



## **Planning Commission Staff Report for Hearing on October 5, 2023**

### **County of Ventura • Resource Management Agency**

800 S. Victoria Avenue, Ventura, CA 93009-1740 • (805) 654-2478 • [www.vcrma.org/divisions/planning](http://www.vcrma.org/divisions/planning)

**Subject: Public Hearing to Consider County-Initiated Amendment to the Ventura County General Plan – Public Facilities, Services, and Infrastructure Element, and Proposed Ordinance Amending Articles 3, 4, 5, 6, and 9 of the Ventura County Non-Coastal Zoning Ordinance to create a new Open Space – Parks and Recreation Zone (collectively, “Proposed Amendments”); and Consider a Finding that Adoption of the Proposed Amendments are Exempt from the California Environmental Quality Act (CEQA) Pursuant to CEQA Guidelines Section 15061(b)(3), 15307, and 15308; All Supervisorial Districts (Case No. PL 22-0057).**

#### **A. PROJECT INFORMATION**

1. **Applicant:** County of Ventura, Resource Management Agency (RMA), Planning Division, 800 South Victoria Avenue, Ventura, CA 93009.
2. **Location:** The proposed amendments to the Non-Coastal Zoning Ordinance (NCZO) are applicable to the non-coastal unincorporated areas of the County of Ventura and all Supervisorial Districts.
3. **Request:** Planning staff requests that your Commission review this staff report and its attachments, and adopt a resolution (Exhibit 2) recommending that the Board of Supervisors (Board) adopt the recommended actions stated in Section A.6 of this staff report, including approval of the proposed amendments to General Plan Program PFS-N of the Public Facilities, Services, and Infrastructure Element, and Articles 3, 4, 5, 6, and 9 of the NCZO to include a new Open Space – Parks and Recreation zone (OS-REC zone) and find that adoption of the proposed amendments are exempt from CEQA. The proposed amendments to the General Plan and NCZO are included in Exhibits 3 and 5, respectively, of this report. A legislative (strike-out) version with staff explanations are also included as Exhibits 4 and 6, respectively.
4. **Review/Decision-Making Authority:** Pursuant to NCZO Section 8115-3.1 and Government Code Section 65853, the Planning Commission is required to review, conduct a public hearing on, consider and make recommendations to the Board regarding the proposed General Plan and NCZO amendments. The Board, at a subsequent public hearing, will consider your Commission’s recommendations and decide whether to adopt, not adopt, or adopt with modifications the proposed amendments.
5. **Project Background and Description:** In the Conservation and Open Space chapter of the General Plan, Policy COS-9.3, recognizes that lands for public parks and recreation are integral to healthy communities and environmental preservation. In rural areas, and in the peripheries of cities and unincorporated Existing Communities, open space lands that provide public recreational amenities combined with nature

preservation provide for a high quality of life and improve air and water quality in the surrounding area. The proposed amendments to create a new OS-REC zone will provide a regulatory tool for public agencies, conservancies, and private land stewards who seek to preserve public recreational areas and conserve open space. The proposed amendments do not include any actions to rezone land. If the amendments are adopted by the Board, Planning staff will conduct outreach to inform public agencies, conservancies, and private land stewards about the new OS-REC zone and the option to voluntarily apply to the County to rezone their lands to OS-REC.

#### **a. Project Background**

During a General Plan Update Work Session on July 31, 2018, and in response to a letter from the Oak Park Municipal Advisory Council (Exhibit 7), the Board directed Planning staff to include in a program in the General Plan to develop an OS-REC zone that would limit allowed uses to parks and recreational purposes and would apply only to publicly owned parcels. The directive also requested identification of the types of uses that would be eligible to be included in this new zone (e.g., parks), but it did not expressly direct Planning staff to initiate the process to rezone those areas.

On September 15, 2020, the Board adopted the 2040 General Plan which created and defined a new OS-REC zone that, according to the Compatibility Matrix in Table 2-1 of the Land Use Element, is only compatible with the General Plan land use designations of Open Space and Existing Community-Open Space (ECU-Open Space). At the time of adoption, there were no parcels assigned this zoning designation. Additionally, the Public Facilities, Service, and Infrastructure Element of the General Plan contains Program “N” (PFSI-N) which states “The County shall amend the Non-Coastal Zoning Ordinance to create a new Open Space zone for public lands that will be limited to parks and recreational uses.”

The staff work effort to complete the proposed OS-REC zone commenced in 2022 and is included in the June 2023 Board-adopted Three-Year Work Plan Forecast.

#### **b. Project Description**

To implement General Plan Program PFSI-N and fulfill the Board’s directive, staff proposes various amendments to the NCZO to establish a new OS-REC zone, and to identify the allowable uses and types of permits that will be required for the applicable land uses within this new zone. Staff also proposes an amendment to the General Plan to encourage use of the new zone, as described further below.

In addition to this project, please note that staff has been working on an additional park-related project consisting of County-initiated amendments to the General Plan and NCZO to create a new urban parks use category and related development standards (PL22-0056). Since both projects include amendments to Article 5, Section 8105-4, Permitted Uses in Open Space, Agricultural, Residential and Special Purpose

Zones the combined changes are shown in legislative format in Exhibit 6 for reference only.

## **5. Summary of Proposed General Plan Amendment**

The proposed General Plan amendment to Program PFSI-N is shown in legislative format in Exhibit 4, and a clean version in Exhibit 3. The amendments will clarify that the new OS-REC zone is intended to help preserve public parks and recreational uses by limiting the uses allowed within the zone, and that, if the new zone is approved by the Board, County staff will work with the cities (which have land holdings within their spheres of influence), other public agencies, local nonprofit such as land trusts, and conservation organizations that are interested in voluntarily rezoning unincorporated land with the General Plan designation of either Open Space or ECU-Open Space to the new OCS-REC zone. This future implementation effort would likely include the preparation of information for the Planning Division's website and handout materials, as well as an informational meeting to be completed during 2024.

## **6. Summary of Proposed Ordinance Amending the NCZO:**

The following is a summary of the proposed amendments to Articles 3, 4, 5, 6 and 9 of the NCZO. The amendments are shown in legislative format in Exhibit 6, and a clean version in Exhibit 5.

### **a. Article 3 – Establishment of Zones, Boundaries and Maps**

The new OS-REC zone is proposed to be added as a distinct and separate zone from the Open Space (OS) zone in Section 8103-0. Since the General Plan allows one dwelling unit per 10 acres in OS, the proposed amendment would retain the same minimum lot area for this new zone.

Certain areas would be ineligible from rezoning to the new OS-REC zone because of other important land uses such as mineral resources and housing, and to prevent incompatible land uses, specifically:

- Areas within the Mineral Resources Protection Overlay;
- Areas that have an active oil and gas permit;
- Parcels identified in the Housing Element Sites Inventory; and
- Parcels within an affected county area, as defined in the Housing Crisis Act (Government Code section 66300).

### **b. Article 4 – Purposes of Zones**

A new purpose statement is proposed to be added to Section 8104-1.3 as subsection "a" for the OS-REC zone. Since this new zone is compatible with the Open Space and ECU-Open Space General Plan land use designations, and is intended to be a new open space zone, as directed by the Board, the purpose of

this new zone substantially matches the purpose of the existing OS zone with the exception of the managed production of resources, specifically mineral resource production and extraction because such lands are proposed to be excluded from the OS-REC zone. The primary intent of the OS-REC zone is to preserve and encourage public parks and recreational uses by limiting the number of allowed uses within the zone.

**c. Article 5 – Uses and Structures by Zone**

An entirely new zone dedicated to the OS-REC is proposed for inclusion in the use matrix in Section 8105-4 of Article 5.

The General Plan intends for this zone to focus on the conservation of open space and public recreational areas and therefore the allowed uses are more limited than those that are allowed in the OS zone. In addition to a focus on passive recreation<sup>1</sup>, the allowed uses in the proposed OS-REC zone are characteristic of rural land in the county, would allow utilities and fire stations for public safety and well-being, and are necessary for consistency with federal and state laws.

Additionally, the allowed uses in the proposed OS-REC zone include agricultural uses and most types of animal keeping because these uses are characteristic of the Open Space and ECU-Open Space land use designation. Equestrian centers, small agricultural sales facilities, small wineries, and other uses that could serve the public during their recreational outings on open space lands in the County were retained for broad economic development for the County, such as tourism, while directly generating financial support for landowners in the OS-REC zone.

Moreover, the general approach was to include agricultural and animal keeping uses that are allowed through a ministerial Zoning Clearance. In keeping with the intent to limit the uses to passive open space, parks and recreation, the more intensive uses associated with agriculture and animal keeping were excluded. These uses include, but are not limited to, large vermiculture over 5,000 square feet, large wineries over 2,000 square feet, agricultural sales facilities over 500 square feet, and wineries over 2,000 square feet in size. Please see Exhibit 5 to view the complete list of uses allowed in the OS-REC zone column proposed in Section 8105-4, Permitted Uses table.

The allowed uses in the proposed OS-REC zone do not allow most housing types. However, pursuant to the Employee Housing Act, certain employee housing for agricultural employees is deemed an agricultural land use that must be allowed in

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<sup>1</sup> Typical passive recreation uses include trails, natural open space, open areas within a public park used as informal places to relax, play, and exercise. Passive recreation uses are generally not designed for high-intensity activities such as organized sports or events and do not include sport fields or basketball or tennis courts.



all zones where agricultural land uses are permitted. (Health & Safety Code, § 17021.6, subd. (b).) Because some agricultural land uses are proposed to be allowed in the new OS-REC zone, agricultural employee housing is also allowed.

Additionally, the allowed uses in the proposed OS-REC zone include most recreational, sport and athletic facilities except for golf courses, geothermal spas, motocross/off-highway vehicle parks, and outdoor shooting ranges because the zone is intended to conserve open space and parks in a passive setting. These excluded uses listed above typically include resource intensive (land area or water use), or noise generating uses that would not be compatible with the OS-REC zone.

For consistency with Federal Communications Commission (FCC) regulations, wireless communications facilities (WCF) are proposed to be allowed within the OS-REC zone.

**d. Article 6 – Lot Area and Coverage, Setbacks, Height and Related Provisions**

The new OS-REC zone is proposed to be added to Section 8106-1.1, Development Standards for Uses and Structures in OS, AE, and R Zones along with the applicable development standards which would be the same as those that apply to the OS zone.

**e. Article 9 – Standards for Specific Zones and Zone Types**

The new OS-REC zone is proposed to be added to Section 8109-4.7, Dark Sky Overlay Zone (DKS), Table 1, identifies the qualitative light trespass limits for each zone.

**B. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) COMPLIANCE AND EXEMPTION DETERMINATION**

Pursuant to CEQA (Pub. Resources Code, § 21000 et seq.) and the CEQA Guidelines (Cal. Code Regs., title 14, § 15000 et seq.), the lead agency must determine if a project is subject to environmental review.

The proposed project consists of amendments to the General Plan (Exhibit 3) and the NCZO (Exhibit 5), which are summarized above. These amendments constitute a “project” as defined by CEQA and the CEQA Guidelines. Planning Division staff has determined that the adoption of the proposed amendments (Exhibits 3 and 5) is exempt from CEQA review pursuant to the CEQA Guidelines as follows: (1) the project is exempt under Section 15061(b)(3) because it can be seen with certainty that there is no possibility the proposed Ordinance may cause a significant effect on the environment; (2) the project is categorically exempt under Sections 15307 (Class 7, Actions By Regulatory Agencies For Protection Of Natural Resources) and 15308 (Class 8, Actions By Regulatory Agencies For Protection Of The Environment) as a regulatory action to assure the

maintenance and protection of the environment; and (3) no unusual circumstances or other exception set forth in CEQA Guidelines section 15300.2 preclude application of the Class 7 and Class 8 exemptions.

The project's effects on the environment will be beneficial since it will increase protections for open space and environmental resources. The project will not have a significant impact on the environment because, for example, (a) the project itself proposes no new development and (b) the new zone, when compared to existing zones, is more restrictive in terms of the types of allowed uses.

### **C. GENERAL PLAN, NON-COASTAL ZONING ORDINANCE (NCZO) AMENDMENT FINDINGS AND SUPPORTING EVIDENCE**

The Board of Supervisors must make certain findings to amend the NCZO pursuant to Section 8115-0, which states in relevant part that the NCZO "may be amended by the Board of Supervisors whenever the public health, safety, or general welfare, good zoning practice, and consistency with the General Plan justify such action."

The Board's ability to make the required findings to adopt the proposed amendments is evaluated below for your Commission's consideration in making its recommendations to the Board.

#### **1. The proposed amendments would not be detrimental to the public health, safety, or general welfare.**

The proposed amendments would not be detrimental to the public health, safety, or general welfare as the new OS-REC zone is intended to encourage the preservation of parks and recreational uses by limiting the uses allowed within the zone. The proposed OS-REC zone allows fewer high-intensive uses compared to other zones and therefore promotes open space preservation. The proposed OS-REC zone also encourages recreational uses that provide public health benefits such as access to clean air, exercise, and mental health. The proposed amendments do not include the rezoning of land. If the new OS-REC zone is adopted by the Board, the rezoning of lands to OS-REC would be voluntarily initiated by a public agency or other local nonprofit landowner. The authorization of a permit would occur through a discretionary review process that includes necessary findings of approval by County agencies, such as the Fire Department and the Public Works Agency to ensure the safety of new development.

#### **2. The proposed amendments are in conformance with good zoning practice.**

Good zoning practice requires periodic updates to the zoning ordinance to maintain consistency with current zoning practices, other County policies or ordinances, state laws, and building codes affecting planning and land use.





The proposed amendments to the NCZO represent good zoning practice because they ensure that the zoning ordinance reflects and implements the policies and programs of the General Plan. Further, the new zone has been designed to encourage the preservation of land for park and recreational uses by allowing fewer high-intensive uses within the new OS-REC zone compared to other zones. Proposed standards for the OS-REC zone are consistent with the existing setback and building lot coverage requirements of the OS zone.

### 3. The proposed amendments are consistent with the Ventura County General Plan.

Planning staff evaluated the proposed amendments with the applicable General Plan policies, and determined the proposed amendments are consistent with the General Plan:

Goal or Policy	Description
PFS-10	<b>Goal</b> <i>To develop and maintain a comprehensive system of parklands and recreational facilities that meet the active and passive recreation needs of residents and visitors, as funding is available.</i>
PFS-10.1 HC	<b>Trail Network</b> The County shall encourage the establishment of a countywide network of trails to meet the needs of equestrians, bicyclists, hikers, and other trail user groups.
PFS-10.6 HC	<b>Additional Lands for Recreation Use</b> As part of subdivision development, the County shall encourage developers to set aside unused open space for active and passive recreational uses.
LU-9.2	<b>Preservation of Areas for Public Health and Safety</b> The County shall designate areas of land or water which are set aside for public health and safety as Open Space, thereby safeguarding humans and property from certain natural hazards, including, but not limited to, areas which require special management or regulation because of hazardous or special conditions such as earthquake fault zones, unstable soil areas, flood plains, watersheds, areas presenting high fire risks, areas required for the protection of water quality and water reservoirs, and areas required for the protection and enhancement of air quality.
LU-9.5 HC	<b>Recreational Areas Appropriate for the Open Space Land Use Designation</b>



	The County shall designate areas appropriate for recreational activities as Open Space, including, but not limited to, use and enjoyment of recreational trails and areas for hunting and fishing. Preservation of open space also serves to protect areas of outstanding scenic, historic, and cultural value; areas particularly suited for park and recreation purposes, including access to lakeshores, beaches, and rivers and streams; and areas which serve as links between major recreation and open space reservations, including utility easements, banks of rivers and streams, trails, and scenic highway corridors.
LU-9.6	<p><b><i>Undeveloped Areas Appropriate for the Open Space Land Use Designation</i></b></p> <p>The County shall designate undeveloped natural areas as Open Space if they surround urban designated areas which have been set aside to define the boundaries of the urban-designated areas, to prevent urban sprawl, and to promote efficient municipal services and facilities by confining the areas of urban development.</p>
COS-9.3  	<p><b><i>Open Space Preservation</i></b></p> <p>The County shall place a high priority on preserving open space lands for recreation, habitat protection, wildlife movement, flood hazard management, public safety, water resource protection, and overall community benefit.</p>
<p><b>General Plan Policy/Program Icons:</b> The Ventura County 2040 General Plan contains a number of policies and programs that address cross-cutting topics that weave throughout the General Plan. In order to highlight these policies and programs, one or more of the icons shown to the left of this text are used. These icons identify policies and programs that directly relate to one or more of these topics. Details of what each of these topics cover can be found in Section 1.4 – Readers Guide of the General Plan.</p> <p> <b>Healthy Communities</b>     <b>Climate Action Plan</b></p>	

The proposed amendments are consistent with the Ventura County General Plan because it implements Program PFS-N (as revised), PFS Goal 10, and PFS policies 10.1 and 10.6 identified in the table above, by establishing an OS-REC zone that encourages the provision of parks and recreational uses.

General Plan Policies LU-9.2, LU-9.5, and LU-9.6 recognize that the Open Space land use designation helps to preserve the public health, safety, and general welfare by limiting development near areas that require special management or regulations and/or can be open for the use and enjoyment of recreational areas. Additionally, Policy COS-9.3 supports the creation of the new OS-REC zone in support of public health, safety, and general community benefit.

Furthermore, the proposed amendments are not in conflict with the provisions of the Save Open Space and Agricultural Resources (SOAR) Initiative, as incorporated in



the General Plan in Appendix C because they would have no effect on existing land use designations. The proposed OS-REC zone is consistent with the intent and purpose of the Open Space and ECU-Open Space land use designations. By limiting the allowable uses within the new OS-REC zone, the proposed amendments would help retain open space lands in a non-urbanized state while continuing to allow park, recreation and other limited uses.

#### **D. PLANNING COMMISSION HEARING NOTICE AND PUBLIC COMMENTS**

The Planning Division provided public notice of the Planning Commission hearing in accordance with Government Code section 65090 and NCZO section 8111-3.1 et seq. The Planning Division emailed approximately 1,150 notices of the Planning Commission hearing to the General Plan's interested parties list and to responsible and affected public agencies, e.g. all incorporated cities. The Planning Division placed a legal notice in the Vida Newspaper (in Spanish) on September 21, 2023 and the Ventura County Star (in English) on September 22, 2023.

#### **E. RECOMMENDED ACTIONS**

Based upon the analysis and information provided above, Planning Division staff recommends that the Planning Commission take the following actions:

1. **CERTIFY** that your Commission has reviewed and considered this staff report and all exhibits thereto, and has considered all comments received during the public comment process; and
2. **ADOPT** a resolution in the form attached as Exhibits 4 and 6 recommending that the Board of Supervisors take the following actions regarding the proposed amendments to the General Plan and Non-Coastal Zoning Ordinance:
  - a. **CERTIFY** that the Board has reviewed and considered the Board Letter and all exhibits thereto, the Planning Commission staff report and all exhibits thereto, and has considered all other materials and public comments received during the public comment and hearing processes;
  - b. **FIND**, on the basis of the entire record and as set forth in Section B of the Planning Commission Staff report, that adoption of the proposed amendments to the General Plan and NCZO amendments (Exhibits 4 and 6) is exempt from CEQA pursuant to CEQA Guidelines sections 15061(b)(3) because it can be seen with certainty that there is no possibility the project may cause a significant effect on the environment; **FIND** that because the project consists of regulations for the benefit and protection of natural resources and the environment, it is also exempt from CEQA pursuant to CEQA Guidelines sections 15307 and 15308; and **FIND** that no substantial evidence exists precluding the use of the above categorical exemptions

based on the presence of unusual circumstances or any other exception set forth in CEQA Guidelines section 15300.2;

- c. **FIND**, on the basis of the entire record and as set forth in Sections A, B, C and D of the Planning Commission staff report, that the proposed amendments to the General Plan and NCZO (Exhibits 4 and 6) are consistent with the goals, policies and programs of the General Plan and good planning practices and in the interest of public health, safety and general welfare;
- d. **ADOPT** a resolution approving the proposed amendments to the General Plan (Exhibit 4);
- e. **ADOPT** the proposed ordinance amending Articles 3, 4, 5, 6, and 9 of the NCZO (Exhibit 6); and
- f. **SPECIFY** that the Clerk of the Board of Supervisors is the custodian, and 800 S. Victoria Avenue, Ventura, CA 93009 is the location, of the documents and materials that constitute the record of proceedings upon which these decisions are based.

This staff report was reviewed by County Counsel. The Board of Supervisors hearing to consider the proposed amendments to the General Plan and NCZO is tentatively scheduled for January 2024 in the Board of Supervisor's hearing room.

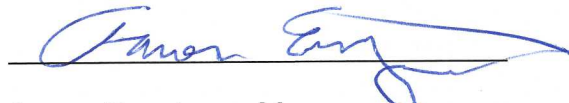
If you have any questions concerning the information above, please contact Donald Nielsen, Case Planner, at (805) 650-4047 or by email at [Donald.Nielsen@ventura.org](mailto:Donald.Nielsen@ventura.org). You may also contact Aaron Engstrom, Planning Manager, at (805) 654-2963 or by email at [Aaron.Engstrom@ventura.org](mailto:Aaron.Engstrom@ventura.org).

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**EXHIBITS<sup>2</sup>:**

- Exhibit 1 - Reserved
- Exhibit 2 - Planning Commission Resolution
- Exhibit 3 - Proposed Board Resolution with Clean Version of Proposed General Plan Amendment
- Exhibit 4 - Proposed General Plan Amendment in Legislative Format
- Exhibit 5 - Clean Version of Proposed NCZO Ordinance Amendments
- Exhibit 6 - Proposed NCZO Ordinance Amendments in Legislative Format
- Exhibit 7 - Letter from the Oak Park Municipal Advisory Council for General Plan Update Work Session on July 31, 2018

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<sup>2</sup> Within the Board of Supervisors letter, this Planning Commission staff report will be included as Exhibit 1.



