

**CITY OF OJAI  
CITY COUNCIL RESOLUTION NO. 16-37**

**A RESOLUTION OF THE CITY COUNCIL  
OF THE CITY OF OJAI, CALIFORNIA, APPROVING DESIGN REVIEW PERMIT  
(DRP 15-18) & PLANNED DEVELOPMENT PERMIT (PDP 15-01) FOR  
CONSTRUCTION OF A NEW SINGLE FAMILY HOME 311 S. MONTGOMERY  
STREET, (ASSESSOR'S PARCEL NUMBER: 023-0-100-150)**

**WHEREAS**, On, September 15, 2015, the applicant submitted a Design Review Permit application (DRP 15-18) Planned Development Permit application (PUD 15-01) for construction of a new single family home 311 S. Montgomery Street, (Assessor's Parcel Number: 023-0-100-150); and,

**WHEREAS**, On March 23, 2016, the Community Development Department found the application to be complete; and

**WHEREAS**, a public hearing was held by the Planning Commission on May 4, 2016, for Design Review Permit application (DRP 15-18) Planned Development Permit application (PUD 15-01) for construction of a new single family home 311 S. Montgomery Street, (Assessor's Parcel Number: 023-0-100-150) 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

**WHEREAS**, after taking public testimony and hearing evidence from the City staff and the applicant, the Planning Commission found, pursuant to the findings included in this resolution and subject to the project's new Conditions of Approval included in this resolution, that the requested approval of Design Review Permit application (DRP 15-18) Planned Development Permit application (PUD 15-01) for construction of a new single family home 311 S. Montgomery Street, (Assessor's Parcel Number: 023-0-100-150) are consistent with the City's General Plan and City's Municipal Code; and

**WHEREAS**, after taking public testimony and hearing evidence from the City staff and the applicant, the City Council finds, pursuant to the findings included in this resolution and subject to the project's new Conditions of Approval included in this resolution, that the requested approval of Design Review Permit application (DRP 15-18) Planned Development Permit application (PUD 15-01) for construction of a new single family home 311 S. Montgomery Street, (Assessor's Parcel Number: 023-0-100-150) are consistent with the City's General Plan and City's Municipal Code; and

**WHEREAS**, based upon the foregoing facts and findings for Design Review Permit (DRP 15-18) the City Council hereby determines as follows:

- a. All basic provisions of these Zoning Regulations are complied with. The proposed project meet the development standards required in the VMU zone district, as allowed

with a Planned Development Permit, contained in Article 5 Commercial and Manufacturing Zoning Districts. The proposed site plan includes sufficient information as to assure compatibility with the surrounding area and compliance with the standards contained in Section 10-2.504 Commercial and Manufacturing District General Development Standards and Article 20, Design Review Permits, of the City of Ojai Zoning Ordinance.

- b. The proposed structures and improvements have been designed and arranged so that traffic congestion is avoided, pedestrian and vehicular safety and welfare are provided and no adverse effect of any type on surrounding property will result.
- c. Any lighting shall be so arranged as to be directed away from adjoining properties. All proposed lighting is conditioned to be Dark Sky compliant without spill of light off the subject site.
- d. No new signs are proposed therefore, the signage will not, by size, location, color or lighting, interfere with traffic, limit visibility or be so directed as to adversely affect surrounding properties or be in conflict with any provision of these Zoning Regulations.

**WHEREAS**, based upon the foregoing facts and findings for Planned Development Permit (PD 15-01), the City Council hereby finds as follows:

- a. That the project is allowed within the VMU zoning district; does not require on or off-site improvements to carry out the purpose and requirements of the VMU zoning district; and consistent with the actions, goals, objectives, and policies within the VMU land use designation. The VMU zone district and land use designation are commercial in nature with allowances for residential development at higher densities and intensities than single family dwelling zones or land use designations.
- b. That the project is a comprehensive development of stable and desirable character and superior quality than which might otherwise occur from more traditional development applications. The applicant has provided high quality architectural design and a sample of exterior materials that will be used on the project structures.
- c. That the project is designed and located such that there would be no hazard to the public convenience, health, interest, safety, or welfare, or be injurious to the property or improvements in the vicinity and the VMU zoning district. The single family nature of the project is not introducing potential conflicts or hazards, and the project accommodates two covered parking spaces which meets the requirement and demand.
- d. That the project design, location, and proposed uses are compatible with the character of existing development in the surrounding neighborhood because the site planning and architecture is appropriate, and of high quality and of compatible style, intensity and density.
- e. That the subject site is physically suitable for the type and density/intensity of development being proposed, adequate in shape and size to accommodate the use, meets

the development standards found in the Zoning Regulations, and is served by streets adequate in width and pavement type to carry the quantity and type of traffic expected to be generated by the proposed development, and not result in any substantial traffic congestion on surrounding streets. The single family project is of limited scale and is of suitable and compatible density/intensity, and as a

- f. The proposed project has been reviewed in compliance with the provisions of CEQA and the City's environmental review procedures
- g. There would be no potential significant negative effects upon environmental quality and natural resources that would not be properly mitigated and monitored, unless a statement of overriding considerations is adopted by the Commission.

**WHEREAS**, based upon the Notice of Exemption prepared for the project, the 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).
- b. This project is exempt per Article 19: Categorical Exemptions, Section 15303: New construction or conversion of small structures, of California Environmental Quality Act (CEQA). Class 3 consists of construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure.
- c. The documents and other materials that constitute the record of proceedings upon which the decision of the City Council is based is the Design Review Permit (DRP 15-18) Planned Development Permit (PUD 15-01) project file and that this project file is located within the Community Development Department and is 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.** That the City Council determines that the above set forth findings are true and correct in regards to Design Review Permit (DRP 15-18) Planned Development Permit (PUD 15-01) which findings are incorporated herein.

**SECTION 2.** The City Council hereby approves Design Review Permit (DRP 15-18) Planned Development Permit (PUD 15-01) subject to the following conditions. The decision of the City Council is final unless appealed in accordance with the provisions of Article 30 of the Ojai Municipal Code.

## COMMUNITY DEVELOPMENT DEPARTMENT CONDITIONS OF APPROVAL

### Project Specific Conditions

1. The approved modifications shall be substantially consistent with the approved architectural and landscape exhibits received September 17, 2015 and dated January, 2014, consisting of Sheets 1 – 4 and PL-1, and grading exhibits received March 11, 2016, consisting of Sheets 1-2.
2. Landscaping for the project shall be consistent with the California Department of Water Resources Model Water Efficient Landscaping Ordinance standards. The applicant shall demonstrate compliance prior to the issuance of a building permit, and supply a third party irrigation audit prior to the certificate of occupancy for the project.
3. The project approval constitutes the City's authorization to construct a single family residence with a detached guesthouse with optional shower and garage. No additional dwelling units are allowed in the project or on the property. Prior to the issuance of a building permit, the applicant shall declare, and such declaration shall be recorded against the property, for his/her/themselves and his/her/their heirs, assigns, and successors in interest, that the guest house and improvements thereon, and the residence and improvements thereon will not be used or permitted to be used as additional residential dwelling units or in any way in violation of the Ojai Municipal Code. Any subsequent conversion of and improvements to said structures, including the construction of additional plumbing fixtures must be permitted by all agencies having authority and jurisdiction. Violations of such laws are subject to criminal and/or civil penalties.
4. The applicant and property owner are prohibited from using any portion of the subject property for short-term, transient, or vacation rentals for any period of time less than 30 days in exchange for any form of compensation as this land use is not permitted by Ojai Municipal Code Section 10-2.402, Table 2-2, which lists all allowable land uses in residential zones. This prohibition shall remain in place unless and until the Ojai Municipal Code is amended to permit this land use. Violation of this condition of approval may result in revocation of this permit, in compliance with all applicable laws.
5. The garage shall be maintained as covered parking and not converted to living space or permanent storage space.
6. The Driveway apron shall conform to current accessible standards as required by the Building Official.
7. The applicant shall install a sidewalk and shall repair curb and gutter to the satisfaction of the Public Works Director through an encroachment permit with the Public Works Department. The encroachment permit application shall include right of way improvement details pursuant to the City's standards and fees.
8. The applicant shall apply for a Tree Permit with the City Community Development

Department, which shall be approved before the issuance of a building permit for the project.

#### Community Development Standard Conditions

9. Within one (1) year of design review permit approval, the permit shall be exercised in compliance with Article 32 of this chapter or the permit shall be deemed void, unless such approval is extended by the Commission for good cause either before or after the expiration of such time limit.
10. If noise levels associated with project construction exceed State standards as cited in the City's Noise Element of the General Plan and the Uniform Building Code, applicant will provide for mitigation of noise generation to State standards.
11. Prior to commencing construction a building permit shall be obtained from the building department. All conditions of the building department shall be met.
12. Prior to issuance of a building permit, applicant shall either provide hook up to the public sewer system or provide evidence to the satisfaction of the building inspector that the septic system can handle the projected use.
13. All utilities shall be underground pursuant to Ojai Municipal Code Sec. 10-2.1805.
14. All conditions of the public works department shall be met.
15. All proposed outdoor lighting shall comply with Section 10-2.16.501. Prior to issuance of a building permit, a final lighting plan will be submitted for approval by the planning department. Final plan shall indicate location of all lighting, both on the building and in the surrounding site area, shall shown type, style and height of fixtures, and illumination type. All lighting shall be shielded and confined within the property lines.
16. During construction, short-term dust impacts shall be mitigated by sufficiently watering all excavated or graded materials to prevent excessive amounts of dust. Watering shall occur twice daily with complete coverage, preferably in the late morning and after work is completed for the duration of construction.
17. To reduce potential short-term, construction-related noise impacts associated with this project, construction work shall be limited to occur between the hours of 7:00 a.m. and 5:00 p.m. Monday through Friday and prohibited on weekends and holidays.
18. 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.

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.

19. Monitoring and Procedures for Discovery of Cultural Resources. The Owner/Applicant shall have all earth disturbances monitored by a City-approved archaeologist and Chumash representative except the following: 1) Redistribution of already monitored soil, 2) Over compaction of soil, 3) Import of fill and associated grading. 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 the archaeologist and the monitor 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 the archeologist and the Chumash 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 on site whenever feasible. After the find has been appropriately mitigated pursuant to the approved mitigation plan, work in the area may resume.
20. Prior to the issuance of a grading permit or building permit the applicant shall submit to the City executed contracts for both the archeologist and the Chumash monitor.

21. A preconstruction meeting with the Building Official shall be held prior to initial any earth disturbing activities. This preconstruction meeting shall include a subcontractors associated with ground disturbing activities and shall include training on the above mitigations.
22. A final report detailing activities and findings shall be submitted by both the archaeologist and Native Americans prior to issuance of a certificate of occupancy. All reports shall be submitted to the appropriate office of Historic Preservation Information Center.
23. No on-street parking shall be allowed to count towards on-site parking requirements.
24. No outdoor storage is permitted unless it is completely screened from the street and neighbors. Storage areas shall not exceed 30 percent of the site.
25. All vents, mechanical equipment, etc. shall be screened with a material that is integral to the building design. Trash enclosure storage areas must have solid gates and walls.
26. Surface drainage water shall not be allowed to drain or flow upon adjoining lots unless an easement for such purposes has been granted.
27. 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.
28. No structure of a temporary or permanent character, trailer, camper, boat or equipment, or materials, supplies, inventory or work in progress or any similar property shall be permitted to remain upon the exterior portion of the lot.
29. The building shall be equipped with ultra-low water using plumbing fixtures in accordance with the City's Ordinance No. 672, "Ultra-Low Water Consumption Fixtures" adopted May 8, 1990.

#### Fire Department Standard Conditions

30. All conditions of the Ventura County Fire Prevention Division of the Ventura County Fire District shall be met. The applicant shall comply with Fire Department Standards for fire flow, fire protection, sprinklers and vehicular access.
31. Applicant shall obtain VCFD Form #126 "Requirements for Construction" prior to obtaining a building permit for any new structures or additions to existing structures.
32. Spark Arrester-An approved spark arrester shall be installed on the chimney of any structure(s).
33. Residential Address Numbers-Address numbers, a minimum of 4 inches (4") high, shall be installed prior to occupancy, 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.

34. 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.
- 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.

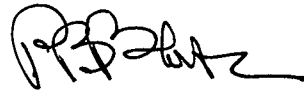
**PASSED, APPROVED and ADOPTED** this 14<sup>th</sup> day of June, 2016.

AYES: Lara, Haney, Weirick, Blatz

NOES: None

ABSTAIN: None

ABSENT: Clapp



\_\_\_\_\_  
Paul Blatz, Mayor

ATTEST:



\_\_\_\_\_  
Steve McClary, Deputy City Clerk

APPROVED AS TO FORM:



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Matthew T. Summers, City Attorney