

CITY OF OJAI
ORDINANCE NO. 878

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OJAI,
CALIFORNIA APPROVING DESIGN REVIEW PERMIT (DRP 15-12),
LOT LINE ADJUSTMENT (LLA 17-01), NOTICE OF EXEMPTION, AND
DEVELOPMENT AGREEMENT (DA 17-01) BETWEEN
THE CITY OF OJAI AND SHANKS INVESTMENT GROUP, LLC PROVIDING
FOR THE EXCHANGE OF PROPERTY TO RELOCATE THE PASEO AND THE
CONSTRUCTION OF PATIO SPACE FOR OUTDOOR DINING
LOCATED AT 334 EAST OJAI AVENUE
(ASSESSOR'S PARCEL NUMBERS: 021-0-140-140, 021-0-140-130 & 021-0-140-250)**

WHEREAS, Shanks Investment Group, LLC ("Developer") is the owner of two parcels totaling 1,920 square feet, consisting of Assessor's Parcel Number 021-0-140-130 ("130 Property") and Assessor's Parcel Number 021-0-140-140 ("140 Property"), at 334 East Ojai Avenue (jointly referred to as the "Property"); and

WHEREAS, the City of Ojai ("City") owns the narrow, brick-paved walkway between the 130 Property and the 140 Property ("City Walkway"), which is a part of the larger parking lot behind the two properties, listed as Assessor's Parcel Number 021-0-140-250 ("25 Property") and identified in Exhibit "A" to the proposed Development Agreement, itself attached to this Ordinance and incorporated by reference; and

WHEREAS, on September 4, 2015, the Developer submitted a Design Review Permit application ("DRP 15-12") for improvements to the existing commercial building located at the 130 Property; and

WHEREAS, the Developer proposed exchanging the City Walkway for an equal-sized portion of the 130 Property so the final resulting parcels will be a Developer-owned contiguous parcel containing the existing building at the eastern edge of the Property ("Combined Parcel") and a rectangular parcel along the western edge of the Property ("Final City Walkway"); and

WHEREAS, the Final City Walkway must (1) preserve the existing square footage of the 25 Property; (2) preserve the existing length of the street frontage on East Ojai Avenue; (3) connect to the parking lot behind the Property; and (4) maintain the same economic value as the original City Walkway.

WHEREAS, the Developer intends to use the Combined Parcel for a multi-tenant commercial development that will provide patio space for outdoor dining in downtown Ojai ("Proposed Project")

WHEREAS, the Proposed Project was reviewed on concept as CR 15-03 by the City Council on November 17, 2015, as CR 16-01 by the Planning Commission on January 20, 2016; and as CR-01 by the Historic Preservation Commission on May 12, 2016; and

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WHEREAS, on March 13, 2017, the Developer submitted an application for a Lot Line Adjustment (“LLA 17-01”) and a Development Agreement (“DA 17-01”) for improvements to the existing commercial building located at 334 East Ojai Avenue, Ojai, CA, and for improvements on adjacent parcels to the west, and to re-arrange all affected parcels (Assessor’s Parcel Numbers: **021-0-140-130, 021-0-140-140 & 021-0-140-250**); and,

WHEREAS, a public hearing was held by the Planning Commission on June 21, 2017, for the applications for the Design Review Permit (DRP 15-12), Lot Line Adjustment (LLA 17-01) and Development Agreement (DA 17-01) 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 which was continued to July 5, 2017, Planning Commission regular meeting; and

WHEREAS, a public hearing was held by the Planning Commission on July 5, 2017, for the applications for the Design Review Permit (DRP 15-12), Lot Line Adjustment (LLA 17-01) and Development Agreement (DA 17-01) 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, at which the Planning Commission voted to recommend approval of the project to the City Council; and

WHEREAS, a public hearing was held by the City Council on August 8, 2017, for the applications for the Design Review Permit (DRP 15-12), Lot Line Adjustment (LLA 17-01) and Development Agreement (DA 17-01) 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, at which the City Council voted to refer the project back to the Planning Commission, with explicit direction for the Planning Commission to apply the Arcade Plaza Design Guidelines in an integrated fashion in further considering the project; and

WHEREAS, a public hearing was held by the Planning Commission on October 4, 2017, for the applications for the Design Review Permit (DRP 15-12), Lot Line Adjustment (LLA 17-01) and Development Agreement (DA 17-01) and was continued to October 18, 2017 Planning Commission meeting to allow the applicant to submit a new design; and

WHEREAS, a public hearing was held by the Planning Commission on October 18, 2017, for the applications for the Design Review Permit (DRP 15-12), Lot Line Adjustment (LLA 17-01) and Development Agreement (DA 17-01) and recommended approval to the City Council; and

WHEREAS, a public hearing was held by the City Council on November 14, 2017, for the applications for the Design Review Permit (DRP 15-12), Lot Line Adjustment (LLA 17-01) and Development Agreement (DA 17-01), at which hearing the City Council voted to adopt City Council Resolution 17-48 approving the project and to introduce this ordinance approving the project and the related development agreement; and

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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 the applications for the Design Review Permit (DRP 15-12), Lot Line Adjustment (LLA 17-01) and Development Agreement (DA 17-01) are consistent with the City's General Plan and City's Municipal Code and the City's Arcade Plaza Design Guidelines; and

WHEREAS, the City Council directed that the project components to be built on the Final City Walkway, including the replaced brick walkway, the proposed green screen wall, and any proposed trees on the walkway, will not be built or installed until the final design and plan for these improvements is approved by the City Council.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF OJAI CALIFORNIA DOES ORDAIN AS FOLLOWS:

SECTION 1. Incorporation of Recitals The above set forth recitals and findings are true and correct and incorporated herein by reference, as if set forth herein in full.

SECTION 2. Findings Regarding the Adequacy of Notice: Based upon the foregoing the City Council finds:

1. Notice of the November 14, 2017 City Council public hearing was posted at Ojai City Hall.
2. Notice of the November 14, 2017 City Council public hearing was posted in the *Ojai Valley News* ten (10) days prior to the hearing.
3. Notice of the November 14, 2017 City Council public hearing was mailed or delivered to property owners within 300 feet of the property as shown on the latest equalized assessment roll, at least ten (10) days prior to the hearing.
4. Notice of the November 14, 2017 City Council public hearing included the information set forth in Government Code Section 65009 (b)(2).
5. After a properly noticed public hearing, the Planning Commission adopted Resolution No. 17-19 recommending to the City Council the approval of DRP 15-12, LLA 17-01, and DA 17-01 on July 5, 2017.

SECTION 3. Findings Regarding the Lot Line Adjustment: Based upon the foregoing facts and findings for LLA 17-01 the City Council hereby determines as follows:

- A. LLA 17-01 was reviewed and deemed correct and in compliance with the Subdivision Map Act Section 66412, subdivision (d), and Section 10-3.11 of the Ojai Municipal Code by the City Engineer and Community Development Director; and

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- B. LLA 17-01 is between three existing adjoining parcels, and the land taken from one parcel is added to an adjoining parcel thereby maintaining the original number of parcels; and
- C. LLA 17-01 does not conflict with any policies of the Land Use, Circulation, Air Quality, Noise, Safety, Conservation, Recreation, or Open Space Elements of the General Plan as the property owner is not proposing any physical changes to the property, other than that proposed for outdoor patio space and as reviewed and approved for compliance with the General Plan as outlined in DRP 15-12 and corresponding staff report; and
- D. LLA 17-01 will not result in a greater number of residential developable parcels that existed prior to the adjustment, no residential development is proposed, and the properties are zoned C-1 where residential development is not allowed.
- E. LLA 17-01 will not increase or make more onerous any violation of the City's existing zoning regulations because no violations currently exist on the subject parcels.

SECTION 4. Findings Regarding the Design Review Permit: Based upon the foregoing facts and findings for DRP 15-12 the City Council hereby determines as follows:

- A. DRP 15-12 was reviewed and deemed correct and in compliance with Section 10-2.2009 of the Ojai Municipal Code; and
- B. All basic provisions of these Zoning Regulations are complied with. The Proposed Project meets the development standards required in the C-1 zone district, with the exceptions to those as noted above and approved by the City via DA 17-01 and as allowed and conditioned with in lieu fees for parking. The proposed site plan includes sufficient information as to assure compatibility with the surrounding area under the City's Arcade Plaza Design Guidelines codified in Section 10-2.2004(d)(8) of the Ojai Municipal Code, 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; and
- C. The applicant has provided a traffic study wherein trip generation associated with the project is projected at rates that do not exceed the City's roadway volume/capacity ratios or intersection thresholds as outlined in the City's Initial Study Assessment Guidelines and Circulation Element policies. The proposed structures and improvements therefore 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; and
- D. 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 as evidenced by the applicant's lighting plans, other than such light that purposefully provides for pedestrian safety in the paseo. Said lighting has been approved by the Director in accordance with Section 10-2.104(b)(3)(A)(xi) of the Municipal Code because there are special circumstances or conditions applying to the paseo that require

additional lighting, a lack of pedestrian lighting would preclude safe and reasonable use of the paseo for safe pedestrian travel, and because the lighting proposed is the lighting that that will accomplish safe pedestrian travel, and finally, that the lighting will generally be in harmony with the purpose and intent of this article and will not be injurious to the neighborhood or otherwise detrimental to the public welfare; and

- E. 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; and

SECTION 5. Findings Regarding the Development Agreement Based upon the foregoing facts and findings for DA 17-01 the City Council hereby determines as follows:

- A. DA 17-01 was reviewed and deemed correct and in compliance with Government Code Section 65865.2 and Section 10-2.2009 of the Ojai Municipal Code; and
- B. DA 17-01, if approved, is in the best interests of the City because the paseo is maintained and the new outdoor patio area increases commercial vibrancy to the area; and,
- C. DA 17-01 is consistent with the actions, goals, objectives, and policies of the City's General Plan and Zoning Regulations because the project promotes walkable and pedestrian scaled opportunities for commerce and engagement, while also preserving Ojai's small town character, and
- D. DA 17-01 promotes the public convenience, health, interest, safety, and welfare of the City because the project provides for convenient and expanded opportunities for outdoor dining within close proximity to existing parking and multi-modal transportation opportunities along Ojai Avenue; ...; and
- E. The application to the City was made on forms approved, and contains all information required by the Director and is filed with the Department in compliance with Section 10-2.1805; and
- F. The application was accompanied by all lawfully required documents, materials, and information; and,
- G. With the adoption of this ordinance and development agreement and notwithstanding the requirements for minimum sizes of new parcels in the C-1 zoning district set by Table 2-5 in Section 10-2.504 of the Ojai Municipal Code, the City Council approves the incorporation of (1) the remainder of the 130 Property without the Final City Walkway, (2) the portion of the 25 Property known as the City Walkway to be transferred to the Developer from the City, and (3) the 140 Property, into the resulting Combined Parcel to be owned by the Developer and used for the Proposed Project. The City Council finds the resulting Combined Parcel is less nonconforming than the existing small, substandard lots that comprise the Property. The resulting Combined Parcel is of adequate size and has

adequate public access and improvements as reasonably necessary to service the parcel and to enable construction of the Proposed Project.

- H. With the adoption of this ordinance and development agreement and notwithstanding the requirements for lot coverage and minimum setbacks in the C-1 zoning district set by Table 2-5 in Section 10-2.504 of the Ojai Municipal Code, the City Council approves the Proposed Project as it found that the existing building's setbacks and the proposed lot coverage percentage are adequate given the building's downtown paseo location and proposed use of outdoor space to provide sufficient separation between the Proposed Project and the Arcade across the Final City Walkway.

SECTION 6. Findings Regarding the Notice of Exemption: Based upon the Notice of Exemption prepared for the Proposed Project, the City Council finds and determines as follows:

- A. A Notice of Exemption for this Proposed Project was prepared in compliance with the California Environmental Quality Act (CEQA).
- B. The Proposed Project is exempt under Article 19: Categorical Exemptions, Section 15303, Class 3: New construction or conversion of small structures, and Section, 15315, Class 15: Minor divisions of land. A Class 3 exemption applies because the Proposed Project will involve the installation of small new equipment and facilities in small structures. A Class 15 exemption applies because the Proposed Project consists of property which will be divided into four or fewer parcels in an urbanized area zoned for commercial use and 1) conforms to the General Plan and zoning, 2) no variances or exceptions are required, 3) the parcel was not involved in a division of a larger parcel within the previous 2 years, and 4) the parcel does not have an average slope greater than 20 percent.
- C. The documents and other materials that constitute the record of proceedings upon which the decision of the City Council is based are the applications for the DRP 15-12, LLA 17-01, and DA 17-01, 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 Proposed Project has been prepared in compliance with CEQA.

SECTION 7. Approvals: In view of all the evidence and based on the foregoing findings, the City Council approves DRP 15-12, LLA 17-01 and DA 17-01 and grants a Notice of Exemption for the Proposed Project, subject to the Conditions of Approval in Planning Commission Resolution No. 17-19 and City Council Resolution No. 17-48.

SECTION 8. Authorization to Execute Development Agreement: Pursuant to Ojai Municipal Code Section 10-2.2803(d), the City Council directs the Community Development Director and the City Attorney to prepare a development agreement embodying the terms and conditions of the Proposed Project as conditionally approved and authorizes the City Manager to execute the development agreement, which shall be substantially consistent with the proposed development agreement attached as Exhibit "A."

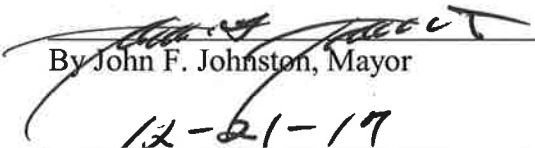
SECTION 9. Authorization to Execute Deed Exchange: The City Council authorizes the transfer to the Developer of the property constituting the City Walkway and the acquisition from the Developer of the property constituting the Final City Walkway. The City further authorizes the City Manager or his designee to execute the acquisition and transfer of deeds and to take all requisite steps on behalf of the City of Ojai to conclude the exchange of properties pursuant to this approved Development Agreement, DA 17-01.

SECTION 10. Severability Clause: If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the final decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council declares that it would have adopted this Ordinance, and each section, subsection, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more sections, subsections, phrases or portions might be declared invalid or unconstitutional.

SECTION 11. 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.

SECTION 12. Effective Date. This Ordinance shall take effect 30 days after its passage and adoption pursuant to California Government Code Section 36937 and shall supersede any conflicting provision of any City ordinance.

CITY OF OJAI, CALIFORNIA


By John F. Johnston, Mayor

12-21-17
Date signed

ATTEST:


Gail Davis, Deputy City Clerk

APPROVED AS TO FORM:


Matthew T. Summers, City Attorney

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STATE OF CALIFORNIA)
COUNTY OF VENTURA)
CITY OF OJAI)

I, Gail Davis, Deputy City Clerk of the City of Ojai do hereby certify that the foregoing Ordinance was introduced at a regular meeting of the City Council of the City of Ojai held on November 14, 2017 and adopted at a regular meeting held on November 28, 2017 by the following vote:

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



Gail Davis
Deputy City Clerk for the City of Ojai