director of Development Services shall only grant the additional five (5) year extension if the following conditions exist: a) seventy percent (70%) of the gross leasable square footage within the shopping center is occupied or under lease to be occupied for commercial use(s); and b) that the shopping center is maintained in a good, healthful, and an attractive condition.

Tucker Investment Group has committed to maintain the existing non-conforming shopping center by conducting exterior improvements such as building façade improvements (painting, signage, roofing), installation of clock tower improvements, and renovation of the existing dilapidated landscape planters (see Attachment No. 1). By allowing the non-conforming uses to continue beyond the five year limitation, and until the market supports construction of housing on the project site, revenue will be

generated to conduct minor exterior improvements which will improve the aesthetic appearance of the site and surrounding area.

**FINANCIAL IMPACT**

None

Attachment 1 - Description of Improvements at Mandalay Bay, LLC Provided by the Applicant.

Attachment 2 - Ordinance approving PZ No. 09-550-09 to extend non-conforming status of property located at northeast corner of South Victoria Ave. and Hemlock Street.

## Description of Improvements to Courtyard at Mandalay Bay, LLC

Tucker Investment Group, with the approval of Community Development sources, will paint the entire shopping center with a different color combination as is depicted in the rendering. We believe this will give a fresh new look to the center. This will include painting the shingles and the trim. This will also include painting The Old Dublin building, which should enhance the frontage along Victoria.

The Clock tower clock will be replaced with a new clock as depicted in the rendering. Perhaps there will be festive banners or flags to liven up center as approved by Community Development Services.

Planters- Tucker Investment Group has begun to renovate the landscape planters to provide a fresh, distinct visual impression and to soften the urban surroundings. Dead or mis-shapen plant material has been removed and the planting areas have been topdressed with new shredded bark mulch. This initial process has elevated the aesthetic standard and will compliment the new paint. In addition to the bark mulch, under the guidance of a landscaping consultant, additional water conserving plant material will be supplemented in the planting areas to provide a cohesive plant palette with the shrubs and palms that have been protected. The character of the proposed new flowering shrubs and groundcover with their various foliage textures and growth habits will compliment the architectural style and provide for a pleasing visual shopping experience in the retail center. The number of varieties of new plants introduced to the Center will be few and simple. Large massings of a singular plant provides for a dramatic effect. The streetscapes along Hemlock Ave. and Victoria Ave. will be distinctly landscaped with flowering shrub material to distinguish each street. The proposed landscape renovation will create a place of value and natural beauty.

We have also been working Code Compliance Officer Silverstein to make sure graffiti is monitored on a daily basis. The light poles in the parking lot will also be enhanced with greater wattage. This will help prevent graffiti and vandalism, which is a daily occurrence.

Enhanced wattage in the back of center will also be added to deter graffiti.

CITY COUNCIL OF THE CITY OF OXNARD

ORDINANCE NO. \_\_\_\_

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OXNARD APPROVING PLANNING AND ZONING PERMIT NO. 09-550-09 (MAJOR MODIFICATION TO PZ NO. 06-570-09), AMENDING PART 2 OF ORDINANCE NO. 2790 FOR THE PROPERTY LOCATED ON THE NORTHEAST CORNER OF SOUTH VICTORIA AVENUE AND HEMLOCK STREET (APNs 187-0-060-105 AND 187-0-060-095), SUBJECT TO CERTAIN FINDINGS. FILED BY COURTYARD AT MANDALAY BAY LLC /TUCKER INVESTMENT GROUP, 5010 PARKWAY CALABASAS, SUITE 105, CALABASAS, CA 91302.

WHEREAS, on January 6, 2009, the City Council adopted Ordinance No. 2790, changing the zoning on the subject property from C-2-PD (General Commercial, Planned Development) to R-3-PD (Garden Apartment, Planned Development); and

WHEREAS, Part 2 of Ordinance No. 2790 provided that commercial uses were permitted to continue on the parcels known as Assessor's Parcel Nos. 187-0-060-105 and 095 for a period of five (5) years from the effective date of the ordinance; and

WHEREAS, the current economic environment has made it difficult to construct the residential project approved on the project site; and

WHEREAS, Tucker Investment Group/Courtyard at Mandalay Bay, LLC filed an application for a major modification to Ordinance No. 2790 to allow the continued operation of the existing non-conforming use(s) on the subject site for a period up to fifteen (15) years; and

WHEREAS, the City Council has considered the application filed by Tucker Investment Group/ Courtyard at Mandalay Bay, LLC and has carefully reviewed the applicant's request; and

WHEREAS, the City Council finds after due study and deliberation that the public interest and general welfare are not negatively impacted as a result of the modification to Ordinance No. 2790; and

WHEREAS, in accordance with the California Environmental Quality Act (CEQA), the Planning Division Manager determined that the subject project is exempt from the provisions of CEQA based upon a Class 1 (Section 15301) exemption; and

WHEREAS, Applicants agree, as a condition of adoption of this ordinance at each Applicant's own expense, to indemnify, defend, and hold harmless City and its agents, officers, and employees from and against any claim, action or proceeding to attack, review, set aside, void, or annul the approval of this resolution or any proceedings, acts, or determination taken, done, or made prior thereto that were part of the approval process.

WHEREAS, Major Modification No. 09-550-09 to Ordinance No. 2790 is consistent with

the 2020 General Plan.

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

Part 1. Part 2 of Ordinance No. 2790 is hereby amended to read as follows:

“Commercial use may be permitted within the existing non-conforming shopping center for a period of ten (10) years; and that the commercial use may, at the approval of the Development Services Director, be permitted within the existing non-conforming shopping center for an additional period of five (5) years for a total of fifteen (15) years from the effective date of the ordinance. The Director of Development Services shall only grant the additional five (5) year extension if the following conditions exist: a) seventy percent (70%) of the gross leasable square footage within the shopping center is occupied or under lease to be occupied for commercial use(s); and b) that the shopping center is maintained in a good, healthful, and an attractive condition.”

Part 2. Within fifteen days after passage, the City Clerk shall cause this ordinance to be published one time in a newspaper of general circulation, published and circulated in the City. Ordinance No. \_\_\_\_\_ was first read on July 28, 2009, and finally adopted on September 1, 2009, to become effective thirty days thereafter.

PASSED AND ADOPTED this 1<sup>st</sup> day of September 2009, by the following vote:

AYES:

NOES:

ABSENT:

\_\_\_\_\_  
Dr. Thomas E. Holden, Mayor

ATTEST:

\_\_\_\_\_  
Daniel Martinez, City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Alan Holmberg, City Attorney