

**CITY OF OJAI
CITY COUNCIL RESOLUTION NO. 17-54**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OJAI, CALIFORNIA
APPROVING TENTATIVE PARCEL MAP (TPM 15-02), FOR THE SUBDIVISION OF
TWO EXISTING PARCELS TO CREATE THREE RESIDENTIAL PARCELS
COMMONLY ADDRESSED AS 712 DROWN AVENUE,
APN'S 022-0-052-030 AND 022-0-052-110**

WHEREAS, the Property Owner, Stephen Glenn, on July 1, 2015, submitted an application for a Tentative Parcel Map (TPM 15-02), for the subdivision of two existing parcels to three residential parcels on property commonly addressed as 712 Drown Avenue, APN's 022-0-052-030 & 022-0-052-110; and,

WHEREAS, on August 3, 2016, the Planning Commission held a public hearing on the application for a Tentative Parcel Map (TPM 15-02), for the subdivision of two existing parcels to three residential parcels on property commonly addressed as 712 Drown Avenue, APN's 022-0-052-030 & 022-0-052-110; and

WHEREAS, on August 3, 2016, the Planning Commission continued the hearing on the application for a Tentative Parcel Map (TPM 15-02), for the subdivision of two existing parcels to three residential parcels on property commonly addressed as 712 Drown Avenue, APN's 022-0-052-030 & 022-0-052-110; by unanimous vote, to a date uncertain, to give the applicant more time to revise the design of the project to meet the City's standards; and,

WHEREAS, the Property Owner, Stephen Glenn, on February 7, 2017, submitted revised plans associated with the application for a Tentative Parcel Map (TPM 15-02), that reflected conformity to the City's standards, for the subdivision of two existing parcels to three residential parcels on property commonly addressed as 712 Drown Avenue, APN's 022-0-052-030 & 022-0-052-110; and,

WHEREAS, the Property Owner, Stephen Glenn, on June 9, 2017, submitted further revised plans associated with the application for a Tentative Parcel Map (TPM 15-02), that reflected conformity to the City's standards, for the subdivision of two existing parcels to three residential parcels on property commonly addressed as 712 Drown Avenue, APN's 022-0-052-030 & 022-0-052-110; and,

WHEREAS, a public hearing was held by the Planning Commission July 19, 2017, for consideration of the Tentative Parcel Map (TPM 15-02), for the subdivision of two existing parcels to three residential parcels on property commonly addressed as 712 Drown Avenue, APN's 022-0-052-030 & 022-0-052-110 with notice of said hearing sent to all property owners within a 300' radius of the subject property and published in the *Ojai Valley News* at least 10 days prior to the public hearing and recommended approval to the City Council; and

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WHEREAS, the Planning Commission, at their public hearing of July 19, 2017, recommended, by majority vote, to recommend to the City Council that they approve Tentative Parcel Map (15-02) for the subdivision of two existing parcels to three residential parcels on property commonly addressed as 712 Drown Avenue, APN's 022-0-052-030 & 022-0-052-110; and,

WHEREAS, on September 12, 2017, the City Council duly considered all evidence, including the testimony of the applicant, interested parties, and the evaluation and recommendations by staff presented at said hearing and continued the item to its November 14, 2017, regular meeting; and

WHEREAS, on November 14, 2017, the City Council duly considered all evidence, including the testimony of the applicant, interested parties, and the evaluation and recommendations by staff presented at said hearing and approved Tentative Parcel Map (TPM 15-02).

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Ojai the foregoing facts and findings for Tentative Parcel Map (TPM 15-02), for the subdivision of two existing parcels to three residential parcels on property commonly addressed as 712 Drown Avenue, APN's 022-0-052-030 & 022-0-052-110 are as follows:

- A) The design of the project conforms to generally accepted engineering standards and to such standards as required by the City Engineer and Director, including, but not limited to, plans for grading and erosion control and such other physical requirements that are necessary to ensure consistency with, or the implementation of, the General Plan, or any applicable Specific Plan, and the zoning regulations; and,
- B) The design of the subdivision will not cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat because the site lacks significant or important fish and wildlife due to its urban, in-fill nature; and,
- C) The project design, including all public improvements, is consistent with the City's Subdivision Regulations of the Municipal Code, Title 10, Chapter 3, and the State Subdivision Map Act; and,

WHEREAS, based upon the Notice of Exemption prepared for the project, the City Council finds and determines as follows:

- A. A Notice of Exemption for this project was prepared in compliance with the California Environmental Quality Act (CEQA).

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- B. The Proposed Project is exempt under Article 19: Categorical Exemptions, Section, 15315, Class 15: Minor divisions of land. A Class 15 exemption applies because 1) the division of property is in an urbanized area zoned for residential, commercial, or industrial use and into four or fewer parcels, 2) the division is in conformance with the General Plan and zoning, 3) no variances or exceptions are required, 4) all services and access to the proposed parcels to local standards are available, 5) the parcel was not involved in a division of a larger parcel within the previous 2 years, and 6) the parcel does not have an average slope greater than 20 percent; and,
- C. The documents and other materials that constitute the record of proceedings upon which the decision of the City Council is based is the application for Tentative Parcel Map (TPM 15-02) which are located within the Community Development Department and are in the custody of the Director of Community Development.
- D. The City Council, based upon the findings set forth above, hereby finds the Notice of Exemption for this project has been prepared in compliance with CEQA.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF OJAI DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. Recital. That the City Council determines that the above set forth findings are true and correct in regards to Tentative Map (TPM 15-02), and adoption of the CEQA Exemption which findings are incorporated herein.

SECTION 2. Conditional Approval. The City Council hereby recommends approval of Tentative Map (TPM 15-02) subject to the following conditions.

Project Specific and Standard Conditions

1. This permit is granted for the land described in the administrative report prepared June 28, 2017, and for the project depicted on Parcel Map 5971 and on file with the Community Development Department, and as otherwise as modified by these conditions of approval, and more specifically described in Condition of Approval #2 below.
2. The project approval constitutes the City's authorization for the subdivision of two existing parcels to three residential parcels on property commonly addressed as 712 Drown Avenue, APN's 022-0-052-030 & 022-0-052-110.
3. Prior to approval of the Final Map, the applicant shall pay all applicable Community Development permit processing fees in full.

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4. This approval constitutes a subdivision entitlement and does not convey any building permit, grading permit or zoning clearance entitlements. The approval of this subdivision does not convey any right to build the single-family residences depicted as part of the project's application and used for calculating lot standards. Any future development on the property, including construction of the proposed two additional single-family homes requires approval by the City under all applicable laws and regulations.
5. The Final Parcel Map, together with any improvement agreements, shall be submitted for approval by the City Engineer and Community Development Director, and recorded with Ventura County.
6. Prior to approval of the Final Parcel Map and issuance of a grading permit, public utility easements shall be provided in the locations and widths required by the serving utilities, including trash service. The applicant shall submit to the Community Development Director a set of prints of the Final map including consent from each utility, water and sewer district serving the property stating that the easements shown thereon are acceptable.
7. Prior to approval of the Final Parcel Map, the Owner/Applicant shall provide evidence that they have recorded a signed Agreement to Comply with Conditions that specifies that the Owner of the property and their successors in interest agree to comply with the project description, approved exhibits and all conditions of approval. This form may be obtained from the Community Development Department. Owners of lots resulting from this land division shall record such agreements prior to zoning clearance issuance for future development.
8. A permit shall be required when any person wishes to perform the following acts on property which is zoned single-family residential; Trench, grade, fill, compact or place construction material of any type in the drip line of an oak or a sycamore or heritage tree prior to the issuance of any grading or building permits for the property or project related.
9. This Tentative Map approval shall expire three years after approval by the final City review authority unless otherwise provided in the Subdivision Map Act or the Ojai Municipal Code.
10. The construction of any structures on Lots 1, 2, or 3 shall comply with Ojai Municipal Code requirements for a zone clearance and/or design review permit as may apply.
11. Compliance with the City's lighting ordinance shall be demonstrated prior to the issuance of land use clearances or building permits for the project.

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12. The area disturbed by clearing, grading, earth moving, or excavation operations shall be minimized to prevent excessive amounts of dust; and pre-grading/excavation activities shall include watering the area to be graded or excavated before commencement of grading or excavation operations. Application of water shall penetrate sufficiently to minimize fugitive dust during grading activities. All clearing, grading, earth moving, or excavation activities shall cease during periods of high winds (i.e., wind speed sufficient to cause fugitive dust to impact adjacent properties); during periods of high winds, all clearing, grading, earth moving, and excavation operations shall be curtailed to the degree necessary to prevent fugitive dust created by onsite activities and operations from being a nuisance or hazard, either offsite or onsite.

13. In the event of discovery or recognition of any human remains in any location other than a dedicated cemetery, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains until the coroner of the county in which the human remains are discovered has determined, in accordance with Chapter 10 (commencing with Section 27460) of Part 3 of Division 2 of Title 3 of the Government Code, that the remains are not subject to the provisions of Section 27491 of the Government Code or any other related provisions of law concerning investigation of the circumstances, manner and cause of any death, and the recommendations concerning the treatment and disposition of the human remains have been made to the person responsible for the excavation, or to his or her authorized representative, in the manner provided in Section 5097.98 of the Public Resources Code. The coroner shall make his or her determination within two working days from the time the person responsible for the excavation, or his or her authorized representative, notifies the coroner of the discovery or recognition of the human remains.

If the coroner determines that the remains are not subject to his or her authority and if the coroner recognizes the human remains to be those of a Native American, or has reason to believe that they are those of a Native American, he or she shall contact, by telephone within 24 hours, the Native American Heritage Commission.

The Native American Heritage Commission will immediately notify the person it believes to be the most likely descendent of the deceased Native American.

The most likely descendent has 48 hours to make recommendations to the owner, or representative, for the treatment or disposition, with proper dignity, of the human remains and grave goods.

If the descendent does not make recommendations within 48 hours the owner shall reinter the remains in an area of the property secure from further disturbance.

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If the landowner does not accept the descendant's recommendations, the owner or the descendent may request mediation by the Native American Heritage Commission. Discuss and confer means the meaningful and timely discussion with careful consideration of the views of each party's cultural values and, where feasible, seeking agreement. If mediation fails, the landowner shall reinter the human remains with appropriate dignity on the property in a location not subject to future subsurface disturbance.

In the event that archaeological resources are unearthed during project construction, all earth disturbing work within the vicinity of the find must be temporarily suspended or redirected until an archaeologist and a Native American (Chumash) have evaluated the nature and significance of the find. Within ten days of a find of Cultural Resources the applicant shall submit a plan drafted in concert with an archeologist and Native American (Chumash) cultural resources monitor to the City for review and approval by the Community Development Director in consultation with the lead tribal representative for the Barbareño/Ventureño band of Mission Indians as maintained on the NAHC contact list. All plans submitted for review shall include preservation in-place whenever feasible. After the find has been appropriately mitigated pursuant to the approved mitigation plan, work in the area may resume. Any archeology/cultural material found shall be recorded and report submitted to the appropriate agencies.

An initial subsurface monitoring by an archaeologist and Native American (Chumash) monitor shall be conducted for a minimum of one day during the grading activity for each parcel. In the event that artifacts are found, construction activity shall cease until a monitoring and management plan have been approved by the Community Development Director, in consultation with the lead tribal representative for the Barbareño/Ventureño Band of Mission Indians as maintained on the NAHC contact list.

Prior to the issuance of a grading permit or building permit, the applicant shall submit to the City executed contracts for both the archaeologist and the Native American (Chumash) monitor.

A final report detailing activities and findings shall be submitted by both the archaeologist and the Native American (Chumash) monitor prior to issuance of a certificate of occupancy. These reports must also be submitted to the California Historical Resources Information System.

14. A preconstruction meeting with the Building Official shall be held prior to initial any earth disturbing activities. This preconstruction meeting shall include subcontractors associated with ground disturbing activities and shall include training on the above mitigations.
15. Construction activities shall be limited to hours specified by the Ojai Municipal Code.
16. The applicant or developers of residential units on Lots 2 and 3 shall be required to obtain residential building allocations pursuant to the City's Growth Management Ordinance prior to issuance of a building permit.

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17. Landscaping associated with the future residential units shall conform to the City's updated Landscape Ordinance as amended. Final landscape plans shall be submitted for a landscape plan review prior to issuance of a building permit for each residential lot.
18. All utilities shall be underground pursuant to Ojai Municipal Code Sec. 10-2.1805.
19. A Can & Will Serve letter from Ojai Sanitary District is required to be provided to the Community Development Department prior to the issuance of a building permit for the project's connection to public sanitary services. Any offsite improvements associated with public sanitary sewer services will require additional review and permitting by the Community Development Department, which must occur prior to the issuance of a building permit for the project, or said offsite improvements.
20. Water meters to serve Lots 2 and 3 have been provided by the Casitas Municipal Water District. Any offsite improvements associated with public water sewer services may require additional review and permitting by the Community Development Department and/or Public Works Department which must occur prior to the issuance of any building permit for Lots 2 or 3, or offsite improvements.
21. A grading permit shall be submitted and approved by the City's Building Official prior to the issuance of the building permits for Lots 2 or 3 for the project.
22. Encroachment Permit: Any work (including traffic control or signage) in the public right of way, easements, or on lands to be dedicated to the City of Ojai after completion of improvements requires a City Encroachment permit from the Public Works Department.
23. The condition of the street shall be documented in a photographic report prior to any construction beginning, and after construction is complete, with an assessment of any change/damage. The report shall be approved by the City Engineer, pre and post construction phases. Any change/damage to the street shall be repaired by the applicant to the same or better condition, as approved by the City Engineer.

Drainage

24. Developer shall provide documentation that the modified project will comply with the Ventura County NPDES requirement for post-construction best-management practices, and/or State Construction General Permit Order, to the approval of the City Engineer prior to issuing any grading, building or other permits. These conditions shall run with the land for the parcels comprising this project and shall apply to subdivided lots sold and developed separately as well.

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25. The Owner/Applicant shall record covenants requiring the maintenance by successors in interest of the on-site storm water treatment and conveyance system and pattern which requires periodic maintenance and restricts alterations that would affect acceptance of upstream flows and maintains a point of discharge as required by the City Engineer. The covenant shall include a provision that the property owners conduct maintenance inspection at least once/year, retain proof of inspections, submit proof to the City Engineer upon request and allow the City access to the property to inspect to ensure compliance. The required covenant shall also state that the maintenance obligation will be shared by all owners of the three lots, provide a mechanism for sharing those costs, and state that the City is not responsible for maintaining the project's on-site storm water treatment and conveyance system. The Owner/Applicant shall complete the required recordation prior to the approval of the Final Map.
26. Prior to grading permit issuance, the applicant shall provide drainage analysis and calculations prepared and signed by a professional engineer. If required by the City Engineer, a storm water acceptance agreement for any increased flows allowing discharge of storm water flows from the project onto parcels to the south is required prior to map clearance and recordation of a Final Map. If required by the City Engineer, agreements for those parcels to the south that receive storm water allowing this conveyance are required to be submitted and recorded prior to map clearance for the project.
- Hydrology/hydraulic design calculations, prepared by a Registered Civil Engineer, are required to be submitted with the site-grading plan.
 - No cross-lot drainage will be permitted unless approved by the City Engineer in which case the property owner must provide documents providing storm water acceptance between the lots.
 - All drainage shall be directed away from structures and the drainage run-off shall be conveyed to a street and drainage system by non-erosive means.
27. A drainage fee shall be paid to the City prior to issuance of a Building Permit. The amount of the drainage fee will be determined by the amount of added impervious surfaces to the site, as determined by the City Engineer or Building Official. Fees shall be paid at the time of issuance of a building permit.
28. Grading:
- a. The grading plan for all parcels shall be designed by a Civil Engineer, registered in the State of California, approved by the City Engineer, and secured for, prior to recordation of the Final Map.
 - b. When a grading permit is required, at the discretion of the Building Official, the rough grading for the lot(s) shall be completed, certified by the Subdivider's soils/geotechnical and civil engineers, and accepted by the City Engineer prior to issuance of building permits. Certification shall be accompanied by Final Compaction Report.

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29. Final Map:

- Prior to recordation of the land division, a final Map must be submitted to the City of Ojai for review and approval by the City Engineer and Community Development Director.
- The Final Parcel Map shall be based upon a field survey in conformance with the Land Surveyor's Act unless otherwise approved by the City Engineer. The Final Parcel Map must be recorded within three (3) years of the date of approval of the Tentative Map unless a time extension is granted in accordance with the Municipal Code.
- A copy of the recorded Map shall be filed with the Director of Community Development.
- The Subdivider shall provide proof of recordation (map book and page or copy of map) of the Final Parcel Map to the City Engineer within 30 days of the Final Parcel Map recordation.
- All utilities plans shall be coordinated with the respective utility companies and shall be submitted for review and approval by the City.
- The Final Parcel Map and related covenants, conditions, and restrictions shall state that the City is not responsible for maintaining the private driveway used to access Lots 2 and 3, and shall provide the maintenance of that private driveway by the owners of Lots 2 and 3.

30. All requirements of any law, ordinance or regulation of the State of California, City of Ojai, and any other governmental entity shall be complied with in the exercise of this approval,

31. This project shall meet all applicable requirements under the City of Ojai Municipal Code, and shall be consistent with all programs and policies contained in the General Plan for the City of Ojai.

32. These conditions of approval shall be included on the first page(s) of the grading and building plans submitted to the Building Department for the project's building permit.

33. Prior to commencing construction or grading, a building permit shall be obtained from the building department. All conditions of the building department shall be met.

34. All rubbish, trash and garbage shall be regularly removed from the property and shall not be allowed to accumulate thereon. Applicant shall take advantage of all recycling programs offered by the City's contract rubbish hauler and shall provide space for storage of containers for this purpose.

Fire Department Standard Conditions

35. All conditions of the Ventura County Fire Prevention Division of the Ventura County Fire District, as applicable to the City of Ojai, shall be met. The applicant shall comply with Fire Department Standards for fire flow, fire protection, sprinklers and vehicular access, only to the extent these standards apply in the City of Ojai.

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36. Applicant shall obtain VCFD Form #126 "Requirements for Construction" prior to obtaining a building permit for any new structures or additions to existing structures.
37. Residential Address Numbers-Address numbers, a minimum of 4 inches (4") high, shall be installed prior to occupancy of any new residential structure, and shall be of contrasting color to the background, and shall be readily visible at night. Brass or gold plated numbers shall not be used. Where structures are set back more than 150 feet (150') from the street, larger numbers will be required so that they are distinguishable from the street. In the event the structure(s) is not visible from the street, the address number(s) shall be posted adjacent to the driveway entrance on an elevated post.
38. Legal requirements:
 - a. The owner/applicant, on behalf of itself and its successors and assigns, shall defend and hold harmless the City of Ojai, its officers, boards, commissions, agents and employees, and each of them from and against any claims, demands, actions, suits, liabilities and judgments of every kind and nature regardless of the merit of the same arising out of or related to the exercise and enjoyment of the approval of the City of the development permits necessary to the project including costs of investigations, attorney fees and court costs in the defense of any actions.
 - b. If the City believes that it is entitled to indemnification pursuant to this Condition, the City shall give the applicant prompt and written notice thereof. Any such notice shall set forth in reasonable detail and to the extent then known the basis for such claim for indemnification. Each such claim for indemnification shall expressly state that the applicant shall have only the thirty (30)-day period referred to in the next sentence to dispute or deny such a claim. The applicant shall have thirty (30) days following its receipt of such notice either to (I) acquiesce in such claim and its responsibilities to indemnify the City in respect thereof in accordance with the terms of this Condition by giving the City written notice of such acquiescence or (ii) object to the claim by giving the City written notice of the objection. If the applicant does not object to such claim for indemnification within such thirty (30)-day period, the applicant shall be deemed to have acquiesced in such claim and its responsibilities to indemnify the City in respect thereof in accordance with the terms of this Condition. If the applicant objects to such claim for indemnification within such thirty (30)-day period but it is subsequently determined that the City is entitled to indemnification from the applicant, interest shall be deemed to have accrued on the unpaid amount of such indemnification, including cost to defend, from the date on which the judgment or other final order is entered against the City until full payment of the amount of such indemnification at a rate of ten percent (10 percent) per annum and the City shall be entitled to payment of such interest from the applicant.

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- c. In connection with any claim which may give rise to indemnity under this Condition resulting from or arising out of any claim or proceeding against the City, the applicant shall (unless the City elects not to seek indemnity hereunder for such claim) assume the defense of such claim or proceeding if the applicant acknowledges to the City the City's right to indemnity pursuant hereto in respect to the entirety of such claim or proceeding if the applicant acknowledges to the City the City's right to indemnity pursuant hereto in respect of the entirety of such claim and provide assurances reasonably satisfactory to the City, that the applicant will be financially able to satisfy the amount of such claim in full if such claim or proceeding is decided adversely.

If the applicant assumes the defense of any such claim or proceeding, the applicant shall select counsel reasonably acceptable to the City to conduct the defense of such claim or proceeding, or shall pay for the defense of such claim or proceeding by the City's attorneys, shall take all steps reasonably necessary in the defense or settlement thereof, shall at all times diligently and promptly pursue the resolution thereof and shall bear all costs and expenses in connection with defending against such claim or proceeding.

If the applicant shall have assumed the defense of any claim or proceeding in accordance with this Condition, the applicant may consent to a settlement of, or the entry of any judgment arising from, any such claim or proceeding only with the prior written consent of the City; provided, that the applicant shall pay or cause to be paid all amounts arising out of such settlement or judgment either concurrently with the effectiveness thereof or shall obtain and deliver to the City prior to the execution of such settlement a general release executed by the person not a party hereto, which general release shall release the City from any liability in such matter; provided, further, that the applicant shall not be authorized to encumber any of the assets of the city or to agree any restriction that would apply to the City or to its conduct of business; provided, further, that a condition to any such settlement shall be a complete release of the City, its council, board, commissions, officers, employees, consultants and agents with respect to such claim. The City shall be entitled to participate in (but not control) the defense of any such action, with its own counsel and at its own expense. The City shall, and shall cause each of its officers, employees, consultants and agents to cooperate fully with the applicant in the defense of any claim or proceeding being defended by the applicant pursuant to this Condition.

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PASSED AND ADOPTED THIS 14th day of November 2017, by the following roll call vote:

AYES: Blatz, Francina, Haney, Johnston, Weirick
NOES: None
ABSTAIN: None
ABSENT: None

CITY OF OJAI, CALIFORNIA



John F. Johnston, Mayor

1-25-18


Date Signed

ATTEST:



Gail Davis, Deputy City Clerk

APPROVED AS TO FORM:



Matthew T. Summers, City Attorney

Stephen Glenn, Owner/Applicant acceptance of conditions of approval