

**ITEM 8 ATTACHMENT A  
RESOLUTION NO. 2021-1731**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CALABASAS, CALIFORNIA DECLINING TO CERTIFY AN AMENDED FINAL ENVIRONMENTAL IMPACT REPORT AND DENYING FILE NO. 160003152, A REQUEST FOR DEVELOPMENT OF A 77-ACRE VACANT PROPERTY LOCATED AT 4790 LAS VIRGENES ROAD AT THE EASTERN TERMINUS OF AGOURA ROAD (APNS: 2069-078-009 AND 2069-078-011). THE PROPOSED PROJECT INCLUDES: (1) A RESIDENTIAL COMPONENT CONSISTING OF 180 MULTI-FAMILY CONDOMINIUMS, INCLUDING 18 AFFORDABLE UNITS (10%) RESERVED FOR VERY LOW INCOME FAMILIES, SITUATED WITHIN FIFTEEN THREE-STORY RESIDENTIAL STRUCTURES; (2) A COMMERCIAL COMPONENT CONSISTING OF A 5,867 SQUARE-FOOT RETAIL COMMERCIAL RETAIL SHOPPING CENTER SITUATED IN TWO ONE-STORY BUILDINGS; (3) A 0.36 ACRE COMMUNITY GREEN SPACE (PARK); (4) TWO DETENTION/DEBRIS BASINS; (5) A PUBLIC TRAIL DEDICATION AND (6) DEDICATION OF APPROXIMATELY 66.0 ACRES (86% OF THE SITE) AS PERMANENT OPEN SPACE. DEVELOPMENT OF THIS PROJECT WOULD REQUIRE A SIGNIFICANT AMOUNT OF REMEDIAL GRADING TO RESHAPE THE LAND TO STABILIZE A LANDSLIDE HAZARD AREA ON THE SOUTHERN PORTION OF THE SITE. REQUESTED PERMITS INCLUDE: A VESTING TENTATIVE TRACT MAP (FOR BOTH LAND DIVISION AND CONDOMINIUM PURPOSES), DEVELOPMENT PLAN, CONDITIONAL USE PERMIT, SITE PLAN REVIEW, OAK TREE PERMIT, AND SCENIC CORRIDOR PERMIT. THE PROJECT SITE IS CURRENTLY ZONED PLANNED DEVELOPMENT (PD); RESIDENTIAL MULTI-FAMILY, 20 UNITS PER ACRE (RM-20); OPEN SPACE-DEVELOPMENT RESTRICTED (OS-DR); AND IS WITHIN THE SCENIC CORRIDOR (-SC) OVERLAY ZONE.**

**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 presentations at the public hearings held on July 10, 2019, July 11, 2019, July 18, 2019, April 15, 2021, and April 21, 2021 before the Planning Commission.
3. Staff presentations at public hearings held on May 12, 2021 and May 17, 2021 before the City Council.

4. The City of Calabasas Land Use and Development Code, Calabasas 2030 General Plan (inclusive of the 2014-2021 Housing Element), Las Virgenes Gateway Master Plan, and all other applicable regulations and codes.
5. Public comments, both written and oral, received and/or submitted at or prior to the public hearings, supporting and/or opposing the applicant's request.
6. 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 hearings.
7. The Amended Final Environmental Impact Report, inclusive of public comments and responses to comments, and all appendices.
8. All related documents received and/or submitted at or prior to the public hearings.

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

1. The applicant, The New Home Company, Inc., submitted an application for File No. 160003152 on October 17, 2016.
2. File No. 160003152 seeks a Vesting Tentative Tract Map, Development Plan, Conditional Use Permit, Site Plan Review, Oak Tree Permit, and Scenic Corridor Permit for development of a 77-acre vacant property located at 4790 Las Virgenes Road at the eastern terminus of Agoura Road (APNs: 2069-078-009 and 2069-078-011). The proposed project includes: (1) a residential component consisting of 180 multi-family condominiums, including 18 affordable units (10%) reserved for very low income families, situated within fifteen three-story residential structures; (2) a commercial component consisting of a 5,867 square-foot retail commercial retail shopping center situated in two one-story buildings; (3) a 0.36 acre community green space (park); (4) two detention/debris basins; (5) a public trail dedication and (6) dedication of approximately 66.0 acres (86% of the site) as permanent open space.
3. The project site is zoned: Planned Development (PD), Residential Multi-family (20 d.u. per acre) (RM (20)), and Open Space – Development Restricted (OS-DR), and is within the Scenic Corridor Overlay Zone (-SC)
4. The land use designations for the project site under the City's adopted General Plan are: Planned Development, Residential Multi-Family (20 d.u. per acre), and Open Space – Resource Protection.

5. Properties surrounding the project site are zoned: Commercial Retail (CR) to the west and north; Residential Multi-family (12 units per acre) (RM(12)) to the southwest; and Open Space – Development Restricted (OS-DR) to the south and east. The corresponding General Plan land use designations, respectively, are: Business Retail (BR); Residential Multi-Family (RM); and Open Space – Resource Protection (RM-RP).
6. On November 16, 2016, staff determined that the application was incomplete and the applicant was duly notified of this incomplete status.
7. The application was deemed complete on September 1, 2017 and the applicant was so notified.
8. A Notice of Preparation was issued on September 1, 2017, and an EIR scoping meeting was held on September 14, 2017.
9. The Draft Environmental Impact Report was completed and made available for public review on December 21, 2018; the public review period ended on March 8, 2019, and comments received were responded to and incorporated into the Original Final Environmental Impact Report.
10. A noticed public hearing was held by the Planning Commission on July 10, 2019, July 11, 2019, and July 18, 2019, at the conclusion of which the Planning Commission both recommended denial of the project and directed staff and the applicant to further evaluate alternatives to the project.
11. The Recirculated Draft Environmental Impact Report was completed and made available for public review on September 22, 2020; the public review period ended on November 13, 2020, and comments received were responded to and incorporated into the Amended Final Environmental Impact Report.
12. Subsequent noticed public hearings were held by the Planning Commission on April 15, 2021 and April 21, 2021. At the conclusion of the April 21, 2021 public hearing, the Planning Commission approved Planning Commission Resolution No. 2021-713, recommending to the City Council approval of the project at a reduced density of 135 units and to certify the Amended Final Environmental Impact Report and directed staff to include a condition of approval that The New Home Company, Inc. prepare plans to reduce the aesthetic and other impacts of the project the maximum extent possible.
13. Notice of the July 10, 11, and 18, 2019 and April 15 and 21, 2021 Planning Commission public hearings were posted at Juan Bautista de Anza Park, the Calabasas Tennis and Swim Center, Gelson's Market, the Agoura Hills/Calabasas Community Center, and at Calabasas City Hall.

14. Notice of the July 10, 11, and 18, 2019, and April 15 and 21, 2021 Planning Commission public hearings complied with the notice requirements set forth in Government Code Section 65009 (b)(2) and was mailed or delivered to property owners within 500 feet of the property as shown on the latest equalized assessment roll at least ten (10) days prior to the hearing, and was mailed or delivered to the project applicant at least fifteen (15) days prior to the hearing.
15. Notices of the April 15 and 21, 2021 Planning Commission public hearings were provided to all agencies and persons who commented on the Draft Amended EIR, and to all other persons or entities who requested notice.
16. Further public hearings were held by the City Council on May 12, 2021, and continued to May 17, 2021. Notice of the first May 12, 2021 City Council public hearing was posted at Juan Bautista de Anza Park, the Calabasas Tennis and Swim Center, Gelson's Market and at Calabasas City Hall.
17. Notice of the first May 12, 2021 City Council public hearings complied with the notice requirements set forth in Government Code Section 65009 (b)(2), and were mailed or delivered to property owners within 500 feet of the property as shown on the latest equalized assessment roll at least ten (10) days prior to the hearing, and were mailed or delivered to the project applicant at least fifteen (15) days prior to the hearing(s).
18. Notice of the first May 12, 2021 City Council public hearing was provided to all agencies and persons who commented on the Draft Amended EIR, and to all other persons or entities who requested notice.
19. At the May 12, 2021 City Council meeting, the City Council continued the matter to date certain of May 17, 2021. At the continued public hearing on May 17, 2021, the City Council received additional public comment, closed the public hearing, and voted unanimously to deny the project and for staff to return with this Resolution for adoption, documenting the project decision.
20. The project site is zoned: Planned Development (PD), Residential Multi-family (20 d.u. per acre) (RM(20)), and Open Space - Development Restricted (OS-DR).
21. The land use designations for the project site under the City's adopted General Plan are: Planned Development, Residential Multi-Family (20 d.u. per acre), and Open Space - Resource Protection.
22. Properties surrounding the project site are zoned: Commercial Retail (CR) to the west and north; Residential Multi-family (12 units per acre) (RM(12)) to the

southwest; and Open Space - Development Restricted (OS-DR) to the south and east. The corresponding General Plan land use designations, respectively, are: Business Retail (BR); Residential Multi-Family (RM); and Open Space - Resource Protection (RM-RP).

**Section 3. In view of all of the evidence and based on the foregoing, the City Council hereby declines to certify the adequacy of the Amended Final Environmental Impact Report, in accordance with CEQA Guidelines, Sections 15090 and 15091, based on the following findings:**

Under 14 CCR § 15042, the City may disapprove a project to avoid one or more significant effects on the environment that would occur if the project were approved as proposed. The City Council declines to certify the EIR, and as discussed below, disapproves the project to avoid significant environmental impacts.

The Amended Final Environmental Impact Report explains that development of the site as proposed includes the remediation of the large, existing landslide on the prominent southern hillside slope, through remedial grading totaling approximately 2.4 million cubic yards of cut and 2.4 million cubic yards of fill. As discussed below, the City Council finds that the proposed project is not consistent with the General Plan and Calabasas Municipal Code. The Amended Final Environmental Impact Report details substantial environmental impacts caused by the proposed project that would cause a significant and unavoidable impact to the visual character of the site, both by itself and because 19 percent (14.4 acres) of the project site would be graded for residential and commercial development and for both retention basins on the northern slope (non-remedial grading), and an additional 27 percent of the site (21 acres) would be graded to remove an existing landslide, then have remedial landscaping and drainage systems installed and continue to be preserved as open space, together with the remainder of the site resulting in significant impacts to the visual character of the site. The City Council finds that this level of grading, particularly of the southern hillside within a protected open-space area, is excessive and that the proposed economic, social, and other benefits of the project do not outweigh the harm caused by the project's significant, unavoidable environmental impact on the site's visual character.

Further, CEQA does not apply to decisions to deny a project, and thus no affirmative environmental determination is required for the denial of this project. (Cal. Code Regs., tit. 14, § 15270.)

**Section 4. In view of all of the evidence and based on the foregoing findings and conclusions, the City Council denies File No. 160003152 based on the following findings.**

## **A. The Project is Not Consistent with the Calabasas General Plan and Calabasas Municipal Code, thus the Required Permits Cannot be Approved**

The proposed project violated Calabasas Municipal Code and General Plan prohibitions on development and non-open space uses of General Plan designated open space. As discussed below in greater detail, the Calabasas Municipal Code, section 17.16.030(A)(1), prohibits any project that would redesignate for non-open spaces uses any land designated OS-R or OS-RP by the City's 2008 General Plan, absent approval by two-thirds of the voters of the City casting ballots on the question. The proposed project includes remedial grading totaling 2.4 million cubic yards of cut and 2.4 million cubic yards of fill and installation of permanent concrete drainage ditches and related above-ground and subsurface drainage facilities within approximately 20 acres of land designated OS-RP by the City's 2008 General Plan. The City Council finds that remedial grading at this scale, when combined with installation of permanent, concrete, drainage ditches and related drainage infrastructure, constitutes conversion of General Plan designated open space land for non-open space uses. The project has not been approved by two-thirds of the voters of the City. Therefore, the project violates the City's objective General Plan and zoning code requirements (Calabasas Municipal Code section 17.16.030 and Ordinance No. 2005-225 and Ordinance No. 2015-325) prohibiting development and non-open space uses within General Plan designated open space land, absent two-third voter approval.

The General Plan further requires that management of lands designated as open space be a priority for the City. General Plan Policy III-2 states specifically that the City will limit "the permitted intensity of development within lands designated as open space to that which is consistent with the community's environmental values and that will avoid significant impacts to sensitive environmental features..." The proposed project consists of a proposed subdivision, inclusive of reconfiguring and further subdividing two existing lots into five lots, and the 180-unit condominium subdivision, and together with the attendant roads, sidewalks, landscaped areas, green space/park, drainage facilities, trail dedication and open space lands will result in large-scale, permanent grading of the previously untouched northern and southern upper hillsides and installation of significant, visible and sub-surface permanent concrete drainage infrastructure, conflicting with the cited General Plan Policy requiring preservation of open space.

The proposed project conflicts with the General Plan policies pertaining to wildfire risks. General Plan Policy VII-14 requires the City to "[d]iscourage development and encourage sensitive siting of structures within hazardous fire areas as higher priorities than attempting to implement fuel modification techniques that would adversely affect significant biological resources." The proposed project violates this General Plan policy by prioritizing development in a known dangerous area for wildfires with inadequate attempted offsetting by fuel modification techniques. The

proposed project site is within the Las Virgenes Road Corridor, part of a designated Very High Fire Hazard Severity Zone and a specific area known by Los Angeles and Ventura Counties to be a major source of past wildfire ignitions (Santa Monica Mountains Community Wildfire Protection Plan, 2013, Figure 15.) The City Council further finds that the project site's vicinity has inadequate evacuation routes to safely accommodate the proposed, estimated 495 new residents within the project, nor to safely allow the evacuation of the surrounding community along Las Virgenes Road, particularly as the area's recent history shows that the 101 Freeway, to which Las Virgenes Road, and the adjacent Agoura Road and Lost Hills Road, all lead, can be an inadequate evacuation route for the existing communities that evacuate along it and that Las Virgenes Road (and Malibu Canyon Road which it becomes) is designated by surrounding communities, including unincorporated Los Angeles County and the City of Malibu, as an evacuation route. Further, the General Plan's Safety Objective 2, Fire Hazards requires the City to "[m]inimize the potential for loss of life, physical injury, property damage, and social disruption resulting from urban and wildland fires." The proposed project fails to minimize the potential harm from future wildfires as required by Safety Objective 2 of the General Plan. The high risks of wildfire present on the project site make the proposed project inconsistent with the General Plan.

Calabasas Municipal Code Section 17.20.055 requires that buildings in the Hillside/Mountainous Zone (HM) be clustered to preserve "a greater amount of open space with fewer impacts to the environment, including reduced site grading and a reduced development footprint[.]" Specifically, Municipal Code Section 17.20.055(A)(6) requires that "Where an average slope for a project exceeds twenty (20) percent, dwelling units should be clustered together on the more level portions of a site and steeper areas should be preserved in a natural state." Under these standards the proposed project does not comply with the Municipal Code because it does not preserve the neighboring hillsides in a natural state; instead engaging in excessive grading. Additionally, the 2008 Calabasas General Plan, clustered development into the lower, western valley area of the project site, in order to leave the surrounding hillsides in their natural state. To do so, the General Plan upzoned the PD and RM-20 areas of the site from the previous General Plan's maximum density of 16 units per acre to the then-new PD and RM-20 zones allowing 20 units per acre. The increased density for a potential developer of the site was provided by the City, through the 2008 General Plan, in exchange for preserving the natural state of the hillsides, as reflecting in the General Plan's adoption of an OS-RP, Open Space – Resource Protection designation for all of the remaining hillside areas of the site. By clustering development solely within the PD and RM-20 zoned parts of the project site, open space would remain undeveloped. However, the proposed project calls for significant, permanent development, namely 2.4 million cubic yards of cut and 2.4 million cubic yards of fill remedial grading and permanent, concrete drainage ditches and related surface and sub-

surface drainage infrastructure in the open space portion of the site, which contradicts the General Plan.

The General Plan states that the undeveloped hillside lands are to be maintained in a natural condition by minimizing alteration of existing landforms and avoiding mass graded “mega-pads” for development. (General Plan Policies III-11; III-12, III-16.) General Plan Policy III-18 further prohibits new development, except for trail construction, on slopes of 50 percent or greater, unless the development is needed for safety reasons or allowing such development would be more protective of ridgelines and other hillside resources. Calabasas Municipal Code Section 17.20.150 requires that all grading and project design conform to the City’s grading ordinance and must adapt to the natural hillside topography and maximize view opportunities to and from a development. The City requires developments to preserve the existing visual character of hillsides, rather than alter the hillside environment to fit the development.

The City Council finds the proposed project does not comply with the City’s hillside protection requirements, in both the General Plan and Calabasas Municipal Code. The proposed project design requires significant grading beyond the scope envisioned in the general plan and thus to a level prohibited by the Calabasas Municipal Code. The excessive amount (2.4 million cubic yards of cut and 2.4 million cubic yards of fill) and location of grading, including the landslide remediation, results in the project failing to comply with the City’s hillside development standards.

The project entails significant grading, approximately 2.4 million cubic yards of fill and 2.4 million cubic yards of cut, of the site’s southern hillsides to enable the development, violating the above General Plan policies which call for maintaining natural conditions by minimizing alterations of natural landforms and require the existing visual character of hillsides to be maintained. (General Plan Policies III-11, III-12, III-16.) The proposed remedial grading, intended to facilitate the development of the project, also violates General Plan Policy VII-4, discouraging development within potential landslide areas with severe soil limitations, such as this site. Furthermore, the proposed final, manufactured slope, to consist of approximately 21 acres of graded, manufactured slope and concrete drainage channels in the southern hillside area, is prohibited by Section 17.20.055(A)(9) of the Calabasas Municipal Code. Section 17.20.055(A)(9) forbids manufactured slopes as a final feature in open space areas. The proposed final southern and northern hillside graded areas also violate General Plan Policy III-15, which prohibits concrete box drainage channels.

Given the foregoing failures to comply with the Calabasas Municipal Code and General Plan, the City Council denies each of the following permits, as further specified, and thereby deny the project.



### ***Tentative Map***

Section 17.41.040 of the Calabasas Municipal Code (CMC) states that the Planning Commission may approve, conditionally approve, or deny a proposed Tentative Map, provided certain findings are made (per CMC 17.41.100). The City Council concludes that the following findings cannot be made as necessary to allow approval of the proposed Tentative Map:

1. *The Planning Commission may approve a tentative map only when the commission first finds that the proposed subdivision, together with the provisions for its design and improvement, is consistent with the General Plan, and any applicable specific plan, and that none of the findings for disapproval can be made (see findings 3 and 4 which follow);*

As discussed above, the Project is not consistent with the Calabasas General Plan as the proposed development violates the hillside development standards articulated in General Plan Policies III-11, III-12, III-16, and III-18. The proposed project is also not consistent with the Open Space Element of the General Plan as it requires grading and development of open space that is set aside to remain undisturbed. (General Plan Policy III-2.) The proposed final southern and northern hillside graded areas also violate General Plan Policy III-15, which prohibits concrete box drainage channels.

2. *The proposed tentative map shall be denied if the Planning Commission makes any of the following findings:*
  - a. ***The proposed subdivision, including its design and improvements, is not consistent with the General Plan, or any applicable specific plan;***
  - b. *The site is not physically suitable for the type or density of the proposed development;*
  - c. ***The design of the subdivision or the proposed improvements are likely to cause substantial environmental damage or injure fish or wildlife or their habitat;***
  - d. *The design of the subdivision or type of improvements is likely to cause serious public health problems;*
  - e. *The design of the subdivision or the type of improvements will conflict with easements acquired by the public at large for access through, or use of, property within the proposed subdivision;*
  - f. *The discharge of sewage from the proposed subdivision into the community sewer system would result in violation of existing requirements prescribed by this Municipal Code or the California Regional Water Quality Control Board;*  
*or,*
  - g. ***The proposed subdivision is not consistent with all applicable provisions of this development code, the Municipal Code, or the Subdivision Map Act.***

For the following reasons, the City Council makes the following findings for denial of the proposed tract map, each of which is individually sufficient to deny the proposed tentative tract map:

Finding a. As detailed above the Project is not consistent with the General Plan and its policies regarding hillside development standards and use of open space as defined by the Open Space Element. (General Plan Policies III-11, III-12, III-16, III-18.) The proposed final southern and northern hillside graded areas also violate General Plan Policy III-15, which prohibits concrete box drainage channels. The proposed project conflicts with the General Plan's policies pertaining to wildfire risks by prioritizing development in a dangerous area for wildfires with inadequate safety measures, without adequate and safe evacuation routes, and without minimizing the potential harm from future wildfires as provided in Safety Objective 2 of the General Plan. (Policy VII-14 & Safety Objective #2.)

Finding c. The site requires significant grading within a landslide area that cannot be easily remediated resulting in substantial environmental damage to the hillside — namely, the permanent, significant, unavoidable loss of the existing hillside's visual character. (General Plan Policy III-11.) The proposed remedial grading, intended to facilitate the development of the project, also violates General Plan Policy VII-4, discouraging development within potential landslide areas with severe soil limitations, such as this site.

Finding g. As detailed above, the Project conflicts with the Calabasas Municipal Code because the proposed final, manufactured slope is prohibited by Section 17.20.055(A)(9) of the Municipal Code which prohibits manufactured slopes as a final feature in open space areas. It further conflicts with the Calabasas Municipal Code because Section 17.16.030(A) requires voter approval to allow development projects in areas designated as open space that would result in redesignating for non-open space use of any property in the city designated OS-R or OS-RP by the Land Use Map of the Calabasas General Plan. No voter approval has been given here for the proposed permanent grading of the approximately 21.4 acre southern hillside area located largely on land designated OS-RP by the City's General Plan Land Use Map.

3. *The proposed tentative map may be denied if the Planning Commission, or City Council if applicable, makes any of the following findings:*
  - a. *The tentative map is not in conformity with accepted planning or engineering standards;*
  - b. *The environmental, public services or facilities costs to the city taxpayers outweigh the advantages created by the proposed subdivision;*

- c. *The proposed development is not compatible with the character of the neighborhood;*
- d. *The proposed development is in an area not desirable for the intensive use proposed; or,*
- e. ***A preliminary soils report or geologic hazard report indicates adverse soil or geologic conditions and the subdivider has failed to provide sufficient information, to the satisfaction of the City Engineer, Planning Commission, or City Council, that the conditions can be corrected in the plan for development.***

For the following reasons, the above listed findings for denial of the proposed tract map can be made:

Finding e. The soils and geological conditions reports (included in the project EIR appendix) indicate that an ancient landslide exists along the north-facing slopes of the hillside located along the property's southern boundary. The remediation would require over-excavation of the slide material, followed by replacement of the material into an engineered and compacted slope (including buttressing with engineered material in the canyon bottom), and with appropriate storm-water collection and conveyance improvements. It would also involve grading of hillsides areas to repair and stabilize a slope which contains unstable material. Grading on slopes greater than fifty percent is disfavored per the standards contained in CMC Section 17.20.150. The proposed final, manufactured slope, to consist of approximately 21 acres of graded, manufactured slope and concrete drainage channels in the southern hillside area, is prohibited by Section 17.20.055(A)(9) of the Municipal Code which prohibits manufactured slopes as a final feature in open space areas. The proposed grading of the southern hillside area to enable the development and correct these adverse soil conditions also violates applicable General Plan policies which require maintaining natural conditions by minimizing alterations of natural landforms and require the existing visual character of hillsides to be maintained. (General Plan Policies III-11, III-12, III-16, III-18.) The proposed remedial grading, intended to facilitate the development of the project, also violates General Plan Policy VII-4, discouraging development within potential landslide areas with severe soil limitations, such as this site. The proposed final southern and northern hillside graded areas also violate General Plan Policy III-15, which prohibits concrete box drainage channels. The adverse soil and geologic conditions cannot be corrected without grading the southern hillside area, and thereby without violating these provisions of the General Plan and Municipal Code.

For these reasons, the Planning Commission recommends the City Council deny the proposed tentative tract map.

***Development Plan Permit***

Section 17.62.070 of the Calabasas Municipal Code (CMC) allows the review authority to approve a **Development Plan Permit** provided that the following findings are made. The City Council concludes the following findings cannot be made as necessary to allow approval of the proposed Development Plan:

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

The Project does not apply with all of the applicable provisions of the Calabasas Municipal Code. The proposed project conflicts with the Calabasas Municipal Code because Section 17.16.030(A) requires voter approval to allow development in areas designated as open space that would result in redesignating for non-open space use of any property in the city designated OS-R or OS-RP by the Land Use Map of the Calabasas General Plan. No voter approval has been given for the proposed permanent grading of the approximately 21.4 acre southern hillside area located on land designated OS-RP by the City’s General Plan Land Use Map. The project calls for grading on slopes greater than fifty percent. Such type of grading “shall be avoided” per the standards contained in CMC Section 17.20.150. Furthermore, because the proposed final, manufactured slope is prohibited by Section 17.20.055(A)(9) of the Municipal Code, which prohibits manufactured slopes as a final feature in open space areas, the project violates the Development Code’s Hillside Development Standards (CMC Section 17.20.150).

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

As detailed above, the project conflicts with the objective standards in the General Plan. The expected development is not consistent with the hillside development standards, which call for maintaining natural conditions by minimizing alterations of natural landforms and require the existing visual character of hillsides to be maintained. (General Plan Policies III-11, III-12, III-16, III-18.) The expected grading of a fifty percent or greater slope is prohibited by General Plan Policy III-18. It is further not consistent with the Open Space Element of the General Plan as it requires grading and development of open space that is to remain undisturbed. (General Plan Policy III-2.) The proposed final southern and northern hillside graded areas also violate General Plan Policy III-15, which prohibits concrete box drainage channels. The proposed remedial grading, intended to facilitate the development of the project, also violates General Plan Policy VII-4, discouraging development within potential landslide areas with severe soil limitations, such as this site. The proposed project conflicts with the General Plan’s policies pertaining to wildfire risks by

prioritizing development in a dangerous area for wildfires with inadequate safety measures, without adequate and safe evacuation routes, and without minimizing the potential harm from future wildfires as provided in Safety Objective 2 of the General Plan. (Policy VII-14 & Safety Objective #2.)

For these reasons, the City Council denies the proposed Development Plan Permit.

***Conditional Use Permit***

Section 17.62.060 of the Calabasas Municipal Code (CMC) allows the review authority to approve a **Conditional Use Permit** provided that the required findings are made. The City Council concludes that the following findings cannot be made as necessary to allow approval of the proposed Conditional Use Permit:

- 1. That the proposed use is conditionally permitted within the subject zoning district and complies with all of the applicable provisions of this development code;* “

The Project does not apply with all of the applicable provisions of the Calabasas Municipal Code. The proposed project conflicts with the Calabasas Municipal Code because Section 17.16.030(A) requires voter approval to allow development in areas designated as open space that would result in redesignating for non-open space use of any property in the city designated OS-R or OS-RP by the Land Use Map of the Calabasas General Plan. No voter approval has been given for the proposed permanent grading of the approximately 21.4 acre southern hillside area located on land designated OS-RP by the City’s General Plan Land Use Map. The project calls for grading on slopes greater than fifty percent. Such type of grading “shall be avoided” per the standards contained in CMC Section 17.20.150. Furthermore, because the proposed final, manufactured slope is prohibited by Section 17.20.055(A)(9) of the Municipal Code, which prohibits manufactured slopes as a final feature in open space areas, the project violates the Development Code’s Hillside Development Standards (CMC Section 17.20.150).

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

As detailed above, the project conflicts with the objective standards in the General Plan. The expected development is not consistent with the hillside development standards, which call for maintaining natural conditions by minimizing alterations of natural landforms and require the existing visual character of hillsides to be maintained. (General Plan Policies III-11, III-12, III-16, III-18.). The expected grading of a fifty percent or greater slope is prohibited by General Plan Policy III-18. It is further not consistent with the Open Space Element of the General Plan as it requires grading and development of open

space that is to remain undisturbed. (General Plan Policy III-2.) The proposed final southern and northern hillside graded areas also violate General Plan Policy III-15, which prohibits concrete box drainage channels. The proposed remedial grading, intended to facilitate the development of the project, also violates General Plan Policy VII-4, discouraging development within potential landslide areas with severe soil limitations, such as this site. The proposed project conflicts with the General Plan's policies pertaining to wildfire risks by prioritizing development in a dangerous area for wildfires with inadequate safety measures, without adequate and safe evacuation routes, and without minimizing the potential harm from future wildfires as provided in Safety Objective 2 of the General Plan. (Policy VII-14 & Safety Objective #2.)

For these reasons, the City Council denies the proposed Conditional Use Permit.

***Site Plan Review Permit***

Section 17.62.020 of the Calabasas Municipal Code (CMC) allows the review authority to approve a **Site Plan Review Permit** provided that the required findings are made. The City Council concludes that the following findings cannot be made as necessary to allow approval of the proposed Site Plan Review Permit:

- 1. The proposed project complies with all applicable provisions of this Development Code;*

The Project does not apply with all of the applicable provisions of the Calabasas Municipal Code. The proposed project conflicts with the Calabasas Municipal Code because Section 17.16.030(A) requires voter approval to allow development in areas designated as open space that would result in redesignating for non-open space use of any property in the city designated OS-R or OS-RP by the Land Use Map of the Calabasas General Plan. No voter approval has been given for the proposed permanent grading of the approximately 21.4 acre southern hillside area located on land designated OS-RP by the City's General Plan Land Use Map. The project calls for grading on slopes greater than fifty percent. Such type of grading "shall be avoided" per the standards contained in CMC Section 17.20.150. Furthermore, because the proposed final, manufactured slope is prohibited by Section 17.20.055(A)(9) of the Municipal Code, which prohibits manufactured slopes as a final feature in open space areas, the project violates the Development Code's Hillside Development Standards (CMC Section 17.20.150).

- 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 vicinity;*

As detailed above, the project conflicts with the objective standards in the General Plan. The expected development is not consistent with the hillside

development standards, which call for maintaining natural conditions by minimizing alterations of natural landforms and require the existing visual character of hillsides to be maintained. (General Plan Policies III-11, III-12, III-16, III-18.). The expected grading of a fifty percent or greater slope is prohibited by General Plan Policy III-18. It is further not consistent with the Open Space Element of the General Plan as it requires grading and development of open space that is to remain undisturbed. (General Plan Policy III-2.) The proposed final southern and northern hillside graded areas also violate General Plan Policy III-15, which prohibits concrete box drainage channels. The proposed remedial grading, intended to facilitate the development of the project, also violates General Plan Policy VII-4, discouraging development within potential landslide areas with severe soil limitations, such as this site. The proposed project conflicts with the General Plan's policies pertaining to wildfire risks by prioritizing development in a dangerous area for wildfires with inadequate safety measures, without adequate and safe evacuation routes, and without minimizing the potential harm from future wildfires as provided in Safety Objective 2 of the General Plan. (Policy VII-14 & Safety Objective #2.)

For these reasons, the City Council denies the proposed Site Plan Review Permit.

As described above in detail, the City Council denies the project, and each of the above discussed necessary permits, as not consistent with the foregoing objective requirements of the Calabasas General Plan and Calabasas Municipal Code. As these permits are denied, the City Council denies the additional permits requested for the project [Oak Tree Permit and Scenic Corridor Permit] as moot.

#### **B. The Project Fails to Comply with Objective Standards and Criteria, Supporting Denial Under Housing Accountability Act**

The Housing Accountability Act allows the City to deny a proposed housing development project if the project fails to comply with applicable, objective general plan, zoning, and subdivision standards and criteria. (Government Code § 65589.5(f)(1).) As detailed above, the City Council finds that the project fails to comply with the City's objective General Plan and Calabasas Municipal Code standards governing hillside development and open space preservation. Specifically and independently, the City finds that the project fails to comply with each of the following requirements: the General Plan's prohibition on destruction of existing hillside visual character and prohibition against creation of large, graded development pads and final, manufactured slopes (General Plan Policies III-11, III-12, III-16); the General Plan's prohibition against grading of slopes over 50% in grade (General Policy III-18); General Plan Policy III-15 prohibiting concrete box drainage channels; the General Plan's Policy VII-4 discouraging development within landslide areas; Calabasas Municipal Code § 17.16.030(A), prohibiting non-open space uses of open space resource protected areas designated by the 2008 General Plan

absent two-thirds voter approval; and Calabasas Municipal Code § 17.20.055(A)(9) and 17.12.150, prohibiting manufactured slopes as a final feature in open space areas.

Calabasas Municipal Code Section 17.16.030(A) prevents development and non-open space uses in areas designated as open space that would result in redesignating for non-open space use of any property in the city designated OS-R or OS-RP by the Land Use Map of the Calabasas General Plan unless that redesignation was approved by two-thirds of the City's voters. The City Council concludes that, notwithstanding the staff's recommendation otherwise, permanent grading of a hillside and installation of permanent concrete drainage ditches and other surface and sub-surface drainage infrastructure to facilitate residential development qualifies as development and a non-open space use of land, and thus the project is prohibited without voter approval under Section 17.16.030(A) because the proposed permanent grading of the approximately 21.4 acre southern hillside area is located on land designated OS-RP by the City's General Plan Land Use Map. The City Council therefore denies the project on this independent ground for violation of objective General Plan and Zoning Code requirements, as it lacks two-thirds voter approval.

### **C. Project Will Have Specific Adverse Impact on Public Health and Safety, Supporting Denial Under Housing Accountability Act**

Under Government Code § 65589.5(j)(1), of the Housing Accountability Act, the City may deny a proposed project if the project would have a "specific, adverse impact upon the public health or safety" and if that impact cannot be mitigated or avoided, other than by project disapproval. The City Council further finds that the project as proposed will have a specific, adverse impact on public health and safety due to wildfire risks and that this significant, adverse impact on public health and safety is inherent to the project and cannot be mitigated or avoided other than by disapproval.

The proposed project is located within a designated Very High Fire Hazard Severity Zone. The proposed project site was recently entirely burned by a large wildfire, the November 2018 Woolsey Fire — the largest fire to date in Los Angeles County. The proposed project site is known to be in a fire-prone area, estimated by Los Angeles County to have an approximately 5% chance of burning in any given year, meaning the project site is expected to burn in a wildfire at least once every twenty years. Additionally, the project site is located along the Las Virgenes Canyon Corridor, an area with a historically high proportion of fire ignitions. The proposed project site is located just east of Las Virgenes Road (an arterial roadway carrying more than 30,000 vehicles per day), at the intersection with Agoura Road, which itself connects with Lost Hills Road. The proposed project site is accessed solely from Las Virgenes Road. Any evacuation of the project site would be expected to



be conducted from Las Virgenes Road to the 101 Freeway, given the alternative would be narrow, winding, one and two lane canyon roads surrounded on all sides by undeveloped brush leading south to the undeveloped, fireprone hillsides of the Santa Monica Mountains, and ultimately to Pacific Coast Highway, a limited capacity, winding road along the Pacific Coast which was historically been burned during the Woolsey Fire and other fires. The proposed project would place approximately 495 new residents (Final Amended EIR, p. 55) in an already severely congested and fire-prone area with insufficient evacuation routes, therefore making it harder for both existing and proposed new residents to evacuate in the event of a fire. During the Woolsey Fire, the City experienced significant evacuation delays, in part stemming from the fact that the City, and the project site itself, is primarily accessed by the 101 Freeway, which travels through undeveloped, hillside areas both east and west of the interchanges with Las Virgenes Road and Lost Hills Road. During the Woolsey Fire, the wildfire crossed the 101 Freeway in the vicinity of both of those interchanges, rendering both those main roads and the 101 Freeway itself impassible to evacuating residents during that fire. The City Council finds that the record shows that these two major roads, Las Virgenes Road and Lost Hills Road, together with the main connector between them, Agoura Road, all can become impassible during major wildfire incidents, leaving both existing residents in the communities near the project site and the new residents within the proposed project vulnerable to being unable to safely evacuate the area. The 101 Freeway itself, to which all of these roads connect, is also historically inadequate as an evacuation route, and the addition of an estimated 495 new residents from this project trying to evacuate through the same road network to get to the 101 Freeway would be a specific adverse impact on public safety. The City Council finds that the proposed project would cause a significant adverse impact on public safety because it would place too many new residents within an area prone to wildfire and served only by inadequate evacuation routes.

Additionally, Los Angeles County Fire Station #125 is located across the freeway from the proposed project. If an emergency were to occur south of the 101 Freeway in the vicinity of Agoura Road, fire engines would have to travel through the intersection at Agoura Road or take the 101 Freeway along a two-mile detour. That detour is also subject to severe traffic due to commuting and a single-lane off-ramp. During emergency response, time-to-destination is critical to save a life or put out a fire which could spread quickly in this dangerous, recurring fire corridor. The addition of approximately 495 new residents (Final Amended EIR, p. 55) near this 101 Freeway intersection would delay the response time of firefighting crews from Station #125 in the event of a fire. This predictable adverse impact to public safety would result if the proposed project is approved as submitted.

The City Council finds that this significant, adverse impact on public safety cannot be satisfactorily mitigated or avoided, because it is inherent in the project itself. The significant, adverse impact on public safety is the placement of an estimated 495 new residents in a fireprone canyon accessed solely by Las Virgenes Road, a

known inadequate evacuation route. This significant adverse impact cannot be mitigated by fire-risk reduction building standards alone as the impact stems from the addition of this significant amount of new residents to the existing, inadequate evacuation routes along Las Virgenes Road and the 101 Freeway. The fact that the proposed buildings will be built to the applicable very high fire hazard severity zone building standards does not eliminate the City's reasonable expectation that the new project residents will seek to, in the event of another fire, evacuate the project site. There is no feasible method to mitigate or avoid this impact satisfactorily, other than by disapproving the project, as the impact results from the addition of this significant amount of new residents in an existing, fire-prone, regularly burned, box canyon. Widening Las Virgenes Road would not mitigate or avoid this impact satisfactorily and could even potentially worsen the problem by bringing more traffic to the area. Widening Las Virgenes Road would also not address the project's significant, adverse impact on public safety because it would not solve the underlying, fundamental significant public safety impact that the 101 Freeway has inadequate capacity to safely accommodate wildfire evacuations from the project site and the surrounding area.

#### **D. City Will Not Suffer a Net Loss of Housing Opportunity Sites with Project Denial**

Under Government Code § 65863, the City Council may deny, or reduce the density of, a proposed housing project if two findings can be made: 1) that the proposed denial is consistent with the General Plan and 2) that the City's retains adequate remaining sites in its Housing Element Sites Inventory to still meet its remaining unmet share of the regional housing need for households at all income levels, without the proposed project. As discussed below, the City Council makes both of these findings, as the proposed denial of the project is consistent with the City's General Plan and the City retains adequate available sites to meet its Regional Housing Needs Assessment ("RHNA") share at all income levels without the proposed West Village project site.

1. The City Council's denial of the West Village project is consistent with the City's General Plan, for all the reasons stated above.
2. The City Council finds that the City retains adequate available sites to meet the City's remaining unmet share of its Regional Housing Needs Assessment, without the West Village project site.

As shown below, the remaining sites identified in the City's adopted 2014-2021 Housing Element are sufficient to meet the City's remaining RHNA available sites inventory obligation at all income levels.

Table 1 provides a summary of the City’s RHNA obligation for the Fifth Housing Element Cycle, its progress to date, and the remaining RHNA obligation through the end of the 2014-2021 Housing Element planning period.

<b>Table 1: 2014-2020 Housing Element Regional Housing Needs Allocation Summary</b>			
<b>Income Category</b>	<b>Assigned RHNA</b>	<b>New Units Constructed 2014-2020</b>	<b>Remaining RHNA</b>
<b>Very Low</b>	88	12	76
<b>Low</b>	54	0	54
<b>Moderate</b>	57	13	44
<b>Above-Moderate</b>	131	181	0
<b>Totals:</b>	330	206	174

Notes to Table 1:

- 1) The numbers of new units constructed during the planning period to date are taken from the City’s 2020 Annual Progress Report regarding the 2014-2021 Housing Element of the 2030 General Plan, approved by the Calabasas City Council on March 31, 2020.

Table 2, as discussed further below, shows that the City’s remaining available housing opportunity sites, without the West Village project site, are adequate to accommodate the City’s remaining, unmet share of its RHNA obligation for the 2014-2021 Housing Element planning cycle.

**Table 2: Analysis of Remaining Available Housing Opportunity Sites – Without West Village, City Retains Sufficient Available Housing Opportunity Sites to Meet Remaining RHNA Obligations**

Income Group	Entitled Projects (post 2013 occupancy)	Minimum Density Guidelines	Vacant Residential Sites [Without West Village Site Included]	Underutilized Residential Sites	Second Units	Total Unit Potential	Remaining RHNA Required [Per Table 1]	RHNA Obligation Met with Remaining Available Sites
Very Low	122	≥ 20 du/acre	Original: 147 West Village: 120 Remaining Available Sites, Without West Village: 27	172		199	76	Yes
Low							54	Yes
Moderate		≥ 12 du/acre	Original: 60 West Village: 60 Remaining Available Sites, Without West Village: 0	99	12	111	44	Yes
Above Moderate	146	≤ 12 du/acre	99			245	0	Yes
Total	158		126	271	12	555		

Notes to Table 2:

- 1) The allocation of 120 combined low and very low income units and 60 moderate income units to the West Village project site is stated in the 2014-2021 Housing Element on Page V-7, with the site identified as the Las Virgenes Site.
- 2) The remaining Vacant Residential Sites other than the West Village project site, accounting for a potential of 27 combined very low and low income units and 99 above-moderate units, are those sites summarized in Table V-2 and detailed in the Housing Element's Appendix B, including: 1,216 acres of hillside mountainous zoned area, at a potential density of 1 unit per 40 acres; 96.6 acres of rural residential zoned area, at a potential density of 1 unit per 10 acres; 14.3 acres of residential single-family zoned area, at a potential density of 6 units per acre — adding up to a combined potential of 99 units of above moderate income housing; and 1.3 acres of mixed use zoned area [including the Old Town Mixed Use Site, Page V-7, and the 0.36 acre Las Virgenes Road parcel, Page V-8], at a potential density of 20 units per acre, for a potential of 27 units of combined very low and low income housing.

The City's 2014-2021 Housing Element's Sites Inventory Analysis, summarized in Table V-4 of the Housing Element, demonstrated that the City met its RHNA obligation through four categories of available sites: 1) Entitled Project (Post 2013 Occupancy); 2) Vacant Residential Sites; 3) Underutilized Residential Sites; and 4) Second Units. The site of the proposed West Village project was counted as one of the Vacant Residential Sites, with a projected density of 120 units in the combined Very Low and Low Income categories and 60 units in the Moderate Income category. Subtracting the West Village project site from the original sites inventory leaves more than sufficient remaining capacity for the City to still have zoned for adequate sites to meet the City's share of its RHNA obligation. As detailed in Table 2 above, the remaining vacant residential sites [[add FN]], together with the entitled projects, underutilized residential sites, and second units, provide sufficient capacity for the City to still have sites available for a combined 199 potential very low and low income units, above the combined, remaining RHNA obligation of 130 very low and low income units, a combined 111 available moderate income units, above the remaining RHNA obligation of 44 moderate income units, and a combined remaining 245 above-moderate income units, well above the remaining RHNA obligation of zero above-moderate income units. The City's original adoption of the 2014-2021 Housing Element with units above the required minimum RHNA obligation means that the City retains adequate available sites to still meet its remaining RHNA obligation at each income level without the West Village site. As a result, even after the denial of this project, there remain sites adequate to meet the requirements of Government Code Section 65583.2 and to accommodate the City's remaining share of the regional housing need under Government Code

Section 65584 for the current, Fifty Cycle and the City's 2014-2021 Housing Element. The City further expects that there will be more than adequate sites to meet the forthcoming Sixth Cycle RHNA obligations without this site. Therefore, the Planning Commission recommends that the City Council find that the denial of the project is consistent with Government Code section 65863 and does not leave the City unable to meet its remaining RHNA obligations.

**Section 5.** All documents described in Section 1 of this Resolution are deemed incorporated by reference as if set forth at length.

**Section 6.** 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 26 day of May 2021.**

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James R. Bozajian, Mayor

ATTEST:

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Maricela Hernandez, City Clerk  
*Master Municipal Clerk*  
*California Professional Municipal Clerk*

APPROVED AS TO FORM:

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Scott H. Howard  
Colantuono, Highsmith & Whatley, PC  
City Attorney