

RESOLUTION NO. 2004-905

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CALABASAS, CALIFORNIA, DENYING VARIANCE NO. 99-06 AND APPROVING SITE PLAN REVIEW NO. 02-39 AND OAK TREE PERMIT NO. 99-16 TO CONSTRUCT A 3,986 SQUARE FOOT SINGLE FAMILY RESIDENCE WITH AN ATTACHED GARAGE IN THE OLD TOPANGA OVERLAY ZONE ON A PARCEL LOCATED AT 3420 DOROTHY ROAD.

Section 1. The City Council has considered all of the evidence submitted into the administrative record which includes, but is not limited to:

1. Staff reports prepared by the Planning Division.
2. Staff presentations at the Public Hearings held on July 9, 2003, August 20, 2003, September 17, 2003, October 1, 2003, and October 6, 2004.
3. City of Calabasas Land Use and Development Code, the General Plan, and all other applicable regulations and codes.
4. Public comments, both written and oral, received and/or submitted at or prior to the public hearing, supporting and/or opposing the applicant's request.
5. Testimony and/or comments from the applicant and their representatives submitted to the City in both written and oral form at or prior to the public hearing.
6. All related documents received and/or submitted at or prior to the public hearing.
7. Recommendations by the Design Review Panel and Planning Commission.

Section 2. Based on the foregoing evidence, the City Council finds that:

1. The applicant submitted an application for a Site Plan Review, Variance, and Oak Tree Permit on August 16, 1999.
2. Within thirty (30) days of the submittal of the variance application to the Community Development Department, staff determined that the application was incomplete. On November 20, 2002, the application was deemed complete and the applicant was notified.
3. Notice of the January 23, 2003 and April 24, 2003 Planning Commission public hearings were posted at Juan de Anza Bautista Park, Calabasas Tennis and Swim Center, Gelson's and at Calabasas City Hall.
4. Notice of the Planning Commission public hearing was published in the *Acorn* ten (10) days prior to the hearing.

5. Notice of the Planning Commission public hearing was provided to property owners within 500 feet of the property as shown on the latest equalized assessment roll.
6. Notice of the Planning Commission public hearings were mailed or delivered at least 10 days prior to the hearing to the project applicant.
7. The Planning Commission held public hearings on this item on January 23, 2003 and April 24, 2003, and subsequently adopted Planning Commission Resolution No. 03-277 denying Variance No. 99-06 and approving Site Plan Review No. 02-39 and Oak Tree Permit No. 99-16 on May 8, 2003.
8. On May 16, 2003, the appellant appealed the Planning Commission decision to the City Council for review.
9. Notice of the July 9, 2003, August 20, 2003, September 17, 2003, October 1, 2003 and October 6, 2003 City Council public hearings were posted at Juan de Anza Bautista Park, the Calabasas Tennis and Swim Center, Gelson's market and at Calabasas City Hall.
10. The City Council held public hearings on this item on July 9, 2003, August 20, 2003, September 17, 2003, October 1, 2003 and October 6, 2004.
11. At the October 1, 2003 City Council Public Hearing, the City Council approved a Memorandum of Understanding between and acceptable to the City and the Applicant with deal points regarding the proposed development, and continued the item to a date uncertain so that the applicant may submit revised project plans for review by the City Staff, and brought back to the City Council for action.
11. The current zoning of the project site Rural Community - Old Topanga Overlay (RC-OT). This zoning designation permits the construction of one single-family residence with appurtenant residential structures suitable for the size and topography of the project site.
12. The General Plan Land Use designation for the subject site is Rural Community (RC).
13. The subject site address is 3420 Dorothy Road, Calabasas, California.
14. The surrounding land use is Rural Residential to the north, Hillside Mountainous to the east, and Rural Community to the west and south.
15. The applicant requested approval for a lot merger and the construction of a 3,986.5 square foot residence with an attached garage at 3420 Dorothy Road.
16. Notice of the City Council public hearing included the notice requirements set forth in Government Code Section 65009 (b)(2).

Section 3. In view of all of the evidence and based on the foregoing findings,

the City Council concludes as follows:

Site Plan Review

1. The proposed use is conditionally permitted within the applicable zoning district and complies with all applicable provisions of this Development Code in that the Rural Community/Old Topanga Overlay Zone allows for single-family residential uses. As depicted in the Staff Report matrix, the proposed single-family home is either consistent with all applicable Development Code requirements, or has been conditioned to comply with Development Code requirements.
2. The proposed use is consistent with the General Plan, any applicable Specific Plan, any special design theme adopted by the City for the site and vicinity in that the proposed project complies with the floor area ratio requirement for the Old Topanga Overlay Zone and is compatible, if not smaller in size than the surrounding neighborhood homes. The use of stucco siding and stone veneer will provide rustic cladding and design elements for the residence, which will assist in facilitating this residence blending into the neighborhood. This design preserves the semi-rural character of this neighborhood. In addition, the residences have been sited to preserve the existing oak trees in the area which contributes to the rustic cladding and design elements for the neighborhood.

Applicable design guidance is found in General Plan Chapter III (Land Use) Policy A.3 (points 2 and 3). The applicable General Plan goals are to promote an assembly of distinct urban residential neighborhoods, rural communities, and rural residential areas which encompass a range of housing types that are visually attractive and compatible in intensity, dwelling unit size, and structural design with the need to protect the surrounding natural environment and to meet the needs and suit the small town and rural lifestyles of the present and future residents (Policy A.3). In addition, development should maintain and enhance community character by promoting distinctive buildings that contribute to, rather than detract from Calabasas's semi-rural character (Policy C.2 - point 6), establish an architectural and siting design theme which is compatible with surrounding existing and planned developments, and include: 1) a relationship to prominent design features existing in the immediate area; 2) a relationship to existing structures; and 3) the natural environment (Policy C.5), ensure that new development is aesthetically compatible with the area's natural environment, and that it contributes to a positive image for the City (Policy C.12), and maintain the small scale, semi-rural character of existing neighborhoods (Policy C.15). To this end, the rustic cladding and design elements included in this proposal ensure consistency with the applicable General Plan Policies.

3. The approval of the Site Plan Review for the proposed use is in compliance with the California Environmental Quality Act (CEQA). This project is Categorically Exempt from the California Environmental Quality Act Guidelines adopted by the City of Calabasas on June 6, 2001 pursuant to Section 204(c), Class 3(1): 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. The number of structures described in this section are the maximum allowable on any legal parcel.
4. The proposed structures, signs, site development, grading, and/or landscaping are compatible in design, appearance, and scale, with existing uses, development, signs, structures, and landscaping for the surrounding areas in that the proposed single-family residence is located within the Old Topanga Overlay Zone (a single family residential neighborhood). The existing neighborhood is comprised of a handful of residences, sparsely distributed within an oak wooded valley, which vary extensively in architectural style. The proposed construction complies with all Development Code and Overlay provisions and is compatible in design, appearance, and scale with existing homes in the neighborhood. Furthermore, given the eclectic architectural nature of the community, this residence with the proposed stucco siding and stone veneer, will blend in with the rustic design elements of the neighborhood.
5. The site is adequate in size and shape to accommodate the proposed structures, yards, walls, fences, parking, landscaping, and other development features in that the Old Topanga community was subdivided prior to the adoption of the Land Use and Development Code. The Old Topanga (OT) Overlay Zone incorporates specific standards (setbacks, height limits and a floor area ratio) that establish a reasonable building envelope. In addition, the Old Topanga Overlay Zone includes more stringent standards for the design of septic systems. The proposed project complies with all design and infrastructure standards.
6. The proposed project is designed to respect and integrate with the existing surrounding natural environment to the maximum extent possible in that the Old Topanga (OT) overlay zone incorporates specific standards (setbacks, height limits and a floor area ratio) that establish a reasonable building envelope. The proposed project complies with these development standards. The proposed use of stucco siding and stone veneer help blend the structure into the rustic feel of the oak wooded valley. In addition, the residence was designed to be notched into the existing hillside, and is stepped back toward the hillside on the all three levels to help reduce visual impact of a high, continuous wall on the front elevation.

Oak Tree

1. The request to Alter or Encroach within the Protected zone of an Oak Tree or Scrub Oak Habitat is warranted to enable reasonable and conforming use of the subject property, which is otherwise prevented by the presence of the Oak Tree of Scrub Oak Habitat. In addition, alterations and encroachments can be performed without significant long-term adverse impacts to the Oak Tree or Scrub Oak Habitat. A Heritage level Oak tree exists to the northwest of the subject property, with a protected zone (50 feet from trunk) that covers the entire frontage of the subject lot. Since placement of a residence on the subject lot requires an access driveway, it would be impossible to place a driveway on the parcel without encroaching into the protected zone of the Oak tree. In addition, this encroachment has been reviewed by the City Arborist and Tree Board and the review entities have determined that the long term health would not be compromised by the construction of a driveway.

Variance - Denial

2. That there are special circumstances applicable to the property (i.e. size, shape, topography, location or surroundings), such that the strict application of this Chapter denies the property owner privileges enjoyed by other property owners in the vicinity and under identical zoning districts. The proposed project was originally sited not to comply with the side yard setback due to the narrowness of the lot (40 feet wide). Because the latest proposal is to merge the two existing lots into one larger and wider lot, the resulting lot has ample area to site a residence without encroachment into the City's required side yard setback. To this end, a variance for a reduced side yard setback is not warranted and the project is to be redesigned with a slightly reduced garage width.

Section 4. In view of all of the evidence and based on the foregoing findings and conclusions, the City Council hereby denies Variance No. 99-06 and approves Site Plan Review No. 02-39 and Oak Tree Permit No. 99-16 based on those findings cited above and incorporating the conditions contained below:

I. INDEMNIFICATION AGREEMENT

The Developer shall defend, indemnify and hold the City and its elective and appointed boards, commissions, officers, agents and employees harmless from and against all demands, liabilities, costs (including attorneys' fees), or damages claimed by third parties against the City which were incurred by said third parties as a result of the City's negligence regarding the review and/or approval of the design, construction, geologic conditions, operation or maintenance of the approved project described herein.

In the event a legal challenge is made to the City's approval of the Site Plan Review, Oak Tree Permit, approval of the proposed septic system, and approvals by the City's geological/geotechnical reviewer, the developer shall indemnify, hold harmless, pay all costs, including attorneys' fees and provide a defense for the City and its elective and appointed boards, commissions, officers, agents and employees in such action.

II. PLANNING DIVISION CONDITIONS

1. All project conditions and mitigation measures shall be imprinted on the title sheet of the construction drawings. The approved set of plans shall be retained on-site for review by Building Inspectors during the course of construction.
2. This permit shall become null and void if not exercised within one year of the date of final action. The permit may be extended in accordance with Title 17 Land Use and Development Code, Article VI - Land Use and development Permits.
3. This grant shall not be effective for any purposes until the applicant and the owner of the property involved (if other than the owner) have filed, with the office of the Community Development Department an affidavit recorded as a covenant agreement with the County of Los Angeles stating the applicant and the owner are aware of and agree to accept all conditions of approval.
4. The subject property shall be developed, maintained, and operated in full compliance with the conditions and mitigation measures of this grant and any law, statute, ordinance or other regulation applicable to any development or activity on the subject property. Failure of the applicant to cease any development or activity not in full compliance shall be a violation of these conditions.
5. Violation of any of the conditions of this permit shall be cause for revocation and termination of all rights thereunder.
6. Prior to any use or occupancy of the project site, all conditions of approval and mitigation measures shall be completed to the satisfaction of the Director of Community Development.
7. Prior to the Issuance of Building Permits, improvement/construction plans shall be submitted to the Engineering, Traffic Engineering, Planning and Building and Safety Departments for review and approval, as required by the conditions of approval.
8. Construction Activities:

Hours of construction activity shall be limited to:

7:00 a.m. to 6:00 p.m., Monday through Friday

8:00 a.m. to 5:00 p.m., Saturday

Stacking of construction worker vehicles, prior to 7:00 a.m. in the morning will be restricted to areas that do not adversely effect adjacent property owners.

The applicant shall notify the City Traffic Manager of the construction employee parking locations, prior to commencement of construction.

PROJECT MODIFICATIONS

1. Prior to submittal of the project plans to the Department of Building and Safety for Building Plan Check, the applicant shall revise the project plans to provide a 16 foot wide driveway pursuant to Section 17.20.130(E)(1) of the Development Code.
2. Prior to submittal of the project plans to the Department of Building and Safety for Building Plan Check, the applicant shall revise the project plans to reflect that all retaining walls do not exceed a height of 6 feet pursuant to Section 17.20.090(B)(3) of the Development Code.
3. Prior to the submittal of the project plans to the Department of Building and Safety for Building Plan Check, the final project plans, including all modifications shall be reviewed and approved by the City Arborist and Tree Board. Any additional mitigation measures shall be incorporated into the project, as required.

LOT MERGER

1. Prior to the issuance of grading or building permits, the applicant shall submit an application for review and approval by the City of a lot line adjustment application to merge the two subject lots into one legal lot of record.

EASEMENTS

1. Prior to the final inspection and release of the project site for the approved use, the applicant shall record a conservation easement, for the purpose of preserving and protecting "Conservation Values" of the subject property, in form and content acceptable to the City and the organization or body accepting responsibility for management of said property. Said conservation easement shall retire all rights of the applicant to construct a second house on the two previously existing lots. Any and all liens on the subject lots shall be subordinate to the conservation easement.
2. Prior to the final inspection and release of the project site for the approved use, the applicant shall record an easement, in an acceptable form and content to the City, granting reasonable access to the rear of the subject site for both the abutting property owner to the south (currently, the Moellers) and the City for the purpose of performing fuel modification as required by the Los Angeles County Fire Code, or any Fire Code adopted by the City of Calabasas.

AESTHETIC AND VISUAL

1. The proposed home shall be built in accordance with the final approved project plans (with amendments referenced above) which include site plans,

conceptual landscape plans, building elevations, visual simulations and colors and materials sample board.

2. Prior to the submittal of the project plans to the Department of Building and Safety for Building Plan Check, the applicant shall submit all plans indicating all final colors and building materials to the Director of Community Development for review and approval. All colors and building materials shall be consistent with those approved by the Planning Commission.

LIGHTING

1. Lighting for this project shall be consistent with the City's Lighting Ordinance and the Scenic Corridor Ordinance. A plan (including fixture details and height) must be submitted for final approval by the Director of Community Development prior to building permit issuance.

LANDSCAPING

1. Prior to the issuance of a Final Building Department inspection sign-off, the applicant shall submit a final landscape plan to be reviewed and approved by the Director of Community Development that is consistent with the preliminary landscape plan, and further adds provisions to ensure that all graded and disturbed areas are landscaped and all proposed retaining walls are screened to the maximum extent feasible.
2. The plant palette shall not include any plants known to be invasive to the Santa Monica Mountains.
3. Plant materials shall emphasize native and naturalistic plant materials to the satisfaction of the City Arborist and the Director.

OAK TREES

1. Prior to the start of construction, Oak Tree Number 1 (as indicated on the Oak Tree Location Map dated June 5, 2002, shall be fenced at the edge of the protected zone to the extent feasible in accordance with the Oak Tree Preservation and Protection guidelines. The applicant shall obtain an approved fencing inspection by the City Arborist prior to the start of any work.
2. No pruning of live wood is permitted.
3. The applicant shall provide a forty-eight (48) hour notice to the City and the applicant's oak tree consultant prior to the start of any approved work within the protected zone of any oak tree.
4. All approved excavation performed within the protected zone of any oak tree shall be performed with hand tools under the direct supervision of the applicant's oak tree consultant.
5. No construction materials, debris or vehicles shall be stored within the protected

zone of any oak tree at any time, except as absolutely required to complete the approved project.

6. Unless specifically approved by the City, no planting or irrigation shall be placed within the protected zone of any oak tree.
7. At the completion of construction, the applicant shall place three inches (3") of an approved mulch throughout the dripline of the oak tree, to the extent feasible.
8. Within ten (10) days of the completion of work the applicant's oak tree consultant shall submit written certification to the City. The certification shall describe all work performed and whether such work was performed in accordance with the above permit conditions.

III. Public Works Conditions

1. The owner, at the time of issuance of permits or other grants of approval shall agree in writing to develop the property in accordance with City codes and other appropriate ordinances such as the Building Code, Plumbing Code, Grading Code, Highway Permit Ordinance, Mechanical Code, Zoning Ordinance, Under grounding of Utilities Ordinance, Sanitary Sewer and Industrial Waste Ordinance, Electrical Code and Fire Code.

STREET IMPROVEMENTS

1. Prior to any work being performed within the City right-of-way of Dorothy Road, the applicant shall obtain an encroachment permit from the City .
2. The applicant shall construct the residential driveway in conformance with the APWA standard for Public Works Construction (modified). The driveway should be designed and constructed to allow for future northerly right-of-way widening of Dorothy Road.

GRADING, DRAINAGE & GEOLOGY

1. The applicant shall submit to the City Engineers office a grading plan and soils report for review and approval prior to issuance of a grading permit.
2. The applicant shall post a grading bond with the City prior to issuance of a grading permit.
3. The applicant's grading plan shall be based on a detailed engineering geotechnical report which must be specifically approved by the consultant City geologist and/or soils engineer and show all recommendations by applicants geologist. It must also agree with the conditions as approved by the Planning Commission.
4. The applicant shall eliminate all geologic hazards associated with this proposed development, or delineate a restricted use area approved by the consultant geologist to the satisfaction of the City Engineer and dedicate to the City the right

to prohibit the erection of buildings or other structures within the restricted use areas

5. The applicant shall provide for contributory drainage from adjoining properties and return drainage to its natural conditions as approved by the Planning Department or secure off-site drainage acceptance letters from affected property owners.
6. Grading operations involving the hauling of dirt shall be controlled and reasonable efforts to avoid the spillage of dirt onto Public Streets shall be enforced. The grading contractor shall maintain on site at all times a means of preventing blowing dust, acceptable to staff, within the project site and onto adjacent properties.
7. The applicant shall comply with the Geologist's recommendations in the Geology Report for restrictions on watering, irrigation, planting and recommended types of plants.

NPDES/BUILDING PERMIT

1. The developer shall comply with all NPDES requirements.
2. The developer shall submit a copy of the Storm Water Pollution Prevention Plan (SWPPP) of the NPDES improvements/requirements to the City Engineer. The SWPPP shall be on the project site at all times during construction.
3. Thirty days prior to any soil disturbance occurring from November 1 through April 15, the applicant shall be required to submit an Erosion Control Plan to the City Engineer for review. The Erosion Control Plan shall be installed on site before November 1 to the satisfaction of the City Engineer.

ENVIRONMENTAL HEALTH (SEPTIC)

1. The final approved septic system design shall be reviewed and approved by the Community Development Director and shall include measures to provide emergency electricity (solar battery storage or generators), back flow prevention to ensure that the septic system will be fully operational and safe from accidental wastewater release, and shall include the use of a distribution box to more evenly distribute effluent among all seepage pits.
2. Prior to the issuance of a grading or building permit, the applicant shall submit a revised septic design plan to the Community Development Department indicating the placement of the seepage pits on currently existing northern property (away from the southerly abutting property owner's property), consistent with the proposed project plans dated September 24, 2004.
3. The applicant or subsequent property owners shall remove built up solids in the seepage pits a minimum of once annually and submit annual reports to the City indicating that this work has taken place. The report shall include a description of the work performed.

Section 5. In view of all of the evidence and based on the foregoing findings and

conclusions, the City Council hereby denies Variance No. 99-06 and approves Site Plan Review No. 02-39 and Oak Tree Permit No. 99-16, a request to construct a 3,986 square foot single-family home with an attached garage, and to encroach with the protected zone of one Oak tree at the property located at 3420 Dorothy Road.

The City Clerk shall certify to the adoption of this resolution and shall cause the same to be processed in the manner required by law.

PASSED, APPROVED AND ADOPTED this 6th day of October, 2004.

ATTEST:

Michael Harrison, Mayor

Mark Jomsky, Deputy City Clerk

APPROVED AS TO FORM:

Michael G. Colantuono, City Attorney