

**RESOLUTION NO. 2014-1402**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CALABASAS APPROVING FILE NO. 120000173 TO LEGALIZE THE CONSTRUCTION OF A 2,490 SQUARE FOOT GROUND-FLOOR ADDITION (BUILT WITHOUT PERMITS) TO AN EXISTING ONE-STORY 11,021 SQUARE FOOT SINGLE FAMILY RESIDENCE. THE PROJECT INCLUDES REQUESTS FOR THE FOLLOWING: (1) A SITE PLAN REVIEW FOR THE CONSTRUCTION OF THE 2,490 SQUARE FOOT ADDITION, (2) A SCENIC CORRIDOR PERMIT FOR DEVELOPMENT WITHIN A DESIGNATED SCENIC CORRIDOR , (3) A DEVELOPMENT PLAN TO ESTABLISH NEW SETBACKS FOR DEVELOPMENT LOCATED WITHIN THE OPEN SPACE (OS) ZONING DISTRICT, (4) AN OAK TREE PERMIT FOR THE ENCROACHMENT INTO THE PROTECTED ZONE OF ONE (NON-HERITAGE) OAK TREE, AND (5) A VARIANCE REQUEST FOR DEVELOPMENT WITHIN 50 HORIZONTAL FEET AND 50 VERTICAL FEET OF A DESIGNATED SIGNIFICANT RIDGELINE. THE SUBJECT SITE IS LOCATED AT 24107 SAINT ANDREWS LANE, WITHIN THE OPEN SPACE (OS) ZONING DISTRICT.**

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

1. Agenda reports prepared by the Community Development Department.
2. Staff presentation at the public hearing held on April 9, 2014, before the City Council.
3. The City of Calabasas Land Use and Development Code, 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 its 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. Planning Commission Resolution 2014-565 recommending approval to the City Council of File No. 120000173.

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

1. The applicant submitted an application for a Site Plan Review, a Scenic Corridor Permit, and a Development Plan on February 17, 2012. The applicant also submitted an Oak Tree Permit application on April 1, 2013 and a Variance application on October 24, 2013.
2. On March 15, 2012, staff determined that the application was incomplete and the applicant was duly notified of this incomplete status.
3. On January 23, 2014, the application was deemed complete and the applicant was notified.
4. Notice of the April 9, 2014 City Council public hearing was posted at Juan Bautista de Anza Park, the Calabasas Tennis and Swim Center, Gelson's market, the Agoura/Calabasas Community Center, and at Calabasas City Hall.
5. Notice of the April 9, 2014, City Council 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 City Council public hearing was mailed or delivered at least ten (10) days prior to the hearing to the project applicant.
7. The project site is currently zoned Open Space (OS).
8. The land use designation for the project site under the City's adopted General Plan is Open Space – Resource Protected (OS-RP).
9. The surrounding land uses around the subject property are zoned Open Space (OS), Residential, Mobile Home (RMH), Open Space – Development Restricted (OS-DR), and Residential Single-Family (RS).
10. Notice of 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:

### **FINDINGS**

Section 17.62.070(D) Calabasas Municipal Code allows the City Council to approve a **Development Plan Permit** provided that the following findings are made:

- 1. The proposed use is conditionally permitted within the subject zoning district and complies with all of the applicable provisions of this Development Code;*

One single-family home and ancillary uses are allowed in the Open Space (OS) zone pursuant to Section 17.16.020 of the Land Use and Development Code. The parcel is already developed with a one-story, 24 foot high single-family residence previously approved by the City Council through a Development Plan application. For development within the Open Space zoning designation, only the height requirement of 25 feet (maximum) is a stated fixed measurement. The proposed addition to the residence is a maximum of 19 feet at its highest point, and therefore the proposed addition meets this requirement. All other standards are set through the Development Plan process. In this case, the Development Plan process will alter the originally approved street side yard and rear yard setbacks. Approval of the Development Plan application, therefore, establishes code compliant setbacks. To this end, because the use as a single-family residence is an allowed use and the code allows modification of development standards via a Development Plan, the proposed use meets this finding.

- 2. The proposed use is consistent with the General Plan and any applicable specific plan or master plan;*

The proposed project meets this finding because the General Plan Land Use Designation for this parcel is OS-RP (Open Space-Resource Protected) and residential land uses are consistent with this land use designation. The subject parcel is the one of four properties zoned Open Space (OS) within the Saint Andrews Lane gated subdivision and is surrounded by both residential development and vacant property zoned Open Space-Development Restricted (OS-DR). The proposed addition to the existing single-family residence does not alter the residential use on the subject property. In addition, total development of the site will only utilize 1.2 percent of the site, leaving 98.8 percent of the size as open

space. Therefore, the project meets this finding.

3. *The approval of the development plan for the proposed use is in compliance with the California Environmental Quality Act (CEQA); and*

The project is exempt from environmental review in accordance with Section 21084 of the California Environmental Quality Act (CEQA) and Section 15301(E)(2) (Existing Facilities) of the CEQA Guidelines because the proposed project consists of constructing less than 10,000 square feet in an area where all public services and facilities are available to allow the maximum development permissible in the General Plan and the new addition is not adversely impacting a protected viewshed or any sensitive resources. Therefore, the project meets this finding.

4. *The location, design, scale and operating characteristics of the proposed use are compatible with the existing and anticipated future land uses in the vicinity.*

The subject property is located within a gated four-lot subdivision on Saint Andrews Lane. Both existing and future anticipated land uses in the vicinity are all residences. The applicant is requesting approval of a 2,490 square foot garage addition to the existing 11,021 square-foot residence via a Development Plan application. A Development Plan application is utilized to establish the setback standards within the Open Space zoning district. Development of the proposed addition is on an already developed pad location, and will decrease the street side yard and the rear yard setbacks of the overall development. However, the subject site is exceptionally large (26.2 net acres) and existing development is setback a minimum distance of 166 feet from property lines at its closest point. Additionally, although the addition will decrease the street side setback from 523 feet to 488 feet and the rear yard setback from 814 feet to 767 feet, no setback will be decreased to a distance less than the existing 166 foot setback from the nearest property boundary at its closest point, which is the side yard setback. Therefore, the addition will leave more than adequate separation between the subject residence and adjacent development.

The subject site is also situated in a designated scenic corridor, and any development has the possibility to impact views from Mulholland Highway. In this case, the existing residence included the construction of a landscaped berm to conceal the development from Mulholland Highway. The proposed addition will be sited on the developed pad, behind the landscaped berm and blocked from view from Mulholland Highway. Because of this, the addition will also be concealed from Mulholland

Highway and will not impact any views from existing or future residential uses in the vicinity. Additionally, the landscaping on the existing berm will be improved pursuant to the preliminary landscaping plan, further cloaking the development from view from Mulholland Highway. Further, The City's Architectural Review Panel (ARP) reviewed the project and recommended approval of the proposed design, citing that the addition was designed consistent with the style, colors and materials of the existing residence, was consistent with the Scenic Corridor Design Guidelines and that the residence (including the proposed addition) will not be visible. For these reasons, the development is compatible with the location, design, scale and operating characteristics of existing and future land uses in the vicinity and the project meets this finding.

Section 17.62.050(D) Calabasas Municipal Code allows the City Council to approve a **Scenic Corridor Permit** provided that the following findings are made:

- 1. The proposed project design complies with the scenic corridor development guidelines adopted by the council;*

The proposed project site is located adjacent to Mulholland Highway, a designated Scenic Corridor. As such, proposed development must comply with the Scenic Corridor Development Guidelines. The City has adopted the Scenic Corridor Design Guidelines to ensure that development is sited and designed in such a way as to not adversely impact views from the scenic roadway. The guidelines do this by requiring the use of design techniques including the use of pitched roofs, roofs of a medium to dark color, avoidance of large, blank, straight facades, and the use of landscaping to help blend development. The existing residence, approved by City Council in 2003 was approved consistent with the scenic corridor design guidelines. The residence was designed to be one-story, generally with a height between 18 and 20 feet (with some architectural elements projecting up to 24 feet in height), and with a medium-colored (Spanish tile) pitched roof. Development of the site, although on a designated significant ridgeline, was graded to include a berm south of the residence to help conceal the development. To further conceal the development, landscape elements were placed on the berm so that over time, as the landscaping matures, the minimal portions of the development that were still visible would blend even more.

The proposed addition is one-story (ranging from 12 to 19 feet in height, and designed to match the style, earth-toned colors and materials of the existing residence. It is situated on the developed portion of the site and in an area concealed by the existing landscaped berm. In this respect,

the addition will be screened from Mulholland Highway so that no visual impacts will occur. Additionally, the preliminary landscape plan proposes enhancing the landscaping on the berm so that further concealment of the development will occur. Furthermore, the project has been conditioned so that a final landscape plan will be submitted to the Community Development Director in case additional adjustments need to be made. Therefore, the project meets this finding.

2. *The proposed project incorporates design measures to ensure maximum compatibility with and enhancement of the scenic corridor;*

The proposed project is visible from Mulholland Highway, which is a designated Scenic Corridor. The original residence was designed as a one-story residence, included design elements such as earth-toned colors, wood accents, pitched roof elements, use of stone veneer and also included a landscape berm to conceal the development from Mulholland Highway. The addition is designed to match the style, colors and materials of the residence and is situated behind the landscape berm so that it is also concealed as viewed from Mulholland Highway. Furthermore, landscaping enhancements have been proposed on the berm to further conceal the development from Mulholland Highway. Therefore, the project meets this finding.

3. *The proposed project is within a rural or semi-rural scenic corridor designated by the General Plan, and includes adequate design to ensure the continuing preservation of the character of the surrounding area;*

The project site is situated in a rural scenic corridor. Design elements (as discussed above) have been incorporated to preserve the character of the surrounding area. The City's Architectural Review Panel (ARP) reviewed the project and recommended approval of the proposed design, citing that the addition was designed consistent with the style, colors and materials of the existing residence and that the residence (including the proposed addition) will not be visible. Therefore, the project meets this finding.

4. *The proposed structures, signs, site development, grading, and/or landscaping related to the proposed use are compatible in design, appearance, and scale, with existing uses, development, signs, structures, and landscaping of the surrounding area.*

The subject site is located within an existing developed single-family residential neighborhood on Saint Andrews Lane. The community of Saint Andrews Lane is a self-contained gated community consisting of four developed lots. The remaining three parcels in the neighborhood

have an average parcel size of approximately 8.5 acres and an average house size of 4,176 square feet (excluding garages). Consequently, the floor area ratios of the three remaining parcels range from 0.006 to .037.

The subject parcel has a residence that is 8,804 square feet, includes 2,217 square feet of garages, and is proposing to add an additional 2,490 square feet of garage space for a total of 13,511 square feet of development. It is currently, and still will be the largest development within the neighborhood by size alone. However, the subject parcel is also 26.2 (net) acres in size, and therefore, the floor area ratio of the project site (even with garage space included) is 0.012 which is well within the floor area ratio of the community (which was calculated not using garage space), and therefore is consistent with the neighborhood. Furthermore, the existing residence is over 200 feet away from the nearest residence and the proposed addition is over 400 feet away from and not visible from adjacent neighbors.

From a design perspective, the existing residence is Spanish Mediterranean, and the addition will match the style, colors and materials of the existing residence, as well as the predominant design theme of the community, which is Mediterranean-themed. For all these reasons, the project meets this finding.

Section 17.62.020(E) of the Calabasas Municipal Code allows the City Council to approve a **Site Plan Review** provided that the following findings are made:

- 1. The proposed project complies with all of the applicable provisions of this development code;*

The subject site is within the Open Space (OS) zone. The Open Space zone is a special purpose zone characterized by large parcels in areas that are rural in character. As such, most typical development standards such as site coverage, pervious surfaces and setbacks are not a set value, and are instead approved by the appropriate decision making body on a case-by-case basis. In this case, the parcel is already developed with a one-story, 24 foot high single-family residence previously approved by the City Council through a Development Plan application. For development within the Open Space zoning designation, only the height requirement of 25 feet (maximum) is a stated fixed measurement. The proposed addition to the residence is a maximum of 19 feet at its highest point, and therefore the proposed addition meets this requirement. As mentioned earlier, all other standards are set through the Development Plan process. In this case, approval of the Development Plan application

will alter the originally approved street side yard and rear yard setbacks. Approval of the Development Plan application, therefore, establishes code compliant setbacks and the project will be consistent with Code requirements.

2. *The proposed project is consistent with the General Plan, any applicable specific plan, and any special design theme adopted by the City for the site and the vicinity;*

The General Plan Land Use designation for the subject site is Open Space – Resource Protected (OS-RP), which applies to lands whose primary purpose is the protection of public health and safety, preservation of sensitive environmental resources, or resource management. The underlying zoning on the parcel is Open Space, which allows for residential development.

A stated objective of the Land Use Element of the General Plan is to maintain Calabasas as a predominantly residential community. Land Use Policy II-8 further supports this by requiring development to be compatible with the overall residential character of the community. As mentioned above, the subject parcel is developed with an existing residence, and the proposed addition will not alter the existing use of the property.

The relevant stated objective of the Open Space Element of the General Plan is to maintain a citywide open space system that conserves natural resources and preserves scenic beauty. Open Space Policies III-5, III-7, III-11, III-12 and III-14 promote limiting landform alteration, using native landscape screening, maintaining the visual character of hillsides, and preserving significant ridgelines. The existing residence, approved by City Council in 2003 was approved consistent with the stated General Plan objectives and policies. The residence was designed to be one story, generally with a height between 18 and 20 feet (with some architectural elements projecting up to 24 feet in height), with a medium-colored (Spanish tile) pitched roof. Development of the site, although on a designated significant ridgeline, was graded to include a berm south of the residence to help conceal the development from Mulholland Highway, a locally designated scenic roadway. To further conceal the development, landscape elements were placed on the berm so that over time, as the landscaping matures, the minimal portions of the development that were still visible would be further concealed.

The proposed addition is one-story (ranging from 12 to 19 feet in height, and designed to match the earth-toned colors and materials of the existing Spanish Mediterranean-style residence. It is situated on the



developed portion of the site and in an area concealed by the existing landscaped berm. In this respect, the addition will not require any expansion of the development footprint, and will be screened from Mulholland Highway so that no visual impacts will occur. Additionally, the preliminary landscape plan proposes enhancing the native landscaping on the berm so that further concealment of the development will occur. To this end, the proposed project is consistent with the Open Space Element of the City's General Plan.

The relevant stated objective of the Conservation Element of the General Plan is to preserve critical biotic resources and enhance habitat value and biotic resource diversity within the Calabasas area. Conservation Element Policies IV-2, IV-3 and IV-9 require development to protect biotic habitat value in the City's open space areas including the protection of oak trees. As stated above, the proposed addition is limited to the existing developed portions of the property. The use of this existing developed pad for the proposed addition minimizes the amount of required grading. As such, no expansion of the development footprint into ecologically sensitive areas will occur. Additionally, although one small (2" diameter) oak tree will have its protected zone encroached upon, no impacts to the tree are expected to occur. In this regard, the project meets the relevant objective and policies of the General Plan's Conservation Element.

The goal of the Community Design Element of the General Plan is to maintain a high quality appearance in the existing and future built environment, while protecting hillsides, ridgelines, and open space areas. The proposed project meets this goal because it is attractively designed and does not impact public views of hillsides, ridgelines or open space areas. As already stated, the proposed addition is designed to match the style, colors and materials of the existing Spanish Mediterranean residence, and will be sited on a developed portion of the property that conceals the development from the scenic corridor. Additionally, because the development will not expand the development footprint and will be screened from view from Mulholland Highway, no additional impacts to the ridgeline will occur. Therefore, the project is consistent with the Community Design Element of the General Plan. For all these reasons, the project meets this finding.

*3. The approval of the site plan review for the proposed use is in compliance with the California Environmental Quality Act (CEQA); and*

Staff has determined that the project is exempt from environmental review in accordance with Section 21084 of the California Environmental Quality Act (CEQA) and Section 15301(E)(2) (Existing Facilities) of the

CEQA Guidelines because the proposed project is constructing less than 10,000 square feet in an area where all public services and facilities are available to allow the maximum development permissible in the General Plan and the new addition is not adversely impacting a protected viewshed or any sensitive resources. Therefore, the project meets this finding.

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 area;*

The subject site is located within an existing developed single-family residential community on Saint Andrews Lane. The community of Saint Andrews Lane is a self-contained gated community consisting of four developed lots. The remaining three parcels in the neighborhood have an average parcel size of approximately 8.5 acres and an average house size of 4,176 square feet (excluding garages). Consequently, the floor area ratios of the three remaining parcels range from 0.006 to 0.037.

The subject parcel has an existing residence that is 8,804 square feet, includes 2,217 square feet of garages, and is proposing to add an additional 2,490 square feet of garage space for a total of 13,511 square feet of development. It currently is, and still will be the largest development within the neighborhood by size alone. However, the subject parcel is also 26.2 (net) acres in size, and therefore the floor area ratio (including the garage space) is 0.012 which is well within the floor area ratio range of the community (which was calculated not including garage space), and therefore is consistent with the neighborhood. Furthermore, the existing residence is over 200 feet away from the nearest residence, and the proposed addition is over 400 feet away from and not visible from adjacent neighboring residences.

From a design perspective, the dominant design theme in the neighborhood is Mediterranean. The existing residence is Spanish Mediterranean, and the addition is designed to match the style, color and materials of the existing residence. For all these reasons, the project meets this finding.

5. *The site is adequate in size and shape to accommodate the proposed structures, yards, walls, fences, parking, landscaping, and other development features; and*

The subject parcel is zoned Open Space (OS). As such, excluding height, the basic development standards are not fixed and determined through the Development Plan process. As part of that process, the site is analyzed to determine if a proposed project is properly sited and designed at a size and location that is adequate and consistent with the intent of the Code. In this respect, the 2003 approval of the existing residence by the City Council established a Code Compliant project that adequately fit the site. The subject parcel is 26.2 (net) acres in size and the approved development was situated in the most feasible location which, in this case, was on top of the ridgeline, given the extremely steep slope conditions found throughout the remainder of the parcel. The addition is proposed on portions of the already-developed pad which is large enough (1.75 acres) to accommodate the project without expanding the existing development footprint. As a result, the proposed project meets this finding.

6. *The proposed project is designed to respect and integrate with the existing surrounding natural environment to the maximum extent feasible.*

The subject site is located in the southern portion of the City along Mulholland Highway, a designated rural scenic corridor. This portion of the City is made up of parcels that are generally larger in size and are characterized by steep hillsides with abundant habitat that includes expanses of relatively undisturbed natural vegetation. The subject site is zoned Open Space (OS), is 26.2 (net) acres in size and generally fits the rural character described above. The existing residence, approved in 2003, was designed in such a way to respect the surrounding character. The development footprint was confined to a 1.75 acre pad area on top of the ridgeline and the residence was concealed by the construction of a landscaped berm on the southern side of the residence. Additionally, the residence was designed to be one-story, Spanish Mediterranean in style, and uses earth-toned colors and landscaping to help it blend with the surrounding environment. The proposed addition is designed to match the style, colors and materials of the existing residence and landscaping has been enhanced on the berm to further conceal and integrate the development with its surrounding. Therefore, the project meets this finding.

Section 17.32.010(E) of the Calabasas Municipal Code allows the City Council to approve an **Oak Tree Permit** provided that the following findings are made:

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 or scrub oak habitat. In addition, said alterations and encroachments can be performed without significant long-term adverse impacts to the oak tree or scrub oak habitat. Reasonable use of the property shall be determined in accordance with the Guidelines.*

The project site is previously developed with a one-story residence on a graded pad located on top of a ridgeline. The existing pad is oversized (approximately 1.75 acres) and easily accommodates the residence, yard amenities such as a pool/spa, trellises, a detached garage and landscaping. A landscaped berm is located on the southern perimeter of the developed pad to help screen the residence from Mulholland Highway. In this case, it is reasonable to site the development on the existing developed pad to avoid additional impacts to the scenic corridor, habitat resources and to avoid significant additional grading.

The oak tree report states that there are 14 oak trees within the vicinity of the site's development footprint. The trees are located both south of the residence on the south side (and below the crest) of the landscaped berm and in an undeveloped area north of the residence. These were mitigation trees required for the previous removal of scrub oak, and range in size from 1 ¼ inches to 5 inches in diameter.

Of the 14 oak trees, one tree (tree #8), located on the south side of the landscaped berm in the vicinity of the proposed addition, will have its protected zone permanently encroached on by the proposed addition. Since the proposed addition is sited in a reasonable location on the existing developed pad, and oak tree #8 is located on the berm to the south of the proposed addition approximately 13 feet away from the developed pad, encroachment into the protected zone of the tree is both unavoidable and warranted to enable reasonable and conforming use of the site. Encroachment into the protected zone of oak tree #8 enables the addition to be sited on the existing developed pad, thereby minimizing impacts to natural habitat resources, significantly reducing the required amount of grading, and ensuring protection of the scenic corridor's visual resources as the existing pad is screened from view. Additionally, the oak tree report states that no impact to the oak tree will occur. This conclusion has been confirmed by the City's Arborist. Therefore, the project meets this finding.

Section 17.62.080(E) of the Calabasas Municipal Code allows the City Council to approve a **Variance** provided that the following findings are made:

1. *That there are special circumstances applicable to the property which do*

*not generally apply to other properties in the same zoning district (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 in identical zoning districts;*

The subject site is within the Open Space (OS) zone. The Open Space zone is a special purpose zone that characteristically includes properties larger in size with steep topography, visual resources (such as ridgelines), and/or various plant and animal habitats. Only a handful of Open Space-zoned properties exist in the City due to these characteristics. The Saint Andrew's Lane subdivision is a four-lot gated community previously developed along and on top of a significant ridgeline.

The City's current Hillside and Ridgeline Ordinance (adopted in 2010 subsequent to the development of Saint Andrew's Lane) requires development to be sited 50 feet below and away from a significant ridgeline. Not all Open Space-zoned properties contain a significant ridgeline. To this end, not all Open Space-zoned properties are subject to the siting standard located in the City's Hillside and Ridgeline Ordinance. Additionally, it is common for existing development in any zone to update, redevelop and/or enlarge over time. In this case, because the existing development was developed on top of the ridgeline prior to the codification of the ridgeline siting standard, any addition to the existing development will not be able to meet the current standard. Additionally, while the subject property is on a designated significant ridgeline, the proposed addition presents the special circumstance of being located on an existing developed pad which is screened from view by a landscaped berm. Unlike typical expansions of structures located on significant ridgelines, where there are no landscape screening features, the proposed addition does not impact the visual resources protected by the significant ridgeline siting standards. Strict application of these standards would deny the property owner the ability to expand the usable garage space in a manner proportional to the amount of garage space of other properties in the Saint Andrews Lane subdivision and would not take into account the existence of the graded, screened pad on this parcel. Therefore, a special circumstance exists relative to the subject property when compared with other Open Space-zoned properties and other properties located on a significant ridgeline. Given these circumstances, the proposed project meets this finding.

2. *That granting the variance is necessary for the preservation and enjoyment of substantial property rights possessed by other property owners in the same vicinity and zoning district and denied to the property owner for which the variance is sought;*

The subject site is within the Open Space (OS) zone. The Open Space zone is a special purpose zone that characteristically includes properties larger in size with steep topography, visual resources (such as ridgelines), and/or various plant and animal habitats. Only a handful of Open Space-zoned properties exist in the City due to these characteristics.

The City's current Hillside and Ridgeline Ordinance was adopted in 2010, subsequent to the development of the Saint Andrew's Lane community. The statute requires development to be sited 50 feet below and away from a significant ridgeline. It is common for existing development in any zone to be updated, redeveloped and/or enlarged over time. In this case, because the existing development was constructed on top of the ridgeline prior to the codification of the ridgeline siting standard, any addition to the existing development will not be able to meet the current standard.

Additionally, the Saint Andrew's Lane subdivision, which the subject property is a part of, is a four-lot gated community previously developed along and on top of a significant ridgeline. No other Open Space-zoned properties (other than the ones located on Saint Andrews Lane) are located in the immediate vicinity of the subject property. The four developed properties on Saint Andrews Lane range in size (excluding the garages) from 3,657 square feet to 8,804 square feet on properties that range in size from 2.72 (net) acres to 26.2 (net) acres. Consequently, the floor area ratios (i.e. the ratio of development size to parcel size) for the properties located within the Saint Andrews Lane community range from 0.006 to 0.037 (excluding garages). The floor area ratio of the existing development (excluding the garage space) on the subject property is 0.008, well within the range of the community. With the addition of both the previously uncounted existing garage space (2,217 square feet) and the proposed 2,490 square feet of additional garage space, the total floor area ratio will be 0.012 which is still within the range of floor area ratios within the community [which do not include the garages (due to the absence of data)]. To this end, the granting of the variance is warranted and necessary to afford the subject property owner the same rights as properties in the vicinity and with identical zoning. Given these circumstances, the proposed project meets this finding.

3. *That granting the variance would not constitute the granting of a special privilege inconsistent with the limitations of other properties in the same zoning district;*

Granting of this variance, in this case, will not constitute the granting of a special privilege inconsistent with other properties in the same zoning

district because all the residences (including the subject property) on Saint Andrews Lane have garage space to provide off-street parking and storage, and the additional garage space proposed by the subject application does not alter this condition. Additionally, Granting this variance would allow the subject property to enjoy a proportional amount of garage space as the other Saint Andrew's Lane properties, while remaining within the range of floor area ratios for these properties. Given this circumstance, the proposed project meets this finding.

4. *That granting the variance will not be detrimental to the public health, safety or welfare, or injurious to property or improvements in the vicinity and zoning district in which the property is located; and*

The project site is previously developed with a one-story residence on a graded pad located on top of a ridgeline and within a rural scenic corridor. Adequate separation exists between the existing development and the closest adjacent residence (approximately 200 feet). Since the proposed addition will be approximately 400 feet away from the closest neighboring residence, no impact to surrounding residences will occur.

Furthermore, the existing pad is oversized (approximately 1.75 acres) and can easily accommodate the residence, yard amenities such as a pool/spa, trellises, a detached garage and landscaping. A landscaped berm is located on the southern perimeter of the developed pad designed to help screen the residence from Mulholland Highway. The addition is proposed on the existing pad and behind the landscaped berm. The proposed expansion will not be visible or silhouetted against the sky when viewed from Mulholland Highway. In this case, siting the addition on the existing developed pad avoids expansion of the existing development footprint, and therefore, minimizes impacts to the scenic corridor and adjacent habitat areas, including avoidance of significant additional grading. Given these circumstances, the proposed project meets this finding.

5. *That granting the variance is consistent with the General Plan and any applicable specific plan.*

The General Plan Land Use designation for the subject site is Open Space – Resource Protected (OS-RP), which applies to lands whose primary purpose is the protection of public health and safety, preservation of sensitive environmental resources, or resource management. The underlying zoning on the parcel is Open Space, which allows for residential development.

As already mentioned, the relevant objectives and policies of the City's General Plan require limiting landform alteration, using native landscape screening, maintaining the visual character of hillsides, preserving significant ridgelines, and preserving biotic resources. To promote these goals for ridgeline areas, CMC Section 17.20.150 requires development to be sited off of ridgelines as a priority, unless siting development on a ridgeline is the least impactful location. In situations where development on the ridgeline is necessary and warranted, a variance application is required. In this case, the existing residence was entitled and developed prior to the codification of CMC Section 17.20.150, and is located on the ridgeline. Because of this, it is impossible for any addition to the existing residence to meet the siting standards contained in CMC Section 17.20.150. Additionally, the addition is sited in an already developed portion of the site and located behind an existing landscaped berm designed to conceal development. Furthermore, the addition is designed to match the style, color and materials of the existing residence. Development in this location will cause no expansion of the development footprint and therefore protecting both visual resources and biotic resources. The proposed location for the addition, on the already developed pad, adjacent to the existing residence, parallel to the ridgeline, and behind the existing landscaped berm, is the location for the expansion with the least impact. Any alternative location on the parcel for the proposed expansion would require significant additional grading but would not entail greater protection for visual resources because the proposed addition will be screened. As such, any alternative location on the parcel would cause the loss of native habitat without increasing the protection of visual resources. For these reasons, the project is consistent with this finding.

Section 17.20.150(C)(3) of the Calabasas Municipal Code states that for projects that cannot meet the siting requirements of CMC Section 17.20.150(C)(2), the following findings must be made:

- 1. Alternative sites within the property or project have been considered and eliminated from consideration based on physical infeasibility or the potential for substantial habitat damage or destruction if any such alternative site is used and that the siting principles outlined under subsection (C)(4) have been applied*

The siting principles in subsection (C)(4) lists three prioritized locations for siting development on properties with ridgelines. The first priority is to site development off of ridgelines on areas with a maximum slope of 20%. The second priority is to site development off of ridgelines in areas with slopes ranging between 20% and 30%. The final siting priority



states that if the first or second priority cannot be met, then development should be sited in areas on ridge tops with slopes less than twenty (20) percent. Proposed buildings should be set back as far as possible from the edge of the ridge (where downhill slopes begin to exceed twenty (20) percent and landscaped, to minimize visibility.

In this case, the existing residence is developed on a 1.75 acre flat pad on top of the ridgeline that was graded as part of the original development. Areas off of the ridgeline all exceed the slope criteria identified in priority 1 and priority 2 and exhibit both scrub oak and riparian habitat. Therefore, development on top of the flat developed pad area is the only feasible location for expansion of the residence. Further, development of the proposed addition on the existing developed pad complies with subsection (C)(4) as the developed pad is within the third priority category. Moreover, the proposed location, adjacent to the existing residence and on the developed pad, minimizes grading and habitat damage. Therefore, the project meets this finding.

2. *The proposed project maintains the maximum view of the applicable significant ridgeline through the use of design features for the project including minimized grading, reduced structural height, clustered structures, shape, materials, and color that allow the structures to blend with the natural setting, and use of native landscaping for concealment of the project.*

The existing residence is developed on a 1.75 acre flat pad on top of the ridge graded as part of the original development. A landscaped berm was constructed south of the residence designed to conceal development from Mulholland Highway, a locally designated scenic roadway, and minimize impacts to the significant ridgeline. Furthermore, the original residence was designed to be one-story, generally with a height between 18 and 20 feet (with some architectural elements projecting up to 24 feet in height) and with a medium-colored (Spanish tile) pitched roof.

The proposed addition is one-story (ranging from 12 to 19 feet in height, and designed to match the earth toned colors and materials of the existing residence. It is situated on the developed portion of the site and in an area concealed by the existing landscaped berm. In this respect, the addition will be screened from the Mulholland Highway so that no visual impacts will occur to the scenic corridor or the ridgeline. The proposed expansion will not be visible or silhouetted against the sky when viewed from Mulholland Highway. Additionally, the preliminary landscape plan proposes enhancing the landscaping on the berm so that further concealment of the development will occur. Furthermore, the

project has been conditioned so that a final landscape plan will be submitted to the Community Development Director in case additional adjustments need to be made to further conceal the development. Therefore, the project meets this finding.

**Section 4. In view of all of the evidence and based on the foregoing findings and conclusions, the City Council hereby approves File no. 120000173 subject to the following agreements and conditions:**

## **I. INDEMNIFICATION AGREEMENT**

The City has determined that City, its employees, agents and officials should, to the fullest extent permitted by law, be fully protected from any loss, injury, damage, claim, lawsuit, expense, attorney fees, litigation expenses, court costs or any other costs arising out of or in any way related to the issuance of this File No. 120000173, or the activities conducted pursuant to this File No. 120000173. Accordingly, to the fullest extent permitted by law, Hasse and Carmela Birenbaum, in its capacity as the property owner, shall defend, indemnify and hold harmless City, its employees, agents and officials, from and against any liability, claims, suits, actions, arbitration proceedings, regulatory proceedings, losses, expenses or costs of any kind, whether actual, alleged or threatened, including, but not limited to, actual attorney fees, litigation expenses and court costs of any kind without restriction or limitation, incurred in relation to, as a consequence of, arising out of or in any way attributable to, actually, allegedly or impliedly, in whole or in part, the issuance of this File No. 120000173, or the activities conducted pursuant to this File No. 120000173. Hasse and Carmela Birenbaum in its capacity as the property owner shall pay such obligations as they are incurred by City, its employees, agents and officials, and in the event of any claim or lawsuit, shall submit a deposit in such amount as the City reasonably determines necessary to protect the City from exposure to fees, costs or liability with respect to such claim or lawsuit.

## **II. CONDITIONS OF APPROVAL**

### **Community Development Department / Planning Division**

#### **General Conditions**

1. The proposed project shall be built in compliance with the plans on file with the Planning Division.

2. All project conditions shall be imprinted on the title sheet of the construction drawings. The approved set of plans shall be retained on-site for the review of Building Inspectors. Prior to any use of the project site, all conditions of approval shall be completed to the satisfaction of the Director of Community Development.
3. The project approved herein is depicted on those sets of drawings, elevations, etc., stamped approved by staff on the approval date. Any modifications to these plans must be approved by the Department of Community Development staff prior to the changes on the working drawings or in the field. Changes considered substantial by the Planning staff must be reviewed by the Planning Commission. The determination of whether or not a change is substantial shall be made by the Community Development Director.
4. Prior to issuance of grading or building permits, plans shall be reviewed and approved by the Department of Community Development to ensure compliance with the plans approved by the Planning Commission. The plans shall comply with the conditions contained herein, the Calabasas Municipal Code, and all City Resolutions and Ordinances.
5. This grant shall not be effective for any purposes until after the applicant, or its successors, and the owner of the property involved (if other than the applicant) have recorded this resolution with the Los Angeles County Recorder's Office, and a certified copy of the recorded document is filed with the Community Development Department.
6. The subject property shall be developed, maintained, and operated in full compliance with the conditions 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 or its successors to cease any development or activity not in full compliance shall be a violation of these conditions. Any violation of the conditions of approval may result in the revocation of this approval.
7. This approval shall be valid for one year and eleven days from the date of adoption of the resolution. The permit may be extended in accordance with Title 17 Land Use and Development Code, Article VI - Land Use and Development Permits.
8. Prior to the issuance of a Building Permit, the applicant shall submit a final landscape plan to the Community Development Director for review and approval. The landscape plan shall include landscaping placed on the

existing berm to adequately screen the proposed project from Mulholland Highway.

9. All landscaping is to be installed within 90 days of occupancy by the applicant to the satisfaction of the Director of the Community Development Department or his or her designee. All landscaping will be consistent with the adopted City ordinance for landscape and water efficiency. Landscaping planted in compliance with this permit, located on and in close proximity to the berm, which serves to screen the view of the dwelling from the Scenic Corridor shall be maintained in good health and in a fully lush and complete state to accomplish this purpose. The applicant shall submit a monitoring report three years after the date of approval of this resolution demonstrating that the landscaping has been maintained in compliance with the approved landscaping plan, to the satisfaction of the Director of the Community Development Department or his or her designee.
10. All ground and roof-mounted equipment is required to be fully screened from view. Upon final inspection, Planning Division staff may require additional screening if warranted, through landscaping, walls or a combination thereof.
11. All exterior lights are subject to the provision set forth in the Lighting Ordinance Chapter 17.20 of the Land Use and Development Code. Lighting of 60 watts or less on residential projects is exempt by the Lighting Ordinance.
12. All exterior colors and materials used for the construction of the project shall be in substantial conformance with the approved materials and colors board exhibit.
13. Prior to commencement of construction, all necessary building permits must be obtained from the Building and Safety Division.
14. The project must comply with the building codes of Title 15.04 of the City of Calabasas Municipal Code at the time of building plan check submittal.
15. The project is located within a designated "Very High Fire Hazard Severity Zone". The requirements of Chapter 15.04.900 of the Calabasas Municipal Code must be incorporated into all plans.
16. The applicant shall provide the construction contractor(s) and each subcontractor related to the project a copy of the final project Conditions

of Approval. The applicant and the City agree that these conditions shall be enforceable through all legal and equitable remedies, including the imposition of fines against each and every person who conducts any activity on behalf of the applicant on or near the project site. The applicant, property owner, and general construction contractor are ultimately responsible for all actions or omissions of a subcontractor.

17. Construction Activities - Hours of construction activity shall be limited to:

- i. 7:00 a.m. to 6:00 p.m., Monday through Friday
- ii. 8:00 a.m. to 5:00 p.m., Saturday

Construction is prohibited on Sundays and Holidays. Stacking of construction worker vehicles, prior to 7:00 a.m. in the morning will be restricted to areas that do not adversely affect adjacent residences or schools. The applicant or its successors shall notify the director of Transportation and Intergovernmental Relations of the construction employee parking locations, prior to commencement of construction.

#### Oak Trees

18. All work performed within the Oak Trees' aerial/root protected zones shall be regularly observed by the applicant's oak tree consultant.
19. The oak tree protective zone fencing (approved fencing materials are in the Oak Tree Guidelines - 5 ft. minimum height) should be installed at the limit of approved work to protect the Oak Trees and surrounding trees from any damage and remain in place until completion of construction. Should any work be required within the limit of work and the temporary fence must be opened, the applicant's oak tree consultant must direct all work at any time the fence is open.
20. Soil compaction within the dripline and/or root zone shall be minimized. No equipment, spoils or debris shall be stored within the dripline and/or Protected Zone of any oak tree. No dumping of liquids or solvents, cleaning fluid, paints, concrete washout or other harmful substances within the driplines and/or Protected Zones shall be permitted.
21. The area within the plastic construction/snow type fence should not be used at any time for material or equipment storage and parking.

22. The applicant should adhere to the specific recommendations contained within the Oak Tree Report dated July 17, 2013 (revision date) and all provisions of the Oak Tree Ordinance and policies of the City of Calabasas.
23. Within ten (10) days of the completion of work, the applicant's oak tree consultant shall submit written certification to the Planning Division. The certification shall describe all work performed and shall certify that such work was performed in accordance with the above permit conditions. If any work was performed in a manner not in conformance with these conditions of approval then the applicant's oak tree consultant shall identify the instance or instances of a deviation to any of these conditions.

**Public Works Department:**

24. Per the Calabasas Municipal Code Chapter 8.16, "no person shall collect and/or dispose of municipal solid waste or recyclable materials in the city without having first been issued a solid waste collection permit. Such permit shall be in addition to any business license or permit otherwise required by the City of Calabasas." **Crown Disposal Co, Inc.** is the only service provider permitted to operate in Calabasas. Please contact (818-767-0675) for any roll-off or temporary container services. An Encroachment Permit is required prior to placing a refuse bin/container on the street.
25. The applicant and contractors shall implement all reasonable efforts to reuse and recycle 75% of construction and demolition debris, to use environmentally friendly materials, and to provide energy efficient buildings, equipment, and systems. The applicant shall provide proof of recycling quantities to get final clearance of occupancy.
26. During the term of the City permit, the contractor, their employees, and subcontractors shall implement appropriate Best Management Practices (BMPs) to prevent pollution to local waterways. Sediments, construction debris, paint, trash, concrete truck wash water and other chemical waste from construction sites left on the ground and streets unprotected, or washed into storm drains, causes pollution in local waterways via the storm drain system is against City Ordinance and State law. The BMPs implemented shall be consistent with City of Calabasas Municipal Code Chapter 8.28. Failure to implement appropriate BMPs shall result in project delays through City issued "Stop Work Notices" and/or fines levied against the owner/developer/contractor.

27. The final grading and drainage plan shall be submitted to the City Engineer for review and approval. The plan shall be in accordance to the City of Calabasas Public Works Department requirements and in conformance with the approved Conceptual Grading and Drainage Plan and the approved Update Geotechnical Engineering Report.
28. The final grading and drainage plan shall be prepared by a registered civil engineer and shall be reviewed and stamped by the applicants consulting Civil Engineer and Geotechnical & Soils Engineer prior to approval by the City Engineer.
29. All drainage shall be sloped 2% away from all parts of the structure along impervious surface and 5% away along pervious surface, in conformance with California Building Code; and conveyed through an on-site storm drain system to an approved point of disposal.
30. All retaining and privacy walls shall be in conformance with the City's wall requirements pursuant to CMC Section 17.20.100. Any variations require Planning Division approval. The wall details and callouts including top of footings shall be included with the Grading Plans.
31. Prior to Issuance of a Grading Permit, the applicant shall submit official stamped and signed copies of the acknowledgement concerning the employment of a registered civil engineer and technical consultants (Public Works Form K).
32. Changed conditions that affect the approved plans shall be submitted to the Public Works department in the form of a Change Order (Public Works Forms U and U-1) and are subject to review and approval by the City Engineer.

**Section 5. 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 9<sup>th</sup> day of April, 2014.

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David J. Shapiro, Mayor

ATTEST:

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Maricela Hernandez, MMC  
City Clerk

APPROVED AS TO FORM:

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Scott H. Howard, City Attorney