

**CITY OF OJAI
CITY COUNCIL RESOLUTION NO. 18-56
A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF OJAI, FOR APPROVAL OF
DESIGN REVIEW PERMIT (DRP 18-009) FOR A CHANGE OF USE
AND SITE IMPROVEMENTS AT 214 WEST ALISO STREET,
ASSESSOR'S PARCEL NUMBER: 021-0-062-070**

WHEREAS, the applicant, Diana Syvertson, represented by Chester Jagiello, Alpha Stone, and Bill Mellett, Bill Mellett Design, on August 7, 2018, submitted applications for a Design Review Permit (DRP 18-009) for a change of use to community center and a employees residence and site improvements at 214 West Aliso Street Assessor's Parcel Number: 021-0-062-070; and

WHEREAS, On September 14, 2018, the Community Development Department found the applications to be complete; and

WHEREAS, a public hearing was held by the Planning Commission on September 19, 2018, that was continued to October 3, 2018, for consideration of the Design Review Permit, 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 Conditions of Approval included in this resolution, that the requested approval of DRP 18-009, are consistent with the City's General Plan and City's Municipal Code; and

WHEREAS, an appeal of the October 3, 2018 Planning Commission decision was filed and an appeal hearing was scheduled for November 13, 2018, 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 City Council finds, pursuant to the findings included in this resolution and subject to the project's Conditions of Approval included in this resolution, that the requested approval of DRP 18-009, are consistent with the City's General Plan and City's Municipal Code; and

WHEREAS, the conditional use permit and related conditions of approval outlined in Planning Commission Resolution 090-01 have been determined to be null and void due to non-use for a period greater than six (6) months. Conditions contained in this resolution supersede all previous conditions of approval on the subject property.

WHEREAS, based upon the foregoing facts and findings for the requested Design Review Permit (DRP 18-009), the City Council hereby determines as follows:

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- a. All basic provisions of these Zoning Regulations are complied with. The proposed community center and employees residence uses meet the property development standards contained in Article 6. The proposed site plan includes sufficient information as to assure compatibility with the surrounding area and compliance with the standards contained in Section 10-2.604 Special Purpose District General Development Standards and Article 20, Design Review Permits, of the City of Ojai Zoning Ordinance; and
- b. The building is located on an existing site that provides off-site parking and circulation that is compliant with the City's Circulation Element Policies. Minor changes to the parking lot layout are proposed to facilitate accessibility requirements. The improvements to the site walls are cosmetic only; and
- c. Any proposed lighting shall be so arranged as to be directed away from adjoining properties. All proposed lighting is Dark Sky compliant and the submitted photometric indicates there is no spill of light off the subject site which exceeds the City of Ojai's limits; and,
- d. No new signage is proposed, therefore it does not 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; and,

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

- a. 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.
- b. The documents and other materials that constitute the record of proceedings upon which the decision of the Planning Commission is based is the Design Review Permit (DRP 18-009), 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.
- c. The Planning Commission, 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 Planning Commission determines that the above set forth findings are true and correct in regards to Design Review Permit (DRP 18-009) which findings are incorporated herein.

SECTION 2. The Planning Commission hereby approves Design Review Permit (DRP 18-009) subject to the following conditions. The decision of the Planning Commission is final unless appealed in accordance with the provisions of Title 10, Article 30 of the Ojai Municipal Code.

COMMUNITY DEVELOPMENT DEPARTMENT CONDITIONS OF APPROVAL

Project Specific Conditions of Approval.

1. The approved modifications shall be substantially consistent with the approved landscape plans received September 14, 2018 and September 26, 2018.
2. The project approval constitutes the City's authorization for a change of use and site improvements including parking layout and site walls at 214 West Aliso Street, Assessor's Parcel Number: 021-0-062-070.
3. Any work outside of the property lines and into the right of way shall require an encroachment permit. The encroachment permit shall be issued by the responsible agency and the subject scope of work completed before a certificate of occupancy will be issued by the City for the project.

Community Development Standard Conditions

4. 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 California Code of Regulations, Title 14, Chapter 3, Section 15064.5 (e) and Chapter 10 (commencing with Section 27460) of Part 3 of Division 2 of Title 3 of the CA Government Code, that the remains are not subject to the provisions of Section 27491 of the CA 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 CA 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

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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.

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 Barbarerio/Venturerio 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.

5. Discretionary conditions of approval shall be included on the first page of the building plans submitted to the Building Department for the project's building permit.
6. Within one (1) year of design review permit approval, the permit shall be exercised in compliance with OMC Title 10, 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.
7. 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.

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8. Prior to commencing construction, a building permit shall be obtained from the building department. All conditions of the building department shall be met.
9. Any proposed outdoor lighting shall comply with OMC Section 10-2.16.501.
10. 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.
11. 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.
12. No on-street parking shall be allowed to count towards on-site parking requirements.
13. No outdoor storage is permitted unless it is completely screened from the street and neighbors.
14. All vents, mechanical equipment, etc. shall be screened with a material that is integral to the building design.
15. Surface drainage water shall not be allowed to drain or flow upon adjoining lots unless an easement for such purposes has been granted.
16. 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.
17. 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 after completion of construction/final inspection.

Fire Department Standard Conditions

18. All conditions of the Ventura County Fire Prevention Division of the Ventura County Fire District shall be met only to the extent these standards apply in the City of Ojai.
19. Applicant shall obtain VCFD Form #126 "Requirements for Construction" prior to obtaining a building permit for any new structures or additions to existing structures.

Legal requirements:

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- 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.

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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 13th day of November, 2018 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

CITY OF OJAI, CALIFORNIA


John F. Johnston, Mayor

11-21-18
Date signed

ATTEST:


Gail Davis, Deputy City Clerk

APPROVED AS TO FORM:


Matthew Summers, City Attorney