



Administrative Report

PUBLIC HEARING

TO: HONORABLE CITY COUNCIL

FROM: Mark Scott, Interim City Manager
Matthew T. Summers, City Attorney

DATE REPORT PREPARED: August 21, 2023

MEETING DATE: September 12, 2023

SUBJECT: Introduction of Ordinance Intended to Regulate Valet Parking Per Settlement Offer re Valet Parking Initiative Lawsuit

Recommendations

That City Council:

- 1) Introduce an Ordinance Adding Section 10-2.1411.5 to the Ojai Municipal Code Regulating Valet Parking and find it exempt from review under the California Environmental Quality Act per CEQA Guidelines Section 15061(b)(3). The ordinance regulates car and motor vehicle valet parking and does not apply to electric or human-powered bicycles.

Background

The Ojai Municipal Code currently permits both on-site and off-site valet parking if approved by the City through the land use permits for a business. As background re recent valet parking project history, the Planning Commission approved the remodel of Hotel El Roblar (formerly the Oaks of Ojai) site at 122 E. Ojai Avenue on April 6 and 20, 2022.¹ The project has one on-site and two off-site parking lots to satisfy the parking demand for the site. The off-site parking lots are located at 202 North Ventura Street and 209-211 West Ojai Avenue. Of these, valet parking service will utilize the on-site parking lot and the off-site parking lot at 202 North Ventura Street for hotel guests, while the other off-site parking lot will serve as dedicated employee-only parking and is not permitted for valet parking services.² Project opponents appealed the Planning Commission's decisions to the City Council. The City Council upheld the Planning Commission's decisions at its May 10, 2022 meeting, thereby approving the project. The El Roblar Hotel is currently under construction.

On October 21, 2022, the City Clerk rejected an Initiative Petition filed by Leslie Hess titled "Citizen's Initiative Measure to Prohibit Off-Site Valet Parking" ("Initiative" and "Petition") for failure to file

¹ The Planning Commission approved the remodel of the site at the April 6th meeting and approved the project's lighting, landscaping, and hardscaping plans at its April 20th meeting.

² There are 18 parking spots at the 202 North Ventura Street site.

with the City proof of publication of the Notice of Intent to Circulate Petition within ten days of publication as required by Elections Code section 9206.³ The Notice of Intent to Circulate was published in the Ventura County Star and proof of publication was obtained prior to circulating the petition. The proof of publication of the “Notice of Intent to Circulate Petition” was turned in to the City Clerk with the required signatures from City of Ojai registered voters. The Initiative would amend the Ojai Municipal Code to prohibit off-site valet parking at any commercial property in the City.⁴ On-site valet parking would still be permitted if no public streets were used.⁵ The Initiative’s prohibition on off-site valet parking would not apply to special events obtaining City permits, so long as the permit applicant does not hold over six events at the same location per year. The Initiative would also not apply to non-commercial events at residential properties. The Initiative would only apply prospectively and would not affect the El Roblar Hotel project’s planned operation of its off-site valet parking lot at 202 North Ventura Street. On November 22, 2022, Ms. Hess sued City Clerk Cynthia Burell and the City alleging that the City Clerk and the City violated her duty under the Elections Code to examine the signatures submitted for the valet parking Initiative Petition because the Petition substantially complied with the Elections Code. The lawsuit seeks a court order and injunction requiring the City Clerk to process the Initiative Petition and examine whether it has enough valid signatures of registered City voters to be certified to the Council for the Council to then either adopt it or place it on the ballot.

On February 28, 2023, the City Council requested that the City's ad-hoc Parking Committee, including Mayor Pro Tem Francina and Council Member Lang, Ojai Valley News representative Laura Ward, and Chamber of Commerce Representative Jamie Fleming, meet to provide a recommendation regarding valet parking. The Committee met, with additional Planning Commissioners Steve Quilici and Jeffrey Starkweather, to consider the item and provide a recommendation to the City Council on two occasions and reviewed the current process regarding valet parking. There is not currently language in the City Code specifically related to valet parking, but the process to apply involves applying for a Design Review Permit. The Parking Committee recommended at that time that the Council direct staff to develop a valet parking regulatory proposal, defining valet parking, and requiring any project proposed to use valet parking to be reviewed and approved by the Planning Commission under objective standards to be developed.

On May 23, 2023, the City Council received public comment and the ad-hoc Parking Committee’s recommendation and authorized Mayor Pro Tem Francina and Council Member Lang, as Parking Committee members, and staff to meet with the valet parking initiative proponents to determine if a draft ordinance can be prepared and brought to Council in the future for a Council vote to introduce or not.

Proposed Valet Parking Regulatory Ordinance

Mayor Pro Tem Francina and Council Member Lang met with the valet parking initiative proponents and developed the attached draft valet parking regulatory ordinance for review by the full Council. The ordinance regulates car and motor vehicle valet parking, and does not apply to electric or human-powered bicycles. The Council committee recommends the full Council consider and adopt this draft

³ As drafted, the Initiative would take effect upon adoption by the City Council or approval by a majority of the City’s voters, but would expressly not apply retroactively to any previously approved projects involving valet parking.

⁴ Would add Section 10-2.1411.5 (Valet Parking) to the Ojai Municipal Code.

⁵ The Initiative defines “Valet Parking” as “the receiving, taking possession of, driving, moving, parking or storing of any vehicle that is left by the vehicle occupants to be moved and parked at a location that is not where the vehicle occupants left the vehicle, whether or not a charge is imposed for this service.”

ordinance. The valet parking initiative proponents also confirm that, if the draft ordinance were to be adopted as proposed, then they would dismiss the lawsuit.

The proposed valet parking ordinance is modeled on the original initiative, but adjusted to regulate, rather than always prohibit, valet parking. The proposed ordinance permits commercial valet parking if the cars are received and parked on the same premises as the commercial land use, i.e., on-site valet parking. The proposed ordinance prohibits commercial valet parking if the cars are parked at a different location than the location at which the cars were dropped off by the vehicle's user, i.e., off-site valet parking. In effect, valet parking is allowed if entirely on the same premises, without requiring any travel on public rights of way or parking or storing of vehicles at a location different than the drop-off location. The proposed ordinance permits off-site valet parking at up to six special events at each property, by City permit, or events with non-commercial valet at residential uses. Bicycle parking, whether human-powered or electric, is expressly exempt from the ordinance's provisions. The ordinance expressly applies solely prospectively, thus any project approved before it takes effect, such as the El Roblar Hotel project's 18 space offsite valet parking lot, would not be subject to its provisions for the previously approved operations.

Fiscal Impact

The costs of drafting the ordinance were accommodated within the existing budget. If the ordinance were adopted, and the initiative proponent accepted it and dismissed the lawsuit, that would save litigation costs, likely in the low-tens of thousands of dollars, compared to if the matter were litigated in full. The potential future costs of adopting an ordinance like the initiative, regulating offsite valet parking at future projects, are difficult to estimate up front, as the ordinance limits business expansion plans reliant on off-site valet parking, but does not itself prevent any proposed project.

Matthew Summers

Prepared by:
Matthew T. Summers, City Attorney

Mark Scott

Submitted by:
Mark Scott, Interim City Manager

Attachment:
A – Proposed Ordinance

CITY OF OJAI
ORDINANCE NO. ____

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OJAI, CALIFORNIA
ADDING SECTION 10-2.1411.5 TO THE OJAI MUNICIPAL CODE REGULATING
VALET PARKING**

The City Council of the City of Ojai ordains as follows:

Section 1. Title.

This Ordinance shall be known as the "**On-Site Valet Parking Ordinance.**"

Section 2. Findings and Purpose.

A. Findings. The City Council of the City of Ojai finds and declares the following:

1. Residents of Ojai value their unique, low-key lifestyle, markedly different from most towns and cities in Southern California, including a beautiful natural and built environment.
2. Residents believe that Ojai is at a tipping point, and its small town way of life could give way to gentrification and economic expansion pressures that would change the feel of Ojai from a unique historic rural town to an urban city, and one that is too often subjected to significant impacts from tourism.
3. In the past, our City Council took positive steps to ensure that this unique small town environment was maintained, including enacting the Formula Business Ordinance in 2007, which regulates the location and design of formula business establishments, or chain stores, in Ojai in order to maintain its small town character, diversity of the community's unique commercial areas, and quality of life for residents and visitors.
4. This Ordinance seeks to preserve Ojai's small town atmosphere by imposing reasonable regulations and restrictions on the use of valet parking at Ojai businesses.
5. Off-site valet parking impacts Ojai residents and their neighborhoods, by increasing the number of vehicle trips to and from a business as valets park and retrieve vehicles, and presents the possibility of use of scarce public parking spaces on public rights-of-way or in public parking facilities by valet parking operations or businesses.
6. The purpose of this Ordinance is to implement an amendment to the Municipal Code

that regulates the parking of cars by valet parking operators or businesses at locations that are not on the same premises as the business at which the valet parking is operating, and also regulates use of public right-of-way or public property for valet parking operations, subject to certain exceptions by permit or regulation, and without impacting valet parking contained solely within the premises of a business.

Section 3. Ordinance Amendments

Title 10, Chapter 2, Article 14 of the Ojai Municipal Code, of the City of Ojai, is hereby amended to insert the following new section 10-2.1411.5:

Section 10-2.1411.5: Valet Parking

- (a) No Person shall be permitted to utilize Valet Parking at any commercial use of any type, unless all parking and storing of vehicles for Valet Parking by the Operator will be on the same premises as that commercial use.
- (b) No Operator shall park or temporarily store any vehicle during Valet Parking activities at any privately owned location other than the premises at which the vehicle occupants tendered the vehicle for Valet Parking purposes.
- (c) No Operator shall park, temporarily store, or move any vehicle during any Valet Parking activities in any portion of the Public Right-of-Way or any Public Parking Facility.
- (d) These regulations do not apply to special events obtaining City permits, so long as any permit applicant does not hold permitted special events at the same location more than six times per year, nor to events at residential uses utilizing valet parking on a non-commercial basis. Each location may have up to six permitted valet parking special events per year, subject to all other requirements of the Ojai Municipal Code.
- (e) Definitions. For purposes of this section, the following words shall have the following meanings:
 - (1) "Valet Parking" shall mean the receiving, taking possession of, driving, moving, parking or storing of any vehicle that is left by the vehicle occupants to be moved and parked at a location that is not where the vehicle occupants left the vehicle, whether or not a charge is imposed for this service. Vehicle, for purposes of this section, shall not include bicycle or electric bicycle as defined by California Vehicle Code section 231.
 - (2) "Operator" shall mean any Person engaged in the business of Valet Parking.
 - (3) "Person" shall mean a natural person, firm, partnership,

association, corporation, or other entity.

(4) "Public Right-of-Way" shall mean any area dedicated for public use as a public street, pedestrian way or other thoroughfare, including but not limited to, roadways, parkways, alleys, sidewalks, and pedestrian ways.

(5) "Public Parking Facility" shall mean surface lots or structures owned by the City of Ojai or by a private property owner and made available for public parking.

(f) Future regulation of Valet Parking. The City Council may adopt additional regulation(s) of parking, so long as any such regulation(s) maintain these prohibitions on the use of Public Right-of-Way and Public Parking Facilities, and requires all parking and temporary storage of vehicles parked by an Operator as part of Valet Parking activities to be located on the same premises as the business that provides the Valet Parking.

(g) This section does not regulate valet parking of bicycles.

Section 4. Effect of Ordinance on Existing Code Provisions

The Ordinance does not adopt, alter, or change any provision of the Municipal Code, other than those identified in Section 3, nor does it affect any land use classifications or zoning on any real property in the City of Ojai. This Ordinance shall apply prospectively from the date of its adoption.

Section 5. Implementation

- A. This Ordinance shall take effect 30 days after its passage and adoption pursuant to California Government Code Section 36937. Upon the effective date of this Ordinance, the City is directed to promptly take all appropriate actions needed to implement this Ordinance, including but not limited to taking any administrative steps necessary to update any and all Codes of Ordinances, and any other documents maintained by the City so they conform to the legislative policies set forth in this Ordinance.
- B. Upon the effective date of this Ordinance, the provisions of Section 3 (Ordinance Amendments) of this Ordinance are hereby inserted into the Ojai Municipal Code. The City may reorganize, renumber, and/or reformat the provisions of Section 3 of this Ordinance, provided that the full text is inserted into the Municipal Code without alteration.

Section 6. Interpretation and Severability

- A. This Ordinance must be interpreted so as to be consistent with all federal and state laws,

rules, and regulations. If any section, sub-section, sentence, clause, phrase, part, or portion of this Ordinance is held to be invalid or unconstitutional by a final judgment of a court of competent jurisdiction, such decision does not affect the validity of the remaining portions of this Ordinance. The Council declares that this Ordinance, and each section, sub-section, sentence, clause, phrase, part, or portion thereof, would have been adopted or passed irrespective of the fact that any one or more sections, sub-sections, sentences, clauses, phrases, part, or portion is found to be invalid. If any provision of this Ordinance is held invalid as applied to any person or circumstance, such invalidity does not affect any application of this Ordinance that can be given effect without the invalid application.

B. If any portion of this Ordinance is held by a court of competent jurisdiction to be invalid, we the City Council of the City of Ojai indicates its strong desire that: (i) the City Council use its best efforts to sustain and re-enact that portion, and (ii) the City Council implement this Ordinance by taking all steps possible to cure any inadequacies or deficiencies identified by the court in a manner consistent with the express and implied intent of this Ordinance, including adopting or reenacting any such portion in a manner consistent with this Ordinance.

C. This Ordinance must be broadly construed in order to achieve the purposes stated above. It is the intent of the City Council that the provisions of this Ordinance be interpreted or implemented by the City and others in a manner that facilitates the purpose set forth in this Ordinance.

Section 7. Inconsistent Provisions Repealed

Any provisions of the City of Ojai Municipal Code, or any other ordinances of the City inconsistent with this Ordinance, to the extent of such inconsistencies and no further, are hereby repealed. This Ordinance expresses the City Council's intent to eliminate any possible inconsistency between existing code provisions and the municipal code as amended herein.

SECTION 8. Environmental Determination.

The City Council determines that the following findings reflect the independent judgment of the City Council. The City Council finds that this amendment to the Municipal Code is exempt from review under the California Environmental Quality Act (CEQA). The City Council has considered all of the evidence in the record, including the staff reports, the testimony received on the matter by the City Council, and hereby determines that the proposed valet parking regulatory ordinance will not have a significant effect on the environment. The proposed valet parking regulatory ordinance does not itself authorize any development nor allow any physical change in the City's built environment. The adoption of this ordinance is therefore exempt from California Environmental Quality Act review pursuant to Title 14, Section 15061 (b)(3) of the California Code of Regulations.

Section 9. Certification.

The City Clerk shall cause this Ordinance to be published once, within fifteen (15) calendar days after its passage, in the *Ojai Valley News*, a newspaper of general circulation, printed, published and circulated in the City, and shall cause a copy of this Ordinance and its certification, together with proof of publication, to be entered in the Book of Ordinances of the City.

CITY OF OJAI, CALIFORNIA

By _____
Betsy Stix, Mayor

ATTEST:

Weston Montgomery, Interim Deputy City Clerk

APPROVED AS TO FORM:

Matthew T. Summers, City Attorney