

CITY OF THOUSAND OAKS

PLANNING COMMISSION

RESOLUTION NO. \_\_\_\_\_PC

A RESOLUTION OF THE PLANNING COMMISSION  
OF THE CITY OF THOUSAND OAKS  
RECOMMENDING THAT THE CITY COUNCIL  
CERTIFY THE FINAL ENVIRONMENTAL IMPACT  
REPORT AND MITIGATION MONITORING AND  
REPORTING PROGRAM AND APPROVE A SPECIAL  
USE PERMIT TO ALLOW THE SALE AND  
CONSUMPTION OF ALCOHOL FOR CERTAIN  
PROPERTY WITHIN SAID CITY AT 225 NORTH  
MOORPARK ROAD

Application No. SUP-2023-70009

Applicant: Verdant Thousand Oaks LLC (Adam Corral – Greens  
Development) & Newmark Merrill Companies

Location: 225 North Moorpark Road  
Assessor's Parcel Number (APN): 525-0-030-470

SECTION 1

The Planning Commission of the City of Thousand Oaks, California, DOES  
RESOLVE AS FOLLOWS:

WHEREAS, the applicant has filed with the City an application under the  
provisions of the City of Thousand Oaks Municipal Code requesting the  
following:

- 1) CEQA-2022-70002: Consider the Final Environmental Impact Report (EIR), including Mitigation Monitoring and Reporting Program (MMRP) prepared in accordance with the California Environmental Quality Act (CEQA) for the subject project; and
- 2) SUP-2023-70009: To allow for the sale and consumption of beer, wine, and distilled spirits with food service on the premises within the hotel's 1,780 square-foot bar and up to 13,308 square feet of restaurant uses with up to 5,204 square feet of exterior patio space.

WHEREAS, on March 2, 2023, a Notice of Application was mailed to all property owners and occupants within a 500-foot radius of the subject property; and

WHEREAS, on August 10, 2023, a Notice of Application sign was posted on the subject property; and

WHEREAS, on October 6, 2023, a Notice of Hearing sign was posted on the subject property; and

WHEREAS, on October 9, 2023, Notice of Planning Commission Public Hearing was mailed to all property owners of record within a 500- foot radius of the subject site; and

WHEREAS, on October 9, 2023, Notice of Planning Commission Public Hearing was published in the “VC Star,” a newspaper of general circulation within the City of Thousand Oaks; and

WHEREAS, the Planning Commission, upon giving the required notice, did, on the 23<sup>rd</sup> day of October 2023, conduct a duly advertised public hearing as prescribed by law to consider said application; and

WHEREAS, at the October 23, 2023, Planning Commission public hearing, oral and written evidence, including a staff report, were presented and received, and comments and arguments were heard from all interested parties appearing in the matter.

## SECTION 2

WHEREAS, pursuant to CEQA, City conducted environmental review of the project (consisting of a 2021-70997-Z, 2022-70079-DP, 2022-70265-TTM, and SUP-2023-70009), prepared and duly processed an EIR (“The Janss Marketplace Hotel Project EIR”), consisting of a Draft EIR dated August 2023 and a Final EIR dated October 2023, and prepared an MMRP for implementation of mitigation measures specified in the EIR; and

WHEREAS, pursuant to CEQA (Public Res. Code, Section 21000 et seq.), the State CEQA Guideline (14 CCR Section 15000 et seq.) and the City of Thousand Oaks’ Local CEQA Guidelines, the City of Thousand Oaks (City) is the lead agency for the Project, as the public agency with general governmental powers; and

WHEREAS, the City, as the lead agency, determined that an EIR would be prepared pursuant to CEQA in order to analyze all potential adverse environmental impacts of the Project; and

WHEREAS, the City issued a Notice of Preparation (NOP) of a Draft EIR on February 17, 2023, and circulated the NOP for a period of 30 days (between February 17 and March 20, 2023), pursuant to State CEQA Guidelines Sections 15082(a), 15103 and 15375; and

WHEREAS, pursuant to State CEQA Guidelines section 15082, the City solicited comments from potential responsible agencies, including details about the scope and content of the environmental information related to the responsible agencies area of statutory responsibility, as well as the significant environmental issues, reasonable alternatives and mitigation measures that the responsible agency would have analyzed in the Draft EIR; and

WHEREAS, seven (7) written statements were received by the City in the response to the NOP, which assisted the City in narrowing the issues and alternatives for analysis in the Draft EIR; and

WHEREAS, a public scoping meeting was held on March 1, 2023, to familiarize the public with the Project and the environmental review process and receive input as the scope of the Draft EIR and issues of community concern; and

WHEREAS, the Draft EIR was completed and released for public review on August 11, 2023 and City initiated a 45-day public comment period (between August 11 and September 25, 2023) by filing a Notice of Completion and Availability; and

WHEREAS, pursuant to Public Resources Code section 21092, the City also provided a Notice of Completion (NOC) and Notice of Availability (NOA) to all organizations and individuals who had previously requested such notice and published the NOC on August 11, 2023, in a newspaper of general circulation in the Project area. Pursuant to the City of Thousand Oaks Local CEQA Guidelines, the NOA was mailed to all residents and property owners with 500 feet of the Project. The Draft EIR was posted on the City's website, public counter and public libraries; and

WHEREAS, two (2) written statements were received by the City in response to the NOC and NOA during the 45-day public comment period and one (1) written statement was received by the City in response to the NOC and NOA after the 45-day public comment period; and

WHEREAS, following the closure of the public comment period, all comments received on the Draft EIR during the comment period and after the comment period, the City's written responses to the significant environmental points raised in those comments were added to the Draft EIR to produce the Final EIR, and

WHEREAS, prior to taking action, the Planning Commission has heard, been presented with, reviewed and considered all of the information and data in

the administrative record, including Final EIR, and all oral and written evidence presented to it during all the meetings and public hearing; and

WHEREAS, the Final EIR reflects the independent judgment of the City and is deemed adequate for purposes of making decisions on the merits of the Project; and

WHEREAS, all other legal prerequisites to the adoption of this Resolution have occurred; and

WHEREAS, the Planning Commission supports adoption and certification of said CEQA-2022-70002, and makes the following findings of fact and recommends the following to City Council:

1. CEQA-2022-70002 was prepared in accordance with the requirements of CEQA, includes all comments received on the Draft EIR and the City's response thereto, reflects the independent judgment of the City of Thousand Oaks, and has been reviewed and considered by the City Council prior to making its decision.
2. Changes or alterations have been incorporated into the project through design or conditions that reduce potentially significant environmental impacts to a less than significant level, as identified in the Final EIR.
3. The Final EIR (CEQA-2022-70002) conducted an environmental analysis for each of the environmental factors outlined in Appendix G of the CEQA Guidelines, Environmental Checklist Form and identified the following environmental factors as:
  - a. No significant impacts: Agriculture and Forestry Resources; Mineral Resources; Population and Housing; and Wildfire.
  - b. Less than significant impacts: Aesthetics; Energy; Greenhouse Gas Emissions; Hydrology and Water Quality; Land Use and Planning; Noise; Public Services and Recreation; and Transportation.
  - c. Potentially significant impacts without mitigation but less than significant with mitigation incorporated: Air Quality; Biological Resources; Cultural, Tribal and Historical Resources; Geology and Soils; Hazards and Hazardous Materials; and Utilities and Service Systems.

Mitigation Measures have been imposed upon the project which will feasibly reduce or eliminate any potential adverse effects to less than significant levels. Based on Final EIR, the Mitigation Monitoring and Reporting Program (MMRP) and any comments received, it is found that, as mitigated

there is no substantial evidence that the project will have a significant effect on the environment.

4. A MMRP has been prepared for the project associated with this application and is incorporated herein by reference. The MMRP designates responsibility and anticipated timing for the implementation of mitigation measures imposed as conditions of approval which are fully enforceable through fees, permit conditions, agreements or other measures. The MMRP attached as Exhibit A and incorporated by reference describes the mitigation measures recommended by the EIR to reduce and avoid potential significant effects of the project, and adequately identifies the appropriate timing and enforcement details for each to ensure each mitigation measure is implemented.
5. CEQA-2022-70002 has been reviewed for conformance with the provisions of the CEQA. For this application, the City is the Lead Agency and, on behalf of the Applicant, the City Council is being asked to (a) adopt and make the CEQA Findings and certify the EIR as legally adequate under CEQA as to each development application associated with the project and (b) adopt the MMRP and incorporate its provisions as conditions of approval for project to the extent appropriate.
6. The Planning Commission has reviewed and considered the information contained in the project Final EIR, and written and oral comments regarding environmental effects. The project EIR was prepared in accordance with the requirements of CEQA, includes all comments received on the EIR and the City's response thereto, reflects the independent judgment of the City of Thousand Oaks, and the Planning Commission is being asked to recommend to City Council the adoption of the Final EIR that was prepared for the project. Each of the following Commission findings is supported by and elaborated in the attached CEQA Findings.
7. Based on all written and oral evidence and testimony in the record, the project Final EIR (a) complies with the requirements of CEQA and adequately identifies and considers all potential significant environmental effects of the Zone Change; Development Permit; Tentative Tract Map; and Special Use Permit, and (b) reflects the City's independent judgment and analysis.
8. The Planning Commission recommends that the City Council adopt and make the CEQA Findings and certify the Final EIR as legally adequate under CEQA as to each development application associated with the project and adopt the MMRP and incorporate its provisions as conditions of approval for each of the development applications associated with the project to the extent appropriate.

### SECTION 3

WHEREAS, the findings of the Planning Commission recommending approval of 2022-70779-SUP of said application are as follows:

1. *The project is consistent with the Thousand Oaks General Plan and any applicable specific plan or redevelopment plan (TOMC Section 9-4.2803(c)(1)).*

The project is consistent with the Thousand Oaks General Plan because hotels, restaurants and restaurant's exterior patios with alcoholic beverage consumption is an allowed ancillary use within a commercial building with approval of a Special Use Permit. The City of Thousand Oaks General Plan land use designation for the property is Commercial, which encourages hotel, retail, restaurant (including ancillary on-site sale and consumption of alcoholic beverages), and similar uses, and the project site has a corresponding zoning designation of C-3 (Community Shopping Center) and requested C-3-H (Community Shopping Center – Height Overlay) which is required to allow a maximum height up to 75 feet. The subject parcel is not regulated by any additional specific plan or redevelopment plan. Therefore, the project is consistent with the Thousand Oaks General Plan and any applicable specific plan or redevelopment plan.

2. *The project complies with all applicable laws, regulations and policies, including the Thousand Oaks Municipal Code (TOMC Section 9-4.2803(c)(2)).*

With the implementation of the suggested conditions, the project will satisfy all applicable laws, regulations and policies, including the Thousand Oaks Municipal Code.

The project has also been reviewed by other City departments and agencies for conformance with applicable laws, regulations, and policies, and provided appropriate conditions of approval. Additionally, any proposed future tenant must obtain and maintain an alcohol license from the California Department of Alcoholic Beverage Control. Therefore, the hotels, restaurants and restaurant's exterior patios and on-site sale and consumption of alcoholic beverages complies with all applicable laws, regulations, and policies.

3. *The project will not be detrimental to the public health, safety or general welfare (TOMC Section 9-4.2803(c)(3)).*

With the conditions of approval imposed, the project will not be detrimental to public health, safety or general welfare because a) The City reserves the right to review any future proposed use which would include alcohol service through a separate Minor Modification application to ensure compatibility with the surrounding uses, including the commercial uses on site and b) the Police Department has reviewed the request and finds it to be acceptable, subject to

conditions of approval. Additionally, the restaurant must obtain and maintain an alcohol license from the California Department of Alcoholic Beverage Control.

4. *The project has been reviewed in conformance with the provisions of the California Environmental Quality Act (TOMC Section 9-4.2803(c)(4)).*

The proposed Special Use Permit has been reviewed for conformance with the provisions of the California Environmental Quality Act. For this application, the City is the Lead Agency and, on behalf of the Applicant, the City Council is being asked to certify the Final EIR that was prepared for the project. The Final EIR identifies where all areas listed as potentially significant have been mitigated to levels that are no longer significant, through the inclusion of mitigation measures, which the applicant shall comply with under the proposed conditions of approval.

5. *The proposed use at the proposed location will be compatible with land uses in the vicinity (TOMC Section 9-4.2803(c)(5)).*

The potential use involving sale and consumption of alcohol at the project site will be compatible with land uses in the vicinity. The proposed hotel and restaurant locations are in the center of the Janss Marketplace. The Janss Marketplace already contains numerous establishments which serve alcohol. The closest multi-family residential development is located approximately 1,180 feet to the northeast of the project site and separated by the Janss Marketplace development, commercial and office uses to the north, and West Wilbur Road. The potential sale and consumption of alcohol at the project site will be compatible with land uses in the vicinity that are predominantly commercial. As the commercial uses will be open to the public, it is anticipated to be an amenity to those living in the adjacent residential development and those working within the Janss Marketplace and surrounding commercial, and office uses. Therefore, the project will be compatible with the land uses in the vicinity.

The proposed hotel has been conditioned to create a Special Events Noise Monitoring Plan, and both the hotel and retail areas are conditioned to ensure noise generated by the project's bar and restaurants are regulated to ensure that the noise cannot be heard from off-site residential properties during operating hours. The Commission finds that the Special Events Noise Monitoring plan and the physical barriers and distance from residential properties are adequate buffers between the hotel and restaurant locations and residentially-zoned properties to minimize any potential disturbance to neighboring properties. Since the sale and consumption of alcoholic beverages is an accessory use to the hotel and restaurant locations and the closest residentially-zoned property to the subject site is approximately 1,180 feet away and buffered by intervening structures, the Commission supports the subject request.

NOW, THEREFORE, BE IT RESOLVED that based on substantial evidence contained within the record, the analysis in the staff report, the Findings of Fact above, and, having considered the Final EIR and associated MMRP, the Planning Commission recommends that the City Council adopt and certify the Final Environmental Impact Report CEQA-2022-70002 prepared for the project, the Planning Commission recommends that the City Council approve SUP-2023-70009, subject to conformance with the conditions set forth and attached hereto and made a part hereof. Except as otherwise expressly indicated, said conditions shall be fully performed and completed, or at the City's discretion, shall be secured by bank or cash deposit or other security satisfactory to the City Attorney before the use or occupancy of the property is commenced and before a Certificate of Occupancy is issued. The violation of any of the conditions of said permit shall be grounds for revocation by the Planning Commission or City Council.

I HEREBY CERTIFY that the foregoing resolution reflects action taken by the Planning Commission of the City of Thousand Oaks at a regular meeting held on the 23<sup>rd</sup> day of October 2023, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

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Sharon McMahon, Chair  
Planning Commission

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Fabiola Zelaya Melicher, Secretary  
Planning Commission



**COMMUNITY DEVELOPMENT DEPARTMENT CONDITIONS OF APPROVAL FOR  
SPECIAL USE PERMIT SUP-2023-70009**

**COMMUNITY DEVELOPMENT DEPARTMENT CONDITIONS FOR SUP-2023-  
70009**

1. **Land and Application** – The Special Use Permit is granted for the land described in the application and any attachments thereto and as indicated on the “Project Plan Set,” dated September 28, 2023, attached to the Planning Commission staff report dated October 23, 2023, and attached to the City Council staff report dated \_\_\_\_\_, pursuant to the following conditions.
2. **Scope of Permit Approval** – The Special Use Permit is granted to allow a new hotel with an approximately 1,780 square-foot bar with food service and up to 13,308 square feet of restaurant uses with up to 5,204 square feet of exterior patio space with alcoholic beverage consumption as indicated on the “Project Plan Set,” dated September 28, 2023, attached to the Planning Commission staff report dated October 23, 2023, and attached to the City Council staff report dated \_\_\_\_\_.
3. **Parking Required** – The project site shall provide a minimum of 2,642 on-site parking spaces based on the mix of uses and shared use parking analysis entitled “Parking Analysis Memorandum for the Proposed Janss Marketplace Expansion Project in the City of Thousand Oaks” prepared by Kimley-Horn and Associates, Inc. dated October 4, 2023  
  
The parking analysis conservatively calculated the shared parking based on existing and allowable uses within the Janss Marketplace including the proposed hotel with an approximately 1,780 square-foot bar with food service and up to 13,308 square feet of restaurant uses with up to 5,204 square feet of exterior patio space.
4. **Readily Identifiable Personnel to Monitor and Control Behavior of Customers** – Licensees shall have readily identifiable personnel to monitor and control the behavior of customers inside the building premises, and any adjacent property under the establishment’s control to ensure the areas are free of people loitering or causing a disturbance, and that these areas are cleared of patrons within 30 minutes after closing.
5. **Exterior Patio** – Any outdoor area licensed for the sales, service, and consumption of alcoholic beverages must be clearly delineated by fixed or immovable barriers, which clearly define the boundaries of the licensed premises.
6. **Noise Control** – It shall be the responsibility of the hotel and restaurant owners and operators to ensure noise generated by the project’s bar and restaurants are regulated to ensure that the noise cannot be heard from off-site residential properties during operating hours.

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7. **Live Entertainment** – Live entertainment shall not be allowed unless otherwise approved by the Community Development Department.
8. **Police Department Conditions** – All Police Department conditions of City Council Resolution 95-20 shall apply to this permit.
9. **Alcoholic Beverage Permit and Approvals** – Prior to the onsite sales, service or consumption of alcoholic beverages on the property, the applicant shall receive all necessary permits and approvals from any applicable County, State or Federal agencies and shall comply with all requirements of the State of California Department of Alcoholic Beverage Control.
10. **Condition Compliance** – The conditions set forth in this Resolution shall run with the land and shall remain in force for the duration of the life of the Project. All previously imposed conditions of PD 34, all conditions of 2022-70079-DP and 2022-70265-TTM and SUP 2023-70009, and, any other modification shall apply to this approval, unless otherwise modified herein.
11. **Compliance with Other Laws** – The applicant shall comply with all federal, state and local laws and regulations. Violation of any of those laws in connection with the use authorized herein will be cause for initiation of revocation proceedings.
12. **Signage** – No sign has been approved as part of this Special Use Permit. Any proposed sign shall comply with the City's Sign Ordinance and the Janss Marketplace Uniform Sign Program. A sign permit application shall be submitted to the Community Development Department for review and approval.
13. **Building Permits** – Prior to any construction, the applicant shall obtain all applicable building permits from the Community Development Department.
14. **Title 24 Requirements** – All requirements of the California Uniform Building Code Title 24, California Code of Regulations, shall be met, as required by law.
15. **Indemnification** – The applicant agrees to defend, indemnify and hold harmless the City, its agents, officials, and employees from any claim, action or proceeding against the City or its agents, officials or employees to attack, set aside, void or annul an approval of the City. The City shall promptly notify the applicant of any claim, action or proceeding and the City shall cooperate fully in the defense.

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16. **Use Inauguration** – The Special Use Permit is granted for a three (3) year period of time from City Council final project approval ending \_\_\_\_\_ at which time said permit shall expire unless the use authorized herein has been inaugurated. For purposes of this permit, use inauguration shall be defined as the grand opening for hotel bar and or restaurant operations, whichever occurs first, as approved in this permit.
17. **Other Entitlements** – All conditions of approval for 2022-70079-DP, 2022-70265-TTM, and CEQA-2022-70002 shall apply to this permit.
18. **Transferable Permit** – This Special Use Permit may be transferred to another owner/lessee provided the operation is in substantial conformance with the approved use and provided that the new owner/lessee agrees to all imposed conditions of the existing Special Use Permit, subject to an administrative review and determination by the Community Development Department.
19. **Revocation** – If after written notice from the Police Department or City of Thousand Oaks, and subsequent failure to comply with such notice, regarding confirmed violations of the Municipal Code, including but not limited to excessive noise disturbances, unruly or violent incidents, illicit use or sale of drugs, alcohol-related violations, or violations of imposed conditions on any City permit, the City may initiate revocation proceedings. A request for revocation of this permit shall be referred to the Planning Commission.
20. **Signed Acceptance of Conditions** – A signed acceptance of conditions executed by the applicant and property owner or his/her duly authorized representative shall be returned to the Community Development Department prior to commencement of the restaurants, cafes, and other specialized food service establishments with alcoholic beverage consumption use permitted herein.

**ENVIRONMENTAL MITIGATION MEASURES**

21. **(M) Mitigation Compliance** – Applicant agrees to comply with all mitigation measures outlined in Environmental Impact Report No. CEQA-2022-70002. Prior to the issuance of any grading or building permit, the applicant shall submit a written report demonstrating that all mitigation measures imposed by the City to either reduce or avoid significant environmental impacts identified in the Environmental Impact Report have either been incorporated in the project design or undertaken as required. Final determination of compliance with imposed mitigation measures pursuant to the requirements of Section 21081.6 of the Public Resources Code shall in turn be subject to the review and approval of the Community Development Department.

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**AIR QUALITY**

22. **(M) MM-AQ-1 (Best Management Practices):** The applicant shall require all construction plans to include the following best management practices:
- a. Maximize the use of chemical dust suppressants or non-potable water, if available. If water is used, all exposed surfaces shall be watered three times daily.
  - b. Exposed surfaces include, but are not limited to, soil piles, graded areas, unpaved parking areas, staging areas, and access roads.
  - c. Cover or maintain at least 2 feet of free board space on haul trucks transporting soil, sand, or other loose material on the site. Any haul trucks that would be traveling along freeways or major roadways shall be covered.
  - d. Use wet power vacuum street sweepers to remove any visible track-out mud or dirt onto adjacent public roads at least once a day. Use of dry power sweeping is prohibited.
  - e. Limit vehicle speeds on unpaved roads to 15 miles per hour.
  - f. Pave all roadways, driveways, sidewalks, parking lots as soon as possible. In addition, building pads shall be laid immediately after grading unless seeding or soil binders are used.
  - g. Minimize idling time either by shutting equipment off when not in use or reducing the time of idling to 5 minutes (as required by the state airborne toxics control measure [Title 13, Section 2485 of the California Code of Regulations]). Provide clear signage that posts this requirement for workers at the entrances to the site.
  - h. Maintain all construction equipment in proper working condition according to manufacturer's specifications. The equipment shall be checked by a certified mechanic and determined to be running in proper condition before it is operated.
23. **(M) MM-AQ-2 (Architectural Coating):** Prior to issuance of grading permits, the City of Thousand Oaks shall review the final construction plan to verify the architectural coating phase shall last for at least six weeks.
24. **(M) MM-AQ-3 (Diesel Off-road Equipment):** All diesel off-road equipment rated 50 horsepower or more shall have engines that meet the Tier 4 Final off-road emission standards, as certified by CARB. This requirement shall be verified through submittal of an equipment inventory that includes the following information: (1) Type of Equipment, (2) Engine Year and Age, (3) Number of Years Since Rebuild of Engine (if applicable), (4) Type of Fuel Used, (5) Engine HP, (6) Verified Diesel Emission Control Strategy (VDECS) information if applicable and other related equipment data. A Certification Statement is also required to be made by the Contractor for documentation of compliance and for future review by the VCAPCD, as necessary. The Certification Statement must state that the Contractor

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agrees to compliance and acknowledges that a violation of this requirement shall constitute a material breach of contract.

An exemption from these requirements may be granted by the City in the event that the applicant documents that equipment with the required tier is not reasonably available and corresponding reductions in criteria air pollutant emissions are achieved from other construction equipment. Before an exemption may be considered by the City, the applicant shall be required to demonstrate that two construction fleet owners/operators in Ventura County were contacted and that those owners/operators confirmed Tier 4 Final equipment could not be located within Ventura County. Further, if an exemption is granted by the City, the applicant shall use a minimum of Tier 3 equipment with a CARB-certified Level 3 diesel particulate filter in place of the Tier 4 Final equipment.

**BIOLOGICAL RESOURCES**

25. **(M) MM-BIO-1 (Bat Roosting & Surveying):** If project-related activities are to be initiated during the bat day and/or night-roosting or maternity-roosting season (April 1 through August 31), a pre-construction survey for day and/or night-roosting or maternity-roosting bats shall be conducted by a qualified biologist no more than 14 days prior to the start of any vegetation removal, ground disturbing activities, or construction, to confirm if roosting bats are present to avoid and minimize impacts to any roosting bat species. The qualified biologist shall survey all suitable roost habitat within the project's area of disturbance plus a 300-foot buffer zone. Each time work ceases for a period of 14 days or more during day and/or night-roosting or maternity-roosting season, a new roosting bat clearance survey shall be conducted.
- i. If no roosts are observed during pre-construction surveys, project activities may begin, and no additional avoidance and minimization measures shall be required.
  - j. If day-time roosting bats or signs of such bats are detected: roosting location shall be demarcated by a qualified biologist with bright orange construction fencing or other suitable flagging to facilitate avoidance. The distance of the no-disturbance buffers around day-roosting bats would be a minimum of 50 feet. This distance may be increased based upon the particular bat species found and/or the phased removal of buildings and trees to allow day-roosting bats to relocate on their own volition as determined by a qualified bat biologist.
  - k. If an active maternity roost is identified, no work activities should occur within 100 feet of or directly under or adjacent to the maternity roost during the breeding season when young are present but are not yet ready to fly (April 1 through August 31). Their roosting location shall be demarcated by a qualified biologist with bright orange construction fencing or other suitable flagging to facilitate avoidance.

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- I. The qualified biologist shall periodically monitor any active roosts to determine if the roost is no longer being used. No construction or ground disturbance shall occur within this buffer until the qualified biologist confirms that the roosting is completed or a Bat Avoidance Plan is submitted by the developer and approved by the California Department of Fish and Wildlife (CDFW).
26. **(M) MM-BIO-2 (Bird Nesting & Surveying):** If project-related activities are to be initiated during the bird nesting season (January 1 to August 31), a pre-construction nesting bird clearance survey shall be conducted by a qualified biologist no more than three days prior to the start of any vegetation removal or ground disturbing activities to confirm if active bird nests are present to avoid and minimize impacts to any nesting bird species. The qualified biologist shall survey all suitable nesting habitat within the project's area of disturbance plus a 300-foot buffer zone. Each time work ceases for a period of seven days or more during nesting season, a new nesting bird clearance survey shall be conducted.
- m. If no active bird nests are detected during the clearance survey, project activities may begin, and no additional avoidance and minimization measures shall be required.
  - n. If an active bird nest is found, the species shall be identified, and a "no-disturbance" buffer shall be established around the active nest. The distance of the no-disturbance buffer around active bird nests would be a minimum of 100 feet for non-special status species, and 300 feet for special-status passerine species and raptor species. These distances may be greater depending on the bird species and construction activity, as determined by the qualified biologist.
  - o. The qualified biologist shall periodically monitor any active bird nests to determine if project-related activities occurring outside the "no-disturbance" buffer disturb the birds and if the buffer should be increased. No construction or ground disturbance shall occur within these buffers until the qualified biologist confirms that the young have fledged and left the nest, or the nest otherwise becomes inactive under natural conditions.

**CULTURAL, TRIBAL AND HISTORICAL RESOURCES**

27. **(M) MM-CUL-1 (Worker Environmental Awareness Program):** Worker Environmental Awareness Program (WEAP) training shall be provided to all construction personnel and monitors who are not trained archaeologists prior to the start of construction activities. A basic presentation and handout or pamphlet shall be prepared to ensure proper identification and treatment of inadvertent cultural resource discoveries. The purpose of the WEAP training is to provide specific details on the kinds of cultural materials, both prehistoric and historic, that may be identified during construction of the project and explain the importance of and legal basis for the protection of

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- cultural resources. Each worker shall also be provided with the proper procedures to follow in the event that cultural resources or human remains are discovered during ground-disturbing activities. These procedures include work curtailment or redirection, and the immediate notification of the site supervisor and the qualified archaeological and Native American monitors. If the discovery is Native American, a Native American monitor shall be notified.
28. **(M) MM-CUL-2 (Unanticipated Discovery of Cultural Resources):** The project applicant shall retain a qualified archaeologist who meets the Secretary of the Interior's Professional Qualifications Standards for archaeology, prior to the start of any earthwork activities related to project construction, to monitor all ground-disturbing activities within the areas of native soil (i.e., below existing areas of artificial fill from previous construction). In the event that potential prehistoric or historic-era archaeological resources (sites, features, or artifacts) are exposed during construction activities for the project, all construction work occurring within a 50-foot buffer of the find shall immediately stop and a qualified archaeologist must be notified immediately to assess the significance of the find and determine whether or not additional study is warranted. Depending on the significance of the find under the California Environmental Quality Act (CEQA), the archaeologist may simply record the find and allow work to continue. If the discovery proves significant under CEQA, additional work (e.g., preparation of an archaeological treatment plan, testing, or data recovery) may be warranted. If Native American resources are discovered or are suspected, each of the consulting tribes for the project will be notified, as dictated by California Health and Safety Code Section 7050.5, California Public Resources Code Section 5097.98, and CEQA Guidelines Section 15064.5(e). An archaeological monitoring report shall be prepared within 60 days following completion of ground disturbance and submitted to the City of Thousand Oaks Community Development Director for review. This report shall document compliance with approved mitigation, document the monitoring efforts, and include an appendix with daily monitoring logs. The final report shall be submitted to the South Central Coastal Information Center and interested consulting tribes.
29. **(M) MM-CUL-3 (Discovery of Human Remains):** If human remains are encountered during implementation of any phase of the project, the project archaeologist shall be allowed to temporarily divert or redirect excavation activities in the vicinity of the find in order to make an evaluation of the find. In the event that human remains are inadvertently encountered during construction activities, such resources would be treated in accordance with state and local regulations that provide requirements with regard to the accidental discovery of human remains, including California Health and Safety Code Section 7050.5, California Public Resources Code Section 5097.98, and CEQA Guidelines Section 15064.5(e). In accordance with

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these regulations, if human remains are found, the County Coroner must be immediately notified of the discovery. No further excavation or disturbance of the project site or any nearby area reasonably suspected to overlie adjacent remains can occur until the County Coroner has determined, within 2 working days of notification of the discovery, if the remains are potentially human in origin. If the County Coroner determines that the remains are, or are believed to be, Native American, he or she is required to notify the NAHC within 24 hours. The NAHC must immediately notify those persons it believes to be the most likely descendant from the deceased Native American. The most likely descendant must then complete their inspection within 48 hours of being granted access to the site. The most likely descendant would then determine, in consultation with the property owner, the disposition of the human remains.

**GEOLOGY AND SOILS**

30. **(M) MM-GEO-1 (Geotechnical Investigation):** A geotechnical investigation shall be conducted by the project applicant to analyze the soil conditions and potential threats to building stability, and shall include a report that recommends grading, construction, and design operations appropriate for seismic conditions. All grading operations and construction shall be conducted in conformance with the recommendations included in the geotechnical report. Design, grading, and construction shall also be performed in accordance with the requirements of the City of Thousand Oaks Building Code and the California Building Code applicable at the time of grading, appropriate local grading regulations, and the recommendations of the project geotechnical consultant summarized in a final written report, subject to review and approval by the City of Thousand Oaks Building Official, or designee, prior to commencement of grading activities.
31. **(M) MM-GEO-2 (Geotechnical Engineer):** A qualified Geotechnical Engineer shall be retained to perform the following tasks prior to and during construction:
- p. Review final grading, foundation, and drainage plans to verify that the recommendations contained in the geotechnical investigation have been properly interpreted and are incorporated into the project specifications.
  - q. Observe and advise during all grading activities, including site preparation, foundation, and placement of fill, to confirm that suitable fill materials are placed upon component material and to allow design changes if subsurface conditions differ from those anticipated prior to the start of grading and construction.
  - r. Observe the installation of drainage devices.
  - s. Test all fill placed for engineering purposes to confirm that suitable fill materials are used and properly compacted.



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32. **(M) MM-GEO-3 (Paleontologist & Paleontological Resources Impact Mitigation Plan):** Prior to the commencement of ground disturbing activities, the Project Applicant shall retain a qualified Project Paleontologist to direct all mitigation measures related to paleontological resources. A qualified Project Paleontologist is defined by the Society of Vertebrate Paleontology standards as an individual preferably with an M.S. or Ph.D. in paleontology or geology who is experienced with paleontological procedures and techniques, who is knowledgeable in the geology of California, and who has worked as a paleontological mitigation project supervisor for a least two years. The Project Paleontologist shall be retained to prepare and implement a Paleontological Resources Impact Mitigation Plan (PRIMP) for the project.

The PRIMP shall be consistent with the 2010 Society of Vertebrate Paleontology guidelines and outline requirements for pre-construction meeting attendance and worker environmental awareness training, where paleontological monitoring is required within the project site based on construction plans and/or geotechnical reports; procedures for adequate paleontological monitoring and discoveries treatment; and paleontological methods (including sediment sampling for microinvertebrate and microvertebrate fossils), reporting, and collections management.

Monitoring shall be conducted by a qualified paleontological monitor, who is defined as an individual who has experience with collection and salvage of paleontological resources and meets the minimum standards of the Society of Vertebrate Paleontology for a Paleontological Resources Monitor. The paleontological monitor shall be responsible for maintaining daily monitoring logs for those days monitoring occurs. The duration and timing of the monitoring shall be determined by the Project Paleontologist based on the observation of the geologic setting from initial ground disturbance, and subject to review and approval by the City of Thousand Oaks. If the Project Paleontologist determines full-time monitoring is no longer warranted based on the geologic conditions at depth, they may recommend that monitoring be reduced or cease entirely. Monitoring shall be reinstated if any new ground disturbances are required, and reduction or suspension shall be reconsidered by the Project Paleontologist at that time.

If a paleontological resource is discovered, the monitor shall have the authority to temporarily divert the construction equipment around the find until it is assessed for scientific significance and, if appropriate, collected. If the resource is determined to be of scientific significance, the Project Paleontologist shall complete the following:

- t. **Salvage of Fossils.** If fossils are discovered, all work in the immediate vicinity shall be halted to allow the paleontological monitor and/or Project Paleontologist to evaluate the discovery and determine if the fossil may be considered significant. If the fossils are determined to

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be potentially significant, the Project Paleontologist (or paleontological monitor) shall recover them following standard field procedures for collecting paleontological resources as outlined in PRIMP for the project. Typically, fossils can be safely salvaged quickly by a single paleontologist and not disrupt construction activity. In some cases, larger fossils (such as complete skeletons or large mammal fossils) require more extensive excavation and longer salvage periods. In this case, the Project Paleontologist and/or paleontological monitor shall have the authority to temporarily direct, divert, or halt construction activity to ensure that the fossil(s) can be removed in a safe and timely manner.

- u. Fossil Preparation and Curation. The PRIMP for the project shall identify the museum that has agreed to accept fossils that may be discovered during project related excavations. Upon completion of fieldwork, all significant fossils collected shall be prepared in a properly equipped laboratory to a point ready for curation. Preparation may include the removal of excess matrix from fossil materials and stabilizing or repairing specimens. During preparation and inventory, the fossils specimens shall be identified to the lowest taxonomic level practical prior to curation at an accredited museum. The fossil specimens must be delivered to the accredited museum or repository no later than 30 days after all laboratory work is completed. The cost of curation shall be assessed by the repository and shall be the responsibility of the Project Applicant.
- v. A paleontological monitoring report shall be prepared within 60 days following completion of ground disturbance and submitted to the City of Thousand Oaks for review. This report shall document compliance with approved mitigation, document the monitoring efforts, and include an appendix with daily monitoring logs. The final report shall be submitted to the South-Central Coastal Information Center and the Society of Vertebrate Paleontology.

**HAZARDS AND HAZARDOUS MATERIALS**

- 33. **(M) MM-HAZ-1 (Asbestos Survey):** Prior to demolition activities, an asbestos survey shall be conducted by an Asbestos Hazard Emergency Response Act (AHERA) and California Division of Occupational Safety and Health (Cal/OSHA) certified building inspector to determine the presence or absence of asbestos containing materials (ACMs). If ACMs are located, abatement of asbestos shall be completed prior to any activities that would disturb ACMs or create an airborne asbestos hazard. Asbestos removal shall be performed by a State certified asbestos containment contractor in accordance with the Ventura County Air Pollution Control District (VCAPCD) Rule 62.7. Prior to issuance of a certificate of occupancy, documentation of asbestos abatement shall be provided to the VCAPCD for review and approval. Documentation shall include proper training and

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licensure of abatement contractors, results of asbestos samples collected, and disposal documentation showing appropriate disposal of hazardous materials at an approved facility. Documentation shall verify all abatement activities have been completed in compliance with applicable laws, rules, and regulations.

34. **(M) MM-HAZ-2 (Lead-based Paint):** If paint is separated from building materials (chemically or physically) during demolition of the structures, the paint waste shall be evaluated independently from the building material by a qualified Environmental Professional. If lead-based paint is found, abatement shall be completed by a qualified Lead Specialist prior to any activities that would create lead dust or fume hazard. Lead-based paint removal and disposal shall be performed in accordance with California Code of Regulations Title 8, Section 1532.1, which specifies exposure limits, exposure monitoring and respiratory protection, and mandates good worker practices by workers exposed to lead. Contractors performing lead-based paint removal shall provide evidence of abatement activities to the City Engineer. Prior to issuance of a certificate of occupancy, documentation of lead abatement shall be provided to the VCAPCD for review and approval. Documentation shall include proper training and licensure of abatement contractors, results of lead samples collected, and disposal documentation showing appropriate disposal of hazardous materials at an approved facility. Documentation shall verify all abatement activities have been completed in compliance with applicable laws, rules, and regulations.
35. **(M) MM-HAZ-3 (PCB Survey):** Prior to the modification, relocation and/or removal of the existing transformer, a PCB survey shall be conducted by a California Division of Occupational Safety and Health (Cal/OSHA) certified building inspector to determine the presence of PCB containing materials. If PCB is found, abatement shall be completed by a qualified PCB Specialist prior to any activities that would create a PCB hazard. Prior to issuance of a certificate of occupancy, documentation of hazardous building material identification and removal (such as PCBs, mercury switches, and other hazardous materials) shall be provided to the permitting agency for review and approval. Documentation shall include proper training and licensure of abatement contractors, results of samples collected (including field notes from PCB sampling), and disposal documentation showing appropriate disposal of hazardous materials at approved landfill, recycling, or transfer facilities. Documentation shall verify all abatement activities have been completed in compliance with applicable laws, rules, and regulations.
36. **(M) MM-HAZ-4 (Discovery of Unknown Wastes or Suspect Materials):** If unknown wastes or suspect materials are discovered during construction by the contractor that are believed to involve hazardous waste or materials, the contractor shall comply with the following:

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- w. Immediately stop work in the vicinity of the suspected contaminant, removing workers and the public from the area;
- x. Notify the Community Development Director of the City of Thousand Oaks;
- y. Secure the areas as directed by the Community Development Director; and
- z. Notify the Ventura County Health Care Agency's (VCHCA) Hazardous Waste/Materials Coordinator or other appropriate agency specified by the Community Development Director. The Hazardous Waste/Materials Coordinator shall advise the responsible party of further actions that shall be taken, if required.

**UTILITIES AND SERVICE SYSTEMS**

37. **(M) MM-U-1 (Solid Waste Management Plan):** Prior to the final building and zoning inspections of the development, the property owner/developer team shall work with Athens Services to create a waste/recycle diversion plan prior to the start of operations, including training on waste streams and best practices for diversion, to determine the most sustainable waste management plan for the proposed project. The property owner/developer shall submit project plans and a Solid Waste Management Plan to the City of Thousand Oaks Public Works Department for review and approval to ensure that the plan complies with the mandates of RCRA, AB 939, AB 341, AB 1826, the California Green Building Code, Municipal Code Title 6, Chapters 2 and 3, and the Construction and Demolition Debris Recycling Ordinance as administered by the City of Thousand Oaks to the maximum extent feasible. Implementation of said plans shall commence upon occupancy and shall remain in full effect as required by the City Public Works Department and may include, at its discretion, the following plan components:
- aa. Detailing the locations and design of on-site recycling facilities.
  - bb. Participating in a recycling program as may be developed by the City or governing agency.

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38. Sales, service and consumption of alcoholic beverages shall be permitted only between the hours of 9:00 AM and 1:30 AM each day of the week.
39. Entertainment provided shall not be audible beyond the area under control of the licensee(s). No live entertainment will be permitted inside the bar/restaurant.
40. The quarterly gross sales of alcoholic beverages shall not exceed the gross sales of food during the same period. The licensee shall at all times maintain records which reflect separately the gross sale of food and the gross sales of alcoholic beverages of the licensed business. Said records shall be kept no less frequently than on a quarterly basis and shall be made available to the Department on demand.
41. Full meal service shall be available to patrons at all times alcoholic beverage sale privileges are being exercised.
42. The sale of alcoholic beverages for consumption off the premises is prohibited.
43. No alcoholic beverages shall be consumed on any property adjacent to the licensed premises under the control of the licensee(s).
44. Loitering is prohibited on these premises or this area under the control of the licensee(s).
45. The petitioner(s) shall be responsible for maintaining free of litter the area adjacent to the premises over which they have control.
46. Any graffiti painted or marked upon the premises or on any adjacent area under the control of the licensee(s) shall be removed or painted over within 48 hours of being applied.
47. **Employee Training** – Employees involved in the sale or service of alcoholic beverages shall provide evidence that they have either:
  - a. Completed training given by the State of California Department of Alcoholic Beverage Control (ABC), Santa Barbara District Office administered “Leadership and Education in Alcohol and Drugs” (LEAD) Program in the form of an ABC issued certificate, or
  - b. Have completed an accepted equivalent by the ABC, Santa Barbara District Office to ensure proper distribution of beer, wine and distilled spirits to adults of legal age. If any prospective employee designated to sell alcoholic beverages does not currently have such training, then,

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- c. The ABC licensed proprietors shall confirm with the Police Department's Community Resource Unit that a date certain has been scheduled with the local ABC office to complete the LEAD course.
  - d. Within 30 days of taking said course, the employees, or responsible employer shall deliver copies of each required course completion certificate to the Police Department's Crime Prevention Bureau.
  - e. It shall be the responsibility of the applicant and/or the restaurant management staff to provide the employees with the knowledge and skills that will enable them to comply with their responsibilities under state and city laws and ordinances.
48. **Retail Stores, Restaurants, & Bar Spaces** – The projected/planned retail spaces, restaurants and bars within the same structure of the hotel must submit for specific conditions from the Thousand Oaks Police Department Community Resource Unit prior to building alterations or providing goods or services to the public.
49. **Other Security Concerns** - The business will correct any safety or security concerns upon written notice by the Thousand Oaks Police Department.

The applicant **SHALL** notify a Thousand Oaks Police Department representative (Sergeant or senior deputy of the Community Resource Unit {805-371-8362}) at least one week prior to special entertainment events, which are reasonably anticipated to attract a larger or different patronage.

The Thousand Oaks Police Department reserves the right to make further comments or conditions related to security or safety prior to issuance of occupancy permits, and the applicant will correct any safety or security concerns upon written notice by the Police Department within the time period set forth in any such notice.

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