P.C. RESOLUTION NO. 2010-483

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF CALABASAS, CERTIFYING A MITIGATED NEGATIVE DECLARATION FOR CONDITIONAL USE PERMIT NO. 600-009 AND OAK TREE PERMIT NO. 006-019 FOR THE CONSTRUCTION OF A NEW 8,513 SQUARE-FOOT THREE STORY SINGLE-FAMILY RESIDENCE (INCLUDING BASEMENT), 2,192 SQUARE-FOOT GARAGE, FIRST AND SECOND STORY DECKS TOTALING APPROXIMATELY 2,625 SQUARE FEET, 6 FOOT ENTRY GATE, AND A 1,600 SQUARE FOOT SWIMMING POOL AND DECK AREA ON A 195,644 SQUARE FOOT LOT (4.5 ACRES) WITHIN THE DESIGNATED SCENIC CORRIDOR LOCATED AT 23604 DRY CANYON COLD CREEK ROAD (APPN:2072-001-018), WITHIN THE HM ZONING DISTRICT AND THE SCENIC CORRIDOR OVERLAY ZONE.

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

1. Agenda reports were prepared by the Community Development Department.

2. Staff presentation at the public hearing held on June 3, 2010 before the Planning Commission.

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.

Section 2. Based of the foregoing evidence, the Planning Commission finds that:

1. The applicant submitted an application for a Conditional Use Permit No. 600-009 and Oak Tree Permit No. 006-019 on April 28, 2006.

2. Within thirty (30) days of the submittal of the land use application to the Community Development Department, staff determined that the application was incomplete and the applicant was duly notified of this incomplete status.

3. On February 26, 2010 the application was deemed complete by staff.

4. Notice of the June 3, 2010 Planning Commission public hearing was posted at Juan de Anza Bautista Park, the Calabasas Tennis and Swim Center, Gelson's market and at Calabasas City Hall on May 21, 2010.

5. Notice of the Planning Commission public hearing was published in the *Acorn* prior to the hearing.

6. Notice of the June 3, 2010 Planning Commission public hearing was provided to property owners within 500 feet of the property as shown on the latest equalized assessment roll.

7. Notice of the Planning Commission public hearing was mailed or delivered at least ten (10) days prior to the hearing to the applicant.

8. Notice of Planning Commission public hearing included the notice requirements set forth in Government Code Section 65009 (b)(2).

9. The land use designation for the project site under the City's adopted General Plan is RR (Rural Residential), which provides for Residential, Single-Family use.

10. The project site is currently zoned HM-SC (Hillside Mountainous- Scenic Corridor), which allows for residential, single-family use.

11. The surrounding land uses around the subject property are four parcels to the south, which are located within the Calabasas Highlands (three vacant and one developed with a residence); Viewpoint Academy to the north; a vacant parcel to the east; and a vacant parcel to the west.

12. The applicant requests approval to construct a new single-family residence on an existing vacant 4.5 acre lot located within a designated scenic corridor (Mulholland Highway).

13. A Mitigated Negative Declaration has been prepared in compliance with the City's adopted CEQA Guidelines.

<u>Section 3</u>. In view of all of the evidence and based on the foregoing findings, the Planning Commission concludes as follows:

<u>FINDINGS</u>

Based upon the facts and information contained in the proposed Mitigated Negative Declaration, together with all written and oral reports included for the environmental assessment for the application, the Planning Commission finds that there is no substantial evidence that the project will have a significant effect upon the environment and adopts a Mitigated Negative Declaration based upon the findings as follows:

1. The Mitigated Negative Declaration has been prepared in compliance with the California Environmental Quality Act and the State CEQA guidelines promulgated thereunder; that said Mitigated Negative Declaration and the Initial Study prepared therefore reflect the independent judgment of the Planning Commission; and, further, this Commission has reviewed and considered the information contained in said Mitigated Negative Declaration with regard to the application.

2. Based upon the changes, alterations, conditions of approval and mitigation measures that have been incorporated into the proposed project, no significant adverse environmental effects will occur.

3. Pursuant to the provisions of Section 753.5(c) of Title 14 of the California Code of Regulations, the Planning Commission finds that in considering the record as a whole, including the Initial Study and Mitigated Negative Declaration for the project, there is no evidence that the proposed project will have potential for an adverse impact upon wildlife resources or the habitat upon which wildlife depends. Furthermore, based upon substantial evidence contained in the Negative Declaration, the staff reports and exhibits, and the information provided to the Planning Commission during the public hearing, the Planning Commission hereby rebuts the presumption of adverse effect as set forth in Section 753.5(c-1-d) of Title 14 of the California Code of Regulations.

<u>Section 4.</u> In view of all of the evidence and based on the foregoing findings and conclusions, the Planning Commission hereby adopts the Mitigated Negative Declaration subject to the following agreements and conditions:

I. INDEMNIFICATION AGREEMENT

SR-4 Development agrees 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, attorneys' fees, litigation expenses, court costs or any other costs arising out of or in any way related to the adoption of the Mitigated Negative Declaration or the activities conducted pursuant to this Mitigated Negative Declaration. Accordingly, to the fullest extent permitted by law, SR-4 Development, 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 attorneys' 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 adoption of the Mitigated Negative Declaration, or the activities conducted pursuant to this Mitigated Negative Declaration. Applicant shall pay such obligations as they are incurred by City, its employees, agents and officials.

Section 5. All documents described in Section 1 of PC Resolution No. 2010-483 are deemed incorporated by reference as set forth at length.

PLANNING COMMISSION RESOLUTION NO. 2010-483 PASSED,APPROVED AND ADOPTED this 3rd day of June, 2010.

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John Mueller, Chair

ATTEST:

_____
Maureen Tamuri,
Community Development Director

APPROVED AS TO FORM:

_____
Holly O. Whatley,
Assistant City Attorney

PLANNING COMMISSION RESOLUTION NO. 2010-483, was adopted by the Planning Commission at a regular meeting held June 3, 2010, and that it was adopted by the following vote:

AYES:

NOES:

ABSENT:

ABSTAINED:

“The Secretary of the Planning Commission shall certify the adoption of this Resolution. The Secretary of the Planning Commission shall mail a copy of this resolution to the applicant along with proof of mailing. Section 1094.6 of the Civil Procedure governs the time in which judicial review of this decision may be sought"