



Commission Agenda Report

Planning Commission
Meeting
02-01-21

**Item
3.B.4.**

To: Chair Jennings and Members of the Planning Commission

Prepared by: Jessica Thompson, Associate Planner

Approved by: Richard Mollica, Planning Director

Date prepared: January 21, 2021 Meeting date: February 1, 2021

Subject: Formula Retail Clearance No. 20-004 – Malibu Country Mart Shopping Center

Location: 3835 Cross Creek Road, Unit Number C
APN: 4458-020-014
Owner: 3835 Cross Creek, LLC
Tenant: Brandy Melville

RECOMMENDED ACTION: Receive and file the Planning Director's report on Formula Retail Clearance (FRC) No. 20-004 (Attachment 1).

DISCUSSION: This agenda item is for informational and reporting purposes only. In March 2018, the City Council adopted Ordinance No. 431(a) regulating formula retail in commercial shopping centers. The ordinance went into effect on April 12, 2018, establishing Malibu Municipal Code (MMC) Chapter 17.61, Formula Retail Clearance.

The ordinance sets forth a ministerial¹ process by which a tenant with a non-exempt formula retail business receives approval from the Planning Director to locate within a shopping center. MMC Section 17.61.030(C) states that all FRCs approved by the Planning Director shall be noticed and reported to the Planning Commission within 30 days of issuance, and that the approval shall become final two days after the clearance is reported to the Commission, unless rescinded by the Director.

¹ A ministerial process is one in which there is no discretion on the part of the decision-maker in the application of the standards.

MMC Section 17.61.020 – Applicability.

A FRC is required for new formula retail establishments or existing formula retail establishments that relocate to a new tenant space or expand by 200 square feet or more of gross floor area² (GFA), except for the following which are exempt:

- 1) Grocery
- 2) Drug stores/pharmacies
- 3) Gas stations
- 4) Banks and financial services
- 5) Real estate offices
- 6) Movie theaters
- 7) Postal services offices
- 8) Medical offices

➤ *The subject FRC is for Brandy Melville, a retail clothing store, which is a non-exempt use. The retail store was operating without the benefit of permits and was contacted by City Code Enforcement staff. City Code Enforcement staff explained that until all approvals were granted the store could not operate. At this time, Brandy Melville is not operating.*

MMC Section 17.61.030(B) - FRC Criteria for Issuance.

The Planning Director shall issue a FRC if the formula retail use complies with the following requirements:

1. The location does not exceed 4,000 square feet of gross floor area.
➤ *The proposed tenant space is 999-square feet of gross floor area, which complies.*
2. Issuing the FRC will not result in (a) non-exempt formula retail establishments occupying more than 30 percent of the total gross floor area of a shopping center excluding the floor area occupied by exempt formula retail defined in Section 17.66.020(A)(1)-(8) only; or (b) where the shopping center is more than one floor, non-exempt formula retail establishments occupying more than 40 percent of the total gross floor area of the ground floor of the shopping center, excluding the floor area occupied by exempt formula retail defined in Section 17.66.020(A)(1)-(8).

The ordinance provides the following formula:

$$\begin{aligned} \text{Gross Floor Area} - \text{Floor Area of Exempt Formula Retail} \times .30 &= \text{Allowable Non-exempt Formula Retail} \\ &\times .70 = \text{Required Non-Formula Retail} \end{aligned}$$

² Gross floor area (GFA) means the sum of the gross horizontal areas of the several floors of a building measured from the interior face of exterior walls, or from the centerline of a wall separating two buildings, but not including interior parking spaces, loading space for motor vehicles, vehicular maneuvering areas, or any space where the floor-to-ceiling height is less than six feet.

- The shopping center³ occurs on three parcels that have common areas, including walkways, parking and public restrooms, and contains both one- and two-story buildings. Therefore the calculations have been evaluated under the formulas of both (a) and (b) as follows:

Malibu Country Mart Shopping Center – Compliance Table Proposed 999 sq. ft. Non-exempt 1st Floor Tenant (Unit 12)		
(a) Overall Shopping Center		
Total GFA of existing shopping center	1 st floor: 65,402 sq. ft. 2 nd floor: 14,760 sq. ft. Total: 80,162 sq. ft.	
Total exempt formula retail	*2,640 sq. ft.	
30% Calculation	Total: 80,162 sq. ft. Exempt: - 2,640 sq. ft. 77,522 sq. ft. Allowable: 77,522 sq. ft. x .30 = 23,256.6 sq. ft.	
Non-exempt formula retail GFA, including applicant (999 sq. ft.)	14,058 sq. ft. ⁴	<i>Complies</i>
(b) First Floor Maximum		
Total GFA of 1 st floor of the existing shopping center	65,402 sq. ft.	
1 st Floor exempt formula retail	*2,640 sq. ft.	
40% Calculation	Total (1 st floor): 65,402 sq. ft. Exempt: -2,640 sq. ft. 62,762 sq. ft. Allowable: 62,762 sq. ft. x .40 = 25,104.8 sq. ft.	
1 st Floor non-exempt formula retail GFA, including applicant (999 sq. ft.)	12,357 sq. ft. ⁵	<i>Complies</i>

*Note the Malibu Country Mart Shopping center currently has one exempt formula retail tenant, occupying 2,640 sq. ft. The tenant, Pacific Union, is exempt because it is a real estate office.

³ Shopping center means a group of retail, retail service, and other commercial establishments operating under common management or having common areas such as walkways, parking, public restrooms, or similar shared amenities, and having at least ten thousand (10,000) square feet of gross floor area, whether on one parcel or multiple parcels. This definition is for purposes of Chapter 17.61 only.

⁴ FRC No. 20-002 is also being reported at the February 1, 2021, Planning Commission meeting. FRC No. 20-002 is for a 750-square foot coffee shop, the total non-exempt formula retail area for the shopping center would be 14,808-square feet if both FRC applications are approved, which is compliant.

⁵ The total 1st floor non-exempt formula retail for the shopping center, including FRC. 20-002 would be 13,107-square feet, which is compliant.

PUBLIC NOTICE: This item was posted on the February 1, 2021, Planning Commission Regular Meeting Agenda.

ATTACHMENTS:

1. Formula Retail Application (FRC No. 20-004)
2. Tenant Lists
3. Site Plan