



CITY of CALABASAS

PLANNING COMMISSION AGENDA REPORT
SEPTEMBER 17, 2020

TO: Members of the Planning Commission

FROM: Michael Klein, Senior Planner, AICP **MAK**

FILE NO.: 180000265

PROPOSAL: Request for a Site Plan Review, Oak Tree Permit, and Scenic Corridor Permit to construct a 2,121 square-foot one-story single-family residence with an attached two-car garage. The proposed project includes a request for an Oak Tree Permit to encroach within the protected zone of four (4) oak trees and the removal of four (4) non-heritage oak trees, in order to construct the house and necessary site improvements. The subject site is located at 24226 Dry Canyon Cold Creek Rd (APN: 4455-047-014), within the Hillside Mountainous (HM) zoning district and the Scenic Corridor (SC) overlay zone.

APPLICANT: Zalman Nemtzov

RECOMMENDATION: Adopt Resolution No. 2020-704 approving File No. 180000265.

STAFF RECOMMENDATION:

That the Commission adopt Resolution No. 2020-704 (Exhibit A) approving File No. 180000265.

REVIEW AUTHORITY:

The Planning Commission is reviewing this project because Section 17.62 of the Calabasas Municipal Code (CMC) stipulates that that new single-family homes in Residential zoning districts and the Scenic Corridor Overlay zone require approval of a Site Plan Review Permit and a Scenic Corridor Permit, which requires review by the

Commission. Additionally, in accordance with Section 17.60.020 of the CMC, the Planning Commission is the decision making body for all associated permits, such as the requested Oak Tree Permit.

BACKGROUND:

On September 17, 2020, the Planning Commission continued the public hearing for this item to a Special Meeting on October 8, 2020. The staff report and public testimony was not provided at this meeting; however, the Planning Commission requested follow up information in response to two letters that were submitted prior to the hearing. This report includes responses to the issues raised by the two letters, and is intended to be supplemental to the Staff Report prepared for the September 17, 2020, Planning Commission meeting.

STAFF ANALYSIS:

A. Letter from Daniel Alliance, dated September 15, 2020: On September 16, 2020, staff received an email with an attached letter (Exhibit B) signed by Daniel Alliance. Mr. Alliance is the property owner of 24228 Dry Canyon Cold Creek Road, which is a single-family home located directly south of the subject site. The letter identifies five reasons for Mr. Alliance's stated objection to the project. The following is an analysis of each issues raised in the letter:

1. Mr. Alliance: "The Applicant Does Not Own All of the Land Referenced"

In his letter, Mr. Alliance asserts ownership over a portion of the subject site. Mr. Alliance has provided a copy of the legal description for his property and the subject site, as specified in the deed for both properties. The City is NOT the judge of who owns what land. The City's obligation is to be reasonably confident that the person applying for a permit is, or represents, the owner(s) of that land. Upon submittal of substantial evidence that the land is owned by the appropriate entity, then the City may issue a permit if all other standards are met. If someone else claims ownership of the land in question, then the other claimant may seek redress of their claims in a court of competent jurisdiction.

To the extent that property ownership affects development of a site based on its lot configuration, the City may proceed with issuance of a permit provided that the applicant has submitted substantial evidence to confirm accurate lot dimensions and configuration. In this particular case, the applicant has submitted a survey prepared by a licensed surveyor (Exhibit C), confirming the property lines of the subject site, which are consistent with the plans that have been provided to the Planning Commission. Additionally, the applicant has provided a letter from

another surveyor (Exhibit D) clarifying the language in the deed that Mr. Alliance is relying on to assert his ownership. As stated above, the City does not have the legal authority to resolve the property ownership dispute between Mr. Alliance and the owner of the subject site. However, substantial evidence has been submitted by the applicant by which the Planning Commission may conclude that the dimensions and lot configuration of the subject site are consistent with the plans. As a result, staff recommends the Planning Commission take action on this project as it has been presented. Furthermore, staff has determined that the proposed project could meet applicable development standards in the event that a final, non-appealable judgment is issued by a court of competent jurisdiction determining that Mr. Alliance owns the disputed portion of the property in question, and the subject site is required to be reconfigured accordingly. Nevertheless, the following condition has been added to Planning Commission Resolution No. 2020-704 to ensure project compliance under both circumstances.

“Prior to the issuance of a building or grading permit, if a court of competent standing renders judgement that a portion of the subject site is owned by another individual or entity, the applicant shall submit updated plans confirming compliance to the satisfaction of the Community Development Director with all development standards for the HM zoning district based on the final lot configuration.”

2. Mr. Alliance: “Proposed Asphalt Driveway on My Land”

The applicant has provided recorded documents and an associated survey (Exhibit E) to demonstrate substantial evidence of the property owner’s right to construct a driveway for ingress/egress purpose over Mr. Alliance land. As a result, staff recommends that the Planning Commission find this is a moot issue.

3. Mr. Alliance: “Rainfall Will Significantly Flood My Property Even More By Placing a Driveway Where Applicant Intends to”

The proposed project will improve the current flooding situation. The existing site had been rough graded more than 15 years ago, and slopes to the south. As a result, the current drainage pattern has a negative impact on the property to the south. The proposed project will alter the existing drainage pattern by leveling the site with a re-routed drainage pattern to the west and then south around Mr. Alliance’s property. Furthermore, Public Works concurs that the conceptual grading/drainage plan will improve the site drainage and storm water run-off and reduce impacts to the property to the south. In order to provide additional protection to the property to the south, Public Works recommends the following

condition, which has been added to Planning Commission Resolution No. 2020-704.

“The applicant shall install a 4 to 6-inch curb along the portion of the southern driveway that borders 24228 Dry Canyon Cold Creek Road (APN 4455-047-013).”

4. Mr. Alliance: “The Septic Tank and Leechfield is too Close to Me and My Pool”

The proposed septic system includes an underground septic tank and leachfields. Due to site constraints and state requirements for a Tier 1 system, Building and Safety has determined that the proposed system is the only configuration that is feasible for the subject site. Furthermore, according to Building and Safety, smell issues would only come up if the system fails, and the sewage rises to the surface. The proposed Tier 1 system is the most advanced system required by the CA Regional Water Quality Board, which limits the probability of system failure. As a result, no additional changes are recommended.

5. Mr. Alliance: “The Annoyance of the Abutting Driveway”

The proposed project is designed to meet LA County Fire Department access, inclusive of required on-site turn around room for a fire truck. Due to site topography, the driveway is proposed in the most feasible location to meet LA County Fire Department requirements. The driveway is situated approximately 5 feet from the southern property line, in order to provide enough space for landscaping between the two properties. This landscape planter will also provide additional drainage to address the flooding concern raised above. In response to Mr. Alliance’s concern, the following condition has been added to the Planning Commission Resolution No. 2020-704.

“The property owner shall maintain a minimum 4-foot wide planter area between the driveway and southern property line. The planter shall include screening vegetation, which shall be maintained in good condition at all times.”

- B. Email from Dale Bentz, dated September 17, 2020:** On September 17, 2020, staff received an email (Exhibit F) from Dale Bentz. Dale Bentz is the property owner of 24230 Dry Canyon Cold Creek Road, which is a single-family home located southwest of the subject site, and shares a common driveway with the subject site. The letter identifies three issues of concern regarding the project. The following is an analysis of each issues raised in the email:

1. Expired driveway maintenance agreement.

As discussed in the September 17, 2020 staff report, the subject site is accessed from Dry Canyon Cold Creek Road via a common shared driveway, situated on several flag lot access strips and governed by a series of reciprocal easements. The applicant provided a recorded maintenance agreement for the common driveway, which expired in 2015. It is not within the City's purview to require other property owners to execute a maintenance agreement for the common driveway. However, the following condition has been added to the Planning Commission Resolution No. 2020-704 to ensure the property owner of the subject site will participate in an equitable maintenance agreement, if agreed among the common owners.

"If agreed between the applicant and the owners of the neighboring properties, the property owner shall participate in a private road maintenance agreement requiring each property owner to pay their fair share to maintain the privately owned common driveway providing access to Dry Canyon Cold Creek Road."

2. Architectural design of the home is not compatible with the surrounding homes.

The proposed single-family residence incorporates a modern architectural design with a flat roof, smooth stucco finish and wood siding. There are no architectural design standards for this area of the City, nor is there a requirement that all new homes shall match existing architectural styles. In fact, the City's Architectural Review Panel (ARP) acknowledged that while there are no modern homes in the general vicinity, they are supportive of a well designed modern house on the subject site. To that end, the ARP requested specific modifications to improve the design, which have been incorporated into the final plans. Furthermore, the subject site is located within the Scenic Corridor because it is within 500 feet of Mulholland Highway, and is subject to the City's Scenic Corridor Design Guidelines. The ARP determined that the proposed project complies with the City's Scenic Corridor Design Guidelines and recommended approval of the project to the Planning Commission. As a result, the proposed modern design meets all City requirements and the necessary findings for approval.

3. Concerns regarding asphalt driveway.

The subject site is required to provide a single driveway that meets the requirements of Section 17.28 of the CMC and LA County Fire Department access standards. Section 17.28 does not require any specific driveway material. As a result, there is no nexus to require the applicant or property owner to install a concrete driveway.

CONCLUSION:

Staff has fully evaluated the comments submitted by neighboring property owners regarding the proposed project to construct a single-family residence at 24226 Dry Canyon Cold Creek Road. Based on the analysis above, staff maintains its recommendation from September 17, 2020, to approve the project as designed. Furthermore, Planning Commission Resolution No. 2020-704 has been updated with additional conditions of approval, as noted above, in order to address the issues raised by the neighbors.

EXHIBITS:

- Exhibit A: Planning Commission Resolution No 2020-704
- Exhibit B: Letter from Daniel Alliance, dated September 15, 2020
- Exhibit C: Survey
- Exhibit D: Letter from Surveyor
- Exhibit E: Easement
- Exhibit F: Email from Dale Bentz, dated September 17, 2020