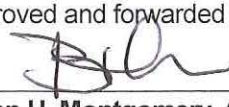




## STAFF REPORT

Approved and forwarded to City Council

  
Bryan H. Montgomery, City Manager

**Date:** May 24, 2016

**To:** Bryan H. Montgomery, City Manager

**From:** Kenneth W. Strelo, Senior Planner

**SUBJECT:** **4190 Brown Road (MS 08-978) Tentative Parcel Map Extension (TME 02-16)**

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### SUMMARY

This is a public hearing on a request by Randy Mass ("Applicant") for approval of a Tentative Parcel Map Extension. The applicant is requesting to extend the approval of Tentative Parcel Map MS 08-978 (known as "4190 Brown Road Minor Subdivision") for an additional three (3) years. The map was set to expire on June 12, 2016, which has been delayed with filing of this application. The minor subdivision consists of a 2.0 acre site subdivided into 4 lots with one remainder lot. The project is located at 4190 Brown Road and is zoned R-10 (Single Family Residential) District. APN 035-050-012.

Staff recommends the City Council adopt the resolution approving 4190 Brown Road (MS 08-978) Tentative Parcel Map Extension (TME 02-16), as conditioned.

### BACKGROUND

#### General Plan and Zoning

The General Plan Land Use Designation for the project site is *Single Family Residential, High Density* ("SFH") as depicted in the [Oakley 2020 General Plan](#) Figure 2-2 (Land Use Diagram). The site is zoned R-10 (Single Family Residential) District, which is compatible with the SFH land use designation (Table 2-6 - General Plan / Zoning Compatibility Matrix of the Oakley 2020 General Plan).

#### Previous Entitlements and Subdivision Extensions

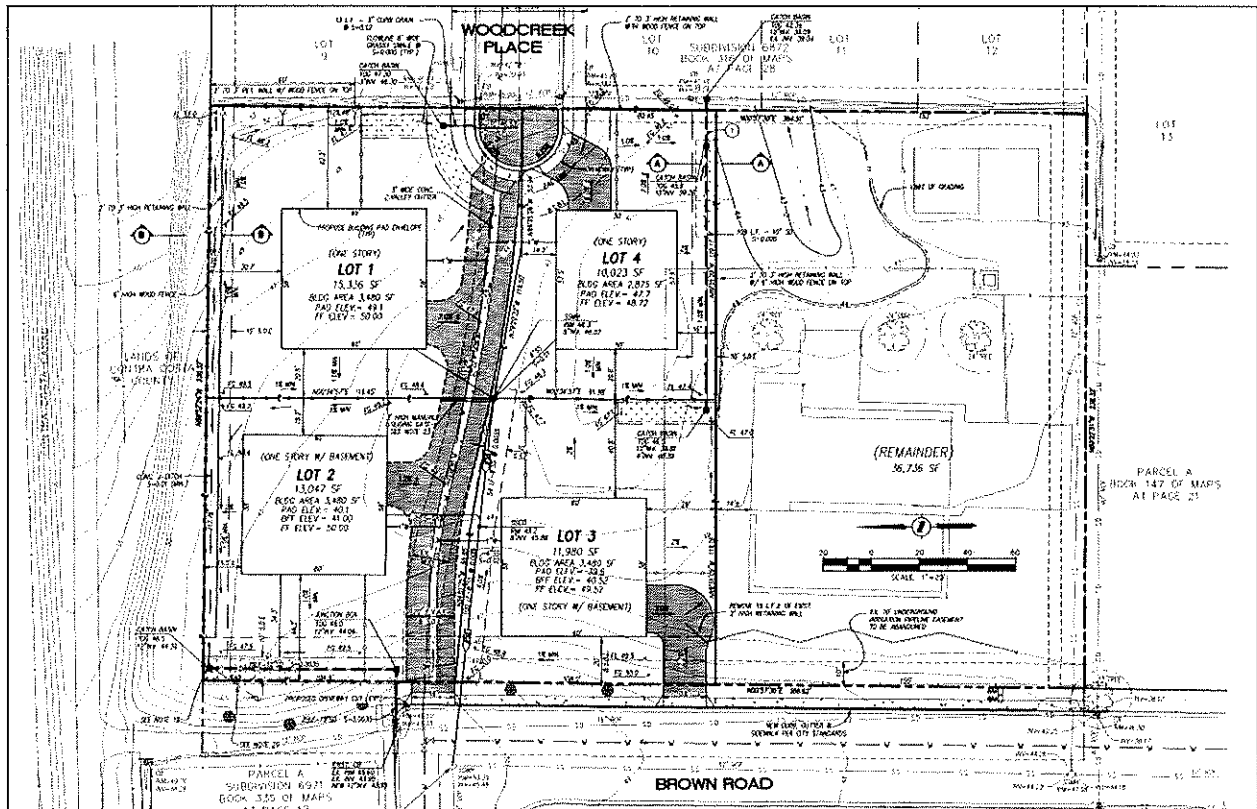
Oakley City Council adopted the project's tentative parcel map (or "minor subdivision") on April 28, 2009 through adoption of City council Resolution No. 76-09. In conjunction with the

tentative parcel map, the City Council rezoned the project site to R-10 District through adoption of Ordinance No. 13-09 on May 12, 2009. That ordinance went into effect on June 11, 2009 (30 days after adoption), and the tentative parcel map entitlement went into effect one day thereafter, or June 12, 2009. The tentative parcel map received a three (3) year approval period from its effective date, and therefore, was set to expire on June 12, 2012. However, through the two most recent state-wide automatic map extensions<sup>1</sup> the tentative parcel map expiration date was pushed out for an additional four (4) years, or June 12, 2016.

## **PROJECT DESCRIPTION**

The applicant is requesting an extension of three (3) years to the entitlement of the approved tentative parcel map. If approved, the map would not expire until June 12, 2019. The approved tentative parcel map consists of subdividing a 2.0 acre parcel into four (4) lots with one (1) remainder parcel. The average size of the four created lots is 12,596 square feet. The remainder parcel, which would retain the existing home, is 36,736 square feet. Figure 1 shows the land portion of the approved map (excludes the legend and other information).

Figure 1. Approved Tentative Parcel Map (top of map faces east).



<sup>1</sup> AB 208 (2011) – 24 months, and AB 116 (2013) – 24 months.

As can be seen in Figure 1, Lots 1 and 4 would be accessed from Woodcreek Place and Lots 2 and 3 and the remainder parcel would be accessed from Brown Road. An emergency vehicle access ("EVA") is conditioned at the property line on the shared access driveways. Through traffic will not be allowed between Woodcreek Place and Brown Road.

## **ENVIRONMENTAL REVIEW**

It can be seen with certainty that the request for an extension to the tentative parcel map will not result in any new physical impacts to the project, and therefore not result in any new significant environmental impacts. The project falls within the scope of the original California Environmental Quality Act ("CEQA") analysis and no further environmental analysis is required. Additionally, since the tentative parcel map is already approved, and the property zoning is in compliance with the General Plan, a project of this nature would be exempt from CEQA pursuant to CEQA Guidelines Section 15315 (Minor Land Divisions).

## **ANALYSIS**

The Subdivision Map Act (Government Code 66452.6 (e)) allows the governing body with authority to approve a tentative map to extend that approval for a period not to exceed six (6) additional years from the original expiration date. That original expiration date would include any automatic extensions, such as those mentioned above, and the extension does not have to occur in one approval. In other words, the City Council may grant multiple approvals on the same map, so long as requests for extensions are submitted prior to expiration of the map, pursuant to the subdivision map act.

The applicant is requesting a three (3) year extension to the tentative parcel map approval. The subdivision is small in size (2.0 acres) and total number of future lots (1 lot into 4 lots plus a remainder parcel). It is located at the northern terminus of Brown Road where it ends at the Contra Cost Canal, which is not along a major arterial or even residential collector of which the public depends heavily on to be improved. These factors result in this map not being a major subdivision where its development will lead to much needed public improvements. Therefore, allowing for a three year extension to the approval will not result in any direct or indirect public health, safety, or welfare issues.

## **Conditions of Approval**

Pursuant to the Subdivision Map Act, the City Council may approve or conditionally approve extensions to a tentative parcel map. It is noted here and referenced in the proposed resolution's findings that all conditions of approval in Resolution 76-09 that are not modified in the proposed resolution are still in full effect for this tentative parcel map.

## **FINDINGS**

Complete draft findings are included in the attached resolution.

Subject: 4190 Brown Road (MS 08-978) Tentative Parcel Map Extension (TME 02-16)

Date: May 24, 2016

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### **RECOMMENDATION**

Staff recommends the City Council adopt the resolution approving 4190 Brown Road (MS 08-978) Tentative Parcel Map Extension (TME 02-16), as conditioned.

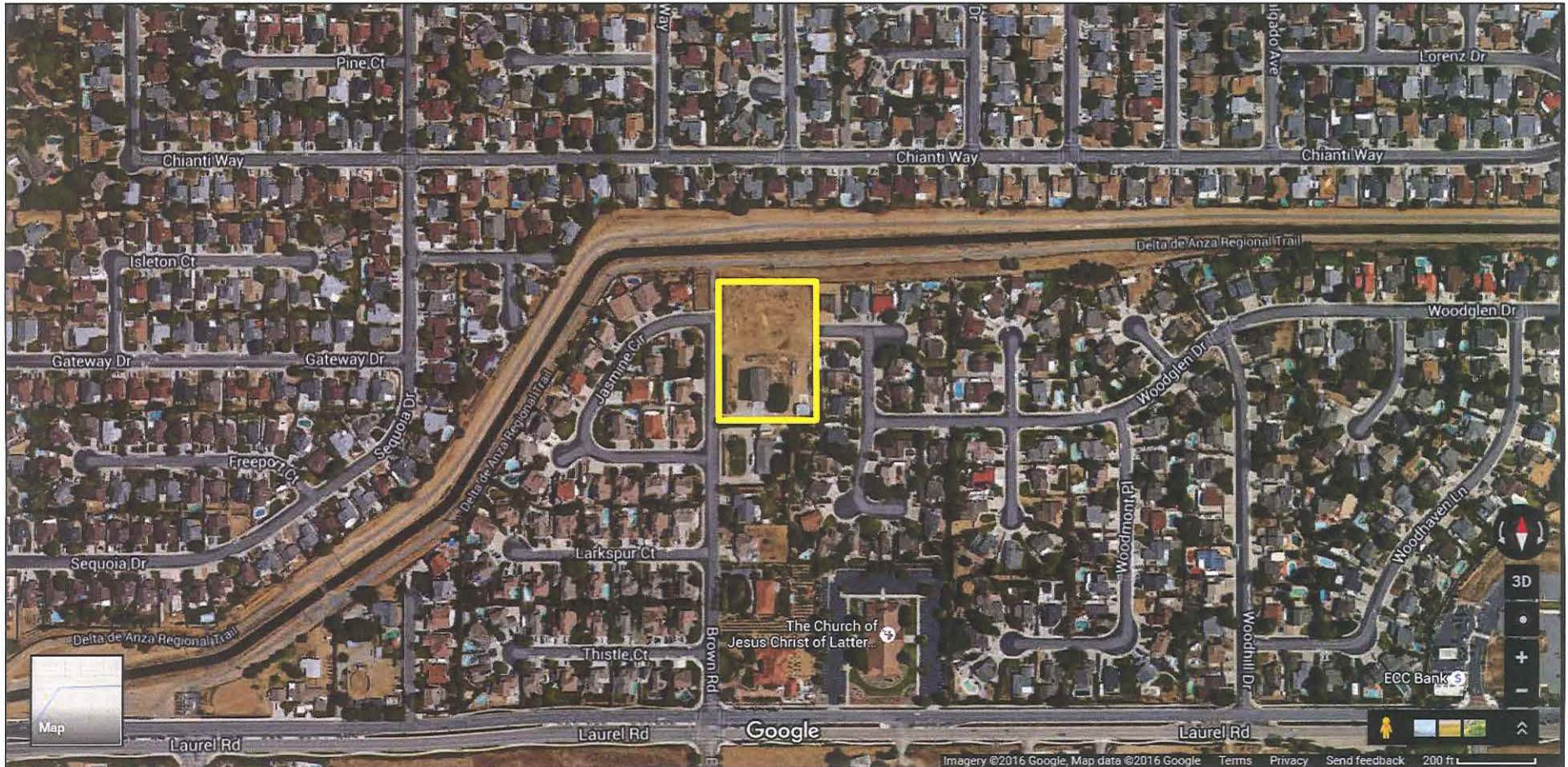
### **ATTACHMENTS**

1. Vicinity Map
2. Public Hearing Notice
3. Draft Resolution



## Vicinity Map

### 4190 Brown Road (MS 08-978) Tentative Parcel Map Extension (TME 02-16)







City of Oakley  
3231 Main Street  
Oakley, CA 94561  
[www.oakleyinfo.com](http://www.oakleyinfo.com)

## NOTICE OF PUBLIC HEARING

Notice is hereby given that on **May 24, 2016** at 6:30 p.m., or as soon thereafter as the matter may be heard, the City Council of the City of Oakley will hold a Public Hearing at the Council Chambers located at 3231 Main Street, Oakley, CA 94561 for the purposes of considering an application for a **Tentative Parcel Map Extension**.

**Project Name:** 4190 Brown Road (MS 08-978) Tentative Parcel Map Extension (TME 02-16).

**Project Location:** 4190 Brown Road, Oakley, CA 94561. APN 035-050-012.

**Applicant:** Randy Mass, 4190 Brown Road, Oakley, CA 94561.

**Request:** This is a public hearing on a request for approval of a Tentative Parcel Map Extension. The applicant is requesting to extend the approval of Tentative Parcel Map MS 08-978 (known as "4190 Brown Road Minor Subdivision") for an additional three (3) years. The map was set to expire on June 12, 2016. The minor subdivision consists of a 2.0 acre site subdivided into 4 lots with one remainder lot. The project is zoned R-10 (Single Family Residential) District.

The Staff Report and its attachments will be available for public review, on or after May 18, 2016 at City Hall, 3231 Main Street, Oakley, CA 94561 or on the City's website [www.oakleyinfo.com](http://www.oakleyinfo.com).

Interested persons are invited to submit written comments prior to and may testify at the public hearing. **Written comments may be submitted to Kenneth W. Strelo, Senior Planner at the City of Oakley, 3231 Main Street, Oakley, CA 94561 or by email to [strelo@ci.oakley.ca.us](mailto:strelo@ci.oakley.ca.us).**

**NOTICE IS ALSO GIVEN** pursuant to Government Code Section 65009(b) that, if this matter is subsequently challenged in Court by you or others, you may be limited to raising only those issues you or someone else has raised at a Public Hearing described in this notice or in written correspondence delivered to the City of Oakley City Clerk at, or prior to, the Public Hearing.

**RESOLUTION NO. XX-16****A RESOLUTION OF THE CITY OF OAKLEY CITY COUNCIL MAKING FINDINGS  
AND APPROVING A TENTATIVE PARCEL MAP EXTENSION FOR THE PROJECT  
KNOWN AS 4190 BROWN ROAD (MS 08-978) TENTATIVE MAP EXTENSION (TME  
02-16)****FINDINGS**

**WHEREAS**, on April 12, 2016, Randy Mass ("Applicant") filed an application requesting approval of a Tentative Parcel Map Extension. The applicant is requesting to extend the approval of Tentative Parcel Map MS 08-978 (known as "4190 Brown Road Minor Subdivision") for an additional three (3) years. The project is located at 4190 Brown Road and is zoned R-10 (Single Family Residential) District. APN 035-050-012; and

**WHEREAS**, on May 12, 2016, the project application was deemed complete per Government Code section 65920 et. seq; and

**WHEREAS**, the approved tentative parcel map was set to expire on June 12, 2016; and

**WHEREAS**, the approved tentative parcel map consists of a 2.0 acre site subdivided into 4 lots with one remainder parcel; and

**WHEREAS**, the General Plan Land Use Designation for the project site is Single Family Residential, High Density as depicted in the Oakley 2020 General Plan Figure 2-2 (Land Use Diagram). The site is zoned "R-10" (Single Family Residential) District; and

**WHEREAS**, the approved tentative parcel map was originally approved by the Oakley City Council on April 28, 2009 through adoption of Resolution 76-09. Approval of the rezone to R-10 District was on May 12, 2009 through adoption of Ordinance 13-09; and

**WHEREAS**, it can be seen with certainty that the request for an extension to the tentative parcel map will not result in any new physical impacts to the project, and therefore not result in any new significant environmental impacts. The project falls within the scope of the original California Environmental Quality Act ("CEQA") analysis and no further environmental analysis is required. Additionally, since the tentative parcel map is already approved, and the property zoning is in compliance with the General Plan, a project of this nature would be exempt from CEQA pursuant to CEQA Guidelines Section 15315 (Minor Land Divisions); and

**WHEREAS**, on May 14, 2016, the Notice of Public Hearing for the project was published in the Contra Costa Times, and on May 13, 2016 it was posted at Oakley City Hall located at 3231 Main Street, outside the gym at Delta Vista Middle School located at 4901 Frank Hengel Way, and outside the library at Freedom High School located at 1050 Neroly Road, and at the project location, and mailed out to all owners of property

within 500 feet of the project boundaries, outside agencies, and parties requesting such notice; and

**WHEREAS**, on May 24, 2016, the City Council opened the public hearing and received a report from City Staff, oral and written testimony from the applicant and public, and deliberated on the project. At the conclusion of its deliberations, the City Council took a vote and adopted this resolution to approve the project, as revised by the City Council during its deliberations; and

**WHEREAS**, if any term, provision, or portion of these Findings or the application of these Findings to a particular situation is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions of these Findings, or their application to other actions related to the Project, shall continue in full force and effect unless amended or modified by the City; and

**WHEREAS**, these Findings are based on the City's General Plan, the City's Zoning and Subdivision Ordinances, the Subdivision Map Act, Vesting Tentative Map 9027, the R-10 District, and the information submitted to the City Council at its May 24, 2016 meeting, both written and oral, including oral information provided by the applicant, as reflected in the minutes of such meetings, together with the documents contained in the file for the Subdivision (hereafter the "Record").

**NOW, THEREFORE, BE IT RESOLVED THAT**, on the basis of the above Findings and the entire Record, the City Council makes the following additional findings in support of the recommended approvals:

- A. Regarding the application requesting approval of 4190 Brown Road (MS 08-978) Tentative Parcel Map Extension (TME 02-16), the City Council finds that:
  - 1. The proposed tentative map extension does not modify any of the original tentative map's design, and therefore, all of the findings made on the original tentative map (City Council Resolution 76-09) are still valid and apply to this extension; and
  - 2. All conditions of approval in City Council Resolution 76-09, not otherwise modified by this resolution, are still in effect.
- B. The Project complies with Measure J Growth Management requirements.

**BE IT FURTHER RESOLVED THAT**, on the basis of the above Findings and the Record, the City Council approves the applicant's request for 4190 Brown Road (MS 08-978) Tentative Parcel Map Extension (TME 02-16), subject to the following conditions:

**THE FOLLOWING CONDITIONS OF APPROVAL SHALL BE SATISFIED PRIOR TO THE ISSUANCE OF A BUILDING PERMIT UNLESS OTHERWISE NOTED (BOLD CONDITIONS ADDED OR AMENDED AT PUBLIC HEARING):**



### **Planning Department Conditions**

1. Applicant shall comply with the requirements of the Oakley Municipal Code and applicable Conditions of Approval from City Council Resolution No.76-09 and City Council Ordinance No. 13-09. Any exceptions must be stipulated in these Conditions of Approval.
2. This approval shall extend the period of the tentative parcel map for a period of three (3) additional years, resulting in Minor Subdivision (MS 08-978) expiring on June 12, 2019, unless it is further extended pursuant to the Subdivision Map Act or other automatic extensions. This extension shall constitute three (3) years of the maximum six (6) years of discretionary extension(s) allowed under Government Code section 66452.6(e).
3. All conditions of approval shall be satisfied by the owner/developer. All costs associated with compliance with the conditions shall be at the owner/developer's expense.
4. The applicant shall indemnify, defend, and hold harmless the City of Oakley, the City Approving Authorities, and the officers, agents, and employees of the City from any and all claims, damages and liability (including, but not limited to, damages, attorney fees, expenses of litigation, costs of court).

### **Advisory Notes:**

The following Advisory Notes are provided to the applicant as a courtesy but are not a part of the conditions of approval. Advisory Notes are provided for the purpose of informing the applicant of additional ordinance requirements that must be met in order to proceed with development.

- A. The applicant/owner should be aware of the expiration dates and renewing requirements prior to requesting building or grading permits.
- B. The project will require a grading permit pursuant to the Ordinance Code.
- C. Applicant shall comply with the requirements of Ironhouse Sanitary District.
- D. The applicant shall comply with the requirements of the Diablo Water District.
- E. Comply with the requirements of the East Contra Costa Fire Protection District.
- F. Comply with the requirements of the Building Inspection Division. Building permits are required prior to the construction of most structures.
- G. This project may be subject to the requirements of the Department of Fish and Wildlife. It is the applicant's responsibility to notify the Department of Fish and

Wildlife, P.O. Box 47, Yountville, California 94599, of any proposed construction within this development that may affect any fish and wildlife resources, per the Fish and Game Code.

- H. This project may be subject to the requirements of the Army Corps of Engineers. It is the applicant's responsibility to notify the appropriate district of the Corps of Engineers to determine if a permit is required, and if it can be obtained.
- I. The applicant shall obtain an encroachment permit for construction within existing City rights of way.

**PASSED AND ADOPTED** by the City Council of the City of Oakley at a meeting held on the May 24, 2016 by the following vote:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

APPROVED:

\_\_\_\_\_  
Kevin Romick, Mayor

ATTEST:

\_\_\_\_\_  
Libby Vreonis, City Clerk

\_\_\_\_\_  
Date