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**AGENDA ITEM NO.:** 5 (Action Item and Public Hearing)

**PLANNING COMMISSION**  
**MEETING DATE:** July 26, 2017

**SUBJECT:** Tentative Parcel Map No. 415 (French) and  
Variance 2017-03/French

**EXECUTIVE SUMMARY:**

The applicant proposes to subdivide a 13,602-square-foot parcel of land into 2 parcels. Parcel 1 will consist of 7,686-square-feet and Parcel 2, 5,916-square-feet. The applicant is also requesting a rear yard setback variance. Currently, there is an existing single family home on the area of proposed Parcel 2. It does not presently meet the rear yard setback requirements (20-foot) of the zoning district. The subject property is located at 220 South School Street in the Community of Big Pine. Both of the proposed parcels are zoned Residential – Single Residence Mobile Home Combined with a 5,800-square-foot minimum (RMH-5,800) and have a General Plan designation of Residential Medium Density (RM).

**PROJECT INFORMATION**

**Supervisory District:** 4

**Applicants:** Eastern Sierra Land Surveys on behalf of Leland French

**Landowners:** Leland French

**Community:** Big Pine

**A.P.N.:** 004-070-34

**Existing General Plan:** Residential Medium Density (RM)

**Existing Zoning:** Residential – Single Residence with a 5,800-square-foot (RMH-5,800)

**Surrounding Land Use:** Residential, single-family homes

**Recommended Actions:**

- 1.) **Find the proposed project Tentative Parcel Map No. 415/French and Variance 2017-03/French are exempt from the requirements of the California Environmental Quality.**
- 2.) **Make certain findings with respect to and approve Tentative Parcel Map No. 415/French, subject to Conditions of Approval.**
- 3.) **Waive street improvements and utility installations required by Inyo County Code Section 16.40.10, as permitted.**
- 4.) **Make certain findings with respect to Variance 2017-03/French, subject to Conditions of Approval.**

**Alternatives:**

- 1.) Specify modifications to the proposal and/or the Conditions of Approval.
- 2.) Make specific findings and deny the application.
- 3.) Continue the public hearing to a future date, and provide specific direction to staff regarding additional information and analysis needed.

**Project Planner:**

Cathreen Richards

**BACKGROUND**

On May 18, 2017 an application for a Tentative Parcel Map and rear yard setback Variance was submitted to planning staff. The project proposes to divide a 13,602-square-foot parcel of land in the community of Big Pine subdivision into two parcels: one at 7,686-square-feet and one at 5,916-square-feet. The project also includes a request for a Variance to encroach approximately 16-feet into the required 20-foot rear yard setback.

**STAFF ANALYSIS**

The applicant proposes to subdivide the subject 13,602-square-foot parcel into two parcels (refer to Attachment A). Proposed Parcel 1 is currently vacant and disturbed. Parcel 2 has an existing single family home on it. Both parcels are crossed by an existing dirt driveway. Access to Parcel 1 is provided by School Street and access to Parcel 2 will be provided by School Street and the proposed 20-foot driveway and utility easement, as depicted on TPM 415. The applicant is interested in constructing an addition to the existing single family home in the future and has applied for the Variance to make future improvements compliant with the County's Zoning Code. There is currently no plan to develop Parcel 1. Future development permitted by the RMH-5,800 zone includes: A) one single-family dwelling, including mobile homes; B) Garden, orchard field crop, where no building is involved.

Staff routed the application for TPM 415/French and Variance 2017-03/French to the departments of: Treasurer Tax Collector, Assessor, Environmental Health, and Public Works. There were no comments indicating concern from any of the County Departments regarding the application as submitted. The proposed parcels are within the Big Pine Community Services District that provide for water and waste water services as well as the Big Pine Fire Protection District that provides fire suppression and prevention services.

Land Use Analysis: The proposed parcels are surrounded by residential uses. There is single family home development on each side of the proposed TPM. The division of this property, into two separate parcels, will not alter existing land uses or permitted land uses. New development is not anticipated at this time, but future development can include one family residential or garden, orchard field crops, where no building is involved, in the future. The land surrounding the proposed subdivision is zoned RMH and Multiple Residential (R2) and the majority of it is currently developed. The proposed subdivision is consistent with the residential character and density of the surrounding area as the zoning and land use designations will not change.

General Plan: The Land Use Element designates both parcels as Residential Medium Density (RM). This designation allows for a maximum residential density of 7.5-dwelling units per acre and a minimum of 5,800-square-foot lots; connection to an acceptable sewer and water system is also mandatory for development. The subdivision is consistent with the RM land use designation as both parcels are over 5,800-square-feet and can accommodate one unit each providing for the maximum density. These parcels are within the Big Pine Community Services District that provides for sewer and water. Staff has identified no conflicts with the General Plan.

Zoning: Both Parcel 1 and Parcel 2 have a Zoning designation of RMH-5,800-square-feet. Inyo County Code (ICC) Chapter 18.36.050 states that the RMH district has a minimum average lot width of 50-feet and requires a front yard setback of 25-feet, rear yard of 20-feet and side yards of 5-feet. As illustrated on TPM-415 (Attachment A), Parcel 1 and Parcel 2 both meet the minimum size requirements and are large enough to accommodate the required setbacks; however, Parcel 2 has an existing non-conforming single family home that does not meet the required rear yard setback. A Variance is also being requested by the applicant to make the existing home compliant with ICC 18.36.

Subdivision: ICC Title 16 and the Subdivision Map Act (Government Code Section 66410 et seq.) regulate subdivisions. The proposed lots meet the applicable lot standards and design requirements specified in ICC Chapter 16.16, and the TPM meets the applicable preparation specifications identified in ICC Section 16.20.070 and Chapter 2, Article 3 of the Map Act. Conditions of approval are included to ensure that the final map meets the appropriate requirements specified by ICC Chapter 16.32 and Chapter 2 of the Map Act. Staff recommends that the street and utility improvements required by ICC Section 16.40.010 be waived, as these improvements have not been required for other subdivisions in the area. A condition of approval is included to require such improvements in the future if they become necessary.

Access: Access to Parcel 1 is provided by School Street. Access to Parcel 2 is provided by School Street and a proposed driveway and utility easement across Parcel 1. This access easement is included as a conditional of approval for the Final Map.

Utilities and Public Services: Utilities are already provided to Parcel 2 and Parcel 1 will not require any if it remains undeveloped. If Parcel 1 is developed in the future, increased demands on public services and utilities will be minimal. Water and wastewater services will be provided by the Big Pine Community Services District. The area is within the Big Pine Fire Protection District's boundaries. The project is not expected to cause a large increase in demands on fire protection services and since it is within a Local Fire District it does not require the additional fire findings pursuant to SB-1241.

### **ENVIRONMENTAL REVIEW**

Pursuant to the California Environmental Quality Act (CEQA), the proposal is covered by the General Rule 15061(b)(3) that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA; and Pursuant to the California Environmental Quality Act (CEQA), potential, subsequent, development to this proposal falls into the Categorical Exemption Class 3 New Construction or Conversion of Small Structures (15303)(a) One single-family residence, or a second dwelling unit in a residential zone. . . . may be constructed or converted under this exemption.

### **NOTIFICATIONS**

TPM 415/French and Variance 2017-03/French were noticed in the Inyo Register and sent to the property owners of property within 300-feet of the project, ten days prior to the Planning Commission Hearing. No comments have been received to date.

### **RECOMMENDATIONS – TPM 415/French**

Staff recommends that the Planning Commission find that TPM 415 is exempt under the General Rule 15061 (b) (3) and future development is exempt under Categorical Exemption Class 3; make the findings specified below; and, approve TPM #415/French, subject to Conditions of Approval; and, waive street improvements and utility installations required by ICC Section 16.40.010

### Recommended Findings

1. TPM 415/French is covered by the General Rule 15061(b)(3)  
[Evidence: *the proposed TPM is covered by the General Rule 15061(b)(3) that states CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. This TPM is being conducted without plans for development and therefore will not have a significant effect on the environment.*]
2. Potential subsequent projects following this subdivision are covered by the Categorical Exemption Class 3 New Construction or Conversion of Small Structures (15303)(a)

*[Evidence: projects subsequent to this ordinance will be pursuant to CEQA Guidelines Section 15303 a Categorical Exemption Class 3, One single-family residence, or a second dwelling unit in a residential zone. . . . may be constructed or converted under this exemption. The General Plan designation of Residential Medium Density allows for 7.5 units per acre restricting future development to 1-unit.]*

3. Based on substantial evidence in the record, the Planning Commission finds that TPM 415 is in conformance with the Inyo County General Plan, the Inyo County Zoning Ordinance, and the Inyo County Subdivision Ordinance, and the State Subdivision Map Act.  
*[Evidence: The proposed Parcel 1 and Parcel 2 are consistent with the Residential Medium Density (RM) General Plan designation, as it provides for single-family residential development at a maximum of 7.5-dwelling units per acre. Both Parcels also meet the RMH-5,800-square-foot minimum parcel size 5,800-square-feet and width requirement of 50-feet. The applicant has also applied for a rear yard Variance to make Parcel 2 compliant with the rear yard setback requirement (20-feet) of the District. The proposed lots meet the applicable requirements specified in ICC Chapter 16.16, and meet the applicable requirements of ICC Section 16.20.070 and Chapter 2, Article 3 of the Map Act. ICC Section 16.40.010 has been met as street and utility improvements required by ICC Section 16.40.010 may be waived, and since these improvements have not been required for other subdivisions in the area, waiving them is appropriate. A condition of approval is included to require such improvements in the future if they become necessary. Conditions of approval are included to ensure that the final map meets the appropriate requirements specified by ICC Chapter 16.32 and Chapter 2 of the Map Act.]*
4. Based on substantial evidence in the record, the Planning Commission finds that the site is physically suited for the proposed type and density of development, and finds that the existing and planned public facilities and services are adequate to meet the needs of the proposed project.  
*[Evidence: The project is consistent with the residential character of the surrounding area and potential future development will not create high demands on public services and utilities. Water and wastewater services provided by the Big Pine Community Services District will adequately provide for potable water and wastewater treatment for potential future development. The project is not expected to increase demands for fire protection services, but is located within the boundaries of the Big Pine Fire Protection District. TPM 415 has been routed to appropriate County departments and no comments were received that required changes or conditions be added to the project.]*
5. Based on substantial evidence in the record, the Planning Commission finds that the design of the subdivision or the types of improvements will not conflict with easements acquired by the public at large for access through or use of property within the proposed subdivision, or alternate easements have been provided.  
*[Evidence: Parcel 1 is provided access by School Street and access to Parcel 2 is provided by School Street and the proposed 20-foot easement for a driveway and utilities as depicted on TPM 415 is included as a condition of approval for the Final Map. Existing utility (water, electric) easements will not be affected by the subdivision.]*
6. Based on substantial evidence in the record, the Planning Commission finds that the design or proposed improvements are not likely to cause substantial environmental damage, or

substantially and avoidably injure fish, wildlife, or their habitat, or cause serious public health, welfare, or safety problems.

*[Evidence: As indicated by the Exemption the project will not result in substantial impacts to the physical environment or human beings, either individually or cumulatively, or directly or indirectly. The subdivision itself will not result in physical modifications and no changes in permitted uses are proposed.]*

7. Based on substantial evidence in the record, the Planning Commission finds that no significant impacts to native vegetation or wildlife will result from the proposed project.  
*[Evidence: As indicated by the Exemption, the subdivision will not result in direct impacts. If Parcel 1 is developed in the future, the subdivision's potential indirect impacts to native vegetation and wildlife are expected be limited and the project's incremental contribution to modifying the physical environment will be insignificant.]*

#### Conditions of Approval

- 1.) A Final Parcel Map in substantial conformance with the approved TPM meeting applicable requirements of ICC Chapter 16.32 and Chapter 2 of the Subdivision Map Act shall be filed for recordation within two years from the date of approval by the Planning Commission, unless a request for a time extension request per ICC Section 16.20.110 is received prior to that date and approved.
- 2.) A 20-foot, legal, on-site, access easement from School Street to Parcel 2, shall be created as illustrated on TPM 415 prior to recordation of the Final Parcel Map.
- 3.) The applicant, landowner, and/or operator shall defend, indemnify and hold harmless Inyo County, its agents, officers and employees from any claim, action or proceeding against the County, its advisory agencies, appeal boards, or its legislative body concerning TPM No. 415/French or applicant's failure to comply with conditions of approval.
- 4.) Payment of any delinquent and/or due taxes or special assessments shall be made to the satisfaction of the Inyo County Treasurer/Tax Collector prior to recordation of the Final Parcel Map.
- 5.) The applicant and its successors in interest shall improve or contribute appropriately towards the construction of all streets and utilities within and serving the subdivision per applicable standards, as may be required by the County in the future.

#### **RECOMMENDATIONS – Variance 2017-03/French**

##### Findings

Staff has reviewed this application and can find that all seven of the required Findings for the approval of a Variance can be affirmed:

1. That there are exceptional circumstances applicable to the property involved, or to the intended use, which do not generally apply to other property in the same district.  
*[Affirmative – Evidence: The property is zoned Residential - Single Residence Mobile Home Combined (RMH), which requires a 5,800-square foot minimum and, a front yard setback of 25-feet, rear yard setback of 20-feet and side yards of 5-feet. The pre-existing*

*house located on Parcel 2 that owner is trying to save was built at its current location prior to 20-foot setback requirement. There are other properties in the area that are clearly also not meeting the setback requirements of the RMH District. This parcel is unique to the area and to the majority of single family homes in the County because of the limitations created by the original placement of the existing home before the current setback requirements.]*

2. That the result would not be detrimental to the public welfare, or injurious to property in the vicinity.

*[Affirmative – Evidence: This variance request to encroach into the rear yard setback will not result in allowing for activities that are unusual to the surrounding neighborhood and it would not be detrimental or injurious to either public welfare or other properties in the vicinity as it is a single family residence in a residential neighborhood. The shorter rear yard will also not create privacy or encroachment issues with the adjoining property as it abuts a large side yard of the neighboring property.]*

3. That the strict application of the regulation sought to be modified would result in practical difficulties or hardships inconsistent with, and not necessary for the attainment of, the general purposes of this title.

*[Affirmative – Evidence: Parcel 2 is limited by its original placement on the property that cannot be amended without picking up and moving the entire house north. This creates a situation where the setback requirements for the RMH zone cannot be met without severe difficulties and hardships that are inconsistent with the general purposes of this Title. Granting a variance to encroach 14-feet into the rear yard setback would still allow the general purposes of Title 18.30 of the Zoning Code to be fulfilled, as the encroachment would not change the medium-density, single-family, residential character or use of the property. It is also correcting a situation that is not compliant with the Zoning Code to one that is, by allowing for the Variance.]*

4. The proposed variance does not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which the property is situated.

*[Affirmative – Evidence: Parcel 2 is limited based on how the existing home was placed on the property prior to the current set back requirements. There are other homes located in the vicinity of Parcel 2 that also do not meet the front or rear yard setback requirements of the RMH District. For these reasons, the requested variance to encroach into the rear yard setback cannot be said to constitute a grant of special privileges. It would, instead, allow the property owners the ability to use their property in the same manner as the other properties in the vicinity and cause it to be compliant with the County's Code.]*

5. The proposed variance does not authorize a use or activity that is not otherwise expressly authorized by the zoning regulation governing the parcel of property.

*[Affirmative – Evidence: The proposed variance applies to rear yard setback requirements. The proposed residential use is permitted in the RMH Zone and will not change.]*

6. The proposed variance is consistent with the Inyo County General Plan

*[Affirmative – Evidence: The requested variance presents no inconsistencies with the General Plan land use designation of the project site, which is Residential Medium Density (RM) 7.5du/acre maximum.]*

7. The requirements of the California Environmental Quality Act have been met.  
*[Affirmative – Evidence: The requested variance is not subject to the provisions of CEQA, being categorically exempt under Class 5.]*

**Attachments**

- A. Tentative Map.