

PLANNING COMMISSION RESOLUTION NO. 2023-753

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF CALABASAS TO APPROVE FILE NO. ZCL-2023-059 AND OTP-2023-008, A REQUEST FOR A ZONING CLEARANCE AND OAK TREE PERMIT FOR BACK YARD IMPROVEMENTS INCLUDING A NEW PERGOLA, FIRE PIT, SEATING WALL, RAISED VEGETABLE GARDEN, NEW COUNTERTOPS AND GRILL, AND NEW LANDSCAPING, LOCATED AT 3901 PRADO DEL TRIGO (APN: 2069-092-019) WITHIN THE RESIDENTIAL SINGLE-FAMILY (RS) ZONING DISTRICT.

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 prepared by the Community Development Department.
2. Staff presentation at the public hearing held on August 3, 2023, 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 on the foregoing evidence, the Planning Commission finds that:

1. On February 28, 2023 an application was submitted by the property owner for File No. ZCL-2023-059.
2. Upon review, staff determined the proposed work encroached into the protected zone of a Heritage oak tree, and required submittal of an oak tree permit application.
3. On June 11, 2023, an oak tree permit application was submitted by the property owner for File No. OTP-2023-008.
4. Staff determined that the application was incomplete on July 11, 2023 and the applicant was duly notified of this incomplete status.
5. Following a subsequent resubmittal, the application was deemed complete by Staff on July 19, 2023.
6. Notice of the August 3, 2023 Planning Commission public hearing was posted at Juan de Anza Park, the Calabasas Tennis and Swim Center, and at Calabasas City Hall.
7. Notice of the August 3, 2023 Planning Commission public hearing was provided to property owners within 500 feet of the property as shown on the latest equalized assessment roll.
8. Notice of the August 3, 2023 Planning Commission public hearing was mailed or delivered at least ten (10) days prior to the hearing to the project applicant.
9. Notice of the August 3, 2023 Planning Commission public hearing included the notice requirements set forth in Government Code Section 65009 (b)(2).
10. A public hearing was held at the August 3, 2023 Planning Commission meeting, during which public testimony was taken.
11. At the August 3rd, 2023 meeting, the Commissioners recommended that Staff prepare a resolution of approval for File Nos. ZCL-2023-059 and OTP-2023-008, to be brought back to the Commission for approval at the next regularly scheduled Planning Commission meeting.
12. The project site is zoned Residential Single-Family (RS).

13. The land use designation for the project site under the City's adopted General Plan is Residential-Single Family (R-SF).
14. Properties surrounding the project site are zoned RS, and have a General Plan land use designation of R-SF.

Section 3. In view of all of the evidence and based on the foregoing findings, the Planning Commission finds as follows:

FINDINGS

Section 17.32.010 of the Calabasas Municipal Code (CMC) allows the review authority to approve an **Oak Tree Permit** provided that one or more of five possible findings are made. The Planning Commission determines that the following finding is applicable to the project and the finding can be made.

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 property, which would otherwise be prevented by the presence of the oak tree or scrub oak habitat. In addition, such 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. (CMC 17.32.010.E.2)

The project site is approximately one-third of an acre and developed with an existing single-family residence with an attached pergola (which comprises approximately the eastern 2/3rds of the property) and includes some backyard landscaping in the remaining western portion of the property. The owner is proposing backyard improvements in the western portion of the property consisting of a new detached pergola, fire pit with an adjacent low seating wall, raised vegetable garden, new countertops and barbeque, and new drought tolerant landscaping (to help reduce water usage). The northwestern corner of the rear yard also contains a Heritage Coast Live oak tree, likely transplanted when the tract was initially developed. Per CMC Chapter 17.32, native oak trees are a protected resource, and per CMC Section 17.32.010(D)(c)(3), encroachment of more than 10% into the protected zone, which for a Heritage tree is defined as a distance of fifty feet from the trunk or five feet outside the dripline (whichever is the greater distance), is not permitted unless a finding is made that it is necessary to enable reasonable and conforming use of the property. In this case, the location of the tree within the property's rear yard combined with the 50-foot protected zone, places

a substantial portion (approximately 50%-60%) of the rear yard within the oak tree's protected zone. To this end, strict application of the Oak tree ordinance would not allow similar rear yard amenities that are enjoyed by the other residences in the community, and encroachment into the protected zone of the Heritage oak tree is necessary to enable reasonable and conforming use of the subject property.

The Oak Tree Report indicates that the encroachment activities involving the on-site oak tree would not result in significant long-term adverse impacts to the tree. This conclusion has been reviewed and confirmed by the City's Oak Tree specialist. However, to further ensure that adverse impacts to the trees are minimized, the applicant shall comply with all of the Oak Tree Report's recommendations and the Conditions of Approval contained in this Resolution. Therefore, the proposed project meets this finding.

Section 4. In view of all of the evidence and based on the foregoing findings and conclusions, the Planning Commission approves File Nos. ZCL-2023-059 and OTP-2023-008, subject to the following agreement 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 File Nos. ZCL-2023-059 and OTP-2023-008 or the activities conducted pursuant to this File Nos. ZCL-2023- 059 and OTP-2023-008. Accordingly, to the fullest extent permitted by law, the applicant and property owner, and their successor and assigns, shall defend, indemnify and hold harmless the 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 File Nos. ZCL-2023-059 and OTP- 2023-008, or the activities conducted pursuant to File ZCL-2023-059 and OTP-2023-008. The applicant and property owner, and their successor and assigns, 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/Building and Safety

1. The proposed project shall be built in compliance with the approved 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 Director of Community Development.
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. 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.
6. 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 an affidavit of acceptance of 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.

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. 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 either landscaping, walls or a combination thereof.
9. All exterior lights are subject to the provisions set forth in the Lighting Ordinance Chapter 17.20 of the Land Use and Development Code.
10. Prior to commencement of construction, all necessary building permits must be obtained from the Building and Safety Division.
11. The project must comply with the building codes of Title 15.04 of the CMC at the time of building plan check submittal.
12. The project is located within a designated Very High Fire Hazard Severity Zone. The requirements of Chapter 15.04.900 of the CMC shall be incorporated into all plans.
13. 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.
14. Construction Activities - Hours of construction shall be limited to:
 - 7:00 a.m. to 6:00 p.m., Monday through Friday
 - 8:00 a.m. to 5:00 p.m., Saturday

Stacking of construction worker vehicles, prior to 7:00 a.m. in the morning will be restricted to areas that do not adversely affect adjacent residences or schools. No vehicles involved in construction of this project shall block the roadway at any time. 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.

Specific Oak Tree Conditions of Approval

15. The Applicant shall adhere to the recommendations contained within the Oak Tree Report prepared by Richard Campbell, ASLA, dated June 9, 2023.
16. The Applicant shall adhere to the recommendations contained within the Oak Tree Report prepared by Noah Stamm, the City's consulting arborist, dated June 26, 2023, and all provisions of the Oak Tree Ordinance and policies of the City of Calabasas.
17. All work performed within the Protected Zone of the Oak Tree shall be performed within the presence of a qualified Tree Preservation Specialist (Project Arborist).
18. All work, including digging of vertical trenches for walls, footings, or fence posts, shall be performed with the use of hand tools only.
19. No chemicals or herbicides shall be applied within 100 feet of an Oak Tree's aerial/root zone.
20. All footings for wall construction (as applicable) shall be designed to provide minimal or no impact to the Tree; and "L" type footings shall be projected in an outward direction, away from the Tree and shall be backfilled with topsoil.
21. In this case, because of Site Conditions and the proposed refurbishment landscape, it is recommended that the chain link oak tree protection fencing be waived in favor of $\pm 4'$ high orange plastic construction fencing, as directed by the Tree Preservation Specialist (Project Arborist).
22. No spray irrigation shall come in contact with the Oak Tree trunk. It is also recommended that any above-ground irrigation spray system(s), within the dripline of the oak tree, be retrofitted using a sub-surface "dripline" type irrigation format. A three-inch-deep oak wood chip mulch

is recommended for a landscape clearance from the trunk of the Oak Tree of ten feet (10').

23. Any approved pruning of any branches required for construction and clearance, shall be as directed by the Tree Preservation Specialist (Project Arborist), and performed by a qualified Tree Trimmer. No pruning of the Oak Tree is proposed at this time.
24. Removal of deadwood, clean-cutting of branch stubs and broken branch scars, and the cleaning and screening of water traps and trunk/branch cavities shall be as directed by the Tree Preservation Specialist (Project Arborist).
25. Careful removal of "fill" and debris from the base of the Oak Tree trunks and branching, shall be as directed by the Tree Preservation Specialist (Project Arborist).
26. Protection of all wildlife nests and habitat prior to, during, and after construction activities, shall be as directed by the Tree Preservation Specialist (Project Arborist).
27. Protection of "duff" areas, so as to allow Oak Tree seedlings to germinate and grow, shall be as directed by the Tree Preservation Specialist (Project Arborist).
28. It is recommended that pervious pavers and other pervious material be installed for the newly proposed construction elements to allow for the necessary sub-surface gaseous exchange as directed by the Tree Preservation Specialist (Project Arborist).
29. Although feeder roots may be encountered in the dripline area of the Oak Tree during the hand-digging of the proposed landscape refurbishment improvements and any construction activity area, it is unlikely that a significant root(s) will be encountered. However, should any root(s) of significant size be encountered, a site determination shall be made as to whether or not to cleanly sever, or bridge-over the roots, or adjust the locations of the adjacent proposed landscape improvement and construction activity areas, so as to allow for the protection of the Oak Tree. The site determination and subsequent direction shall be made by the Tree Preservation Specialist (Project Arborist).
30. 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 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(s) of a deviation to any of these conditions.

Public Works Department/Environmental Services Division

31. 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 storm drains and 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 ordinances and State laws. The BMPs implemented shall be consistent with City of Calabasas Municipal Code Chapters 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.
32. 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.
33. 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." The following companies and the only trash haulers authorized to operate in the City of Calabasas: American Reclamation (1-888-999-9330), Consolidated Disposal Service (1-800-299-4898), Recology (1-800-633-9933), Universal Waste Systems (1-800-631-7016), Waste Management/G.I. Industries (1-800-675-1171). An Encroachment Permit from the City Public Works Department is required prior to placing a refuse bin/container on any public street.

Los Angeles County Fire Department Conditions:

34. Obtain any applicable permits and approvals from the Los Angeles County Fire Department.

Section 5. All documents described in Section 1 of PC Resolution No. 2023-753 are deemed incorporated by reference as set forth at length.

PLANNING COMMISSION RESOLUTION NO. 2023-753 PASSED,
APPROVED AND ADOPTED this 7th day of September, 2023.

Michael Harrison
Chairperson

ATTEST:

Michael Klein, AICP
Community Development Director

APPROVED AS TO FORM:

Ephraim Margolin
Deputy City Attorney
Colantuono, Highsmith and Whatley, PC

Planning Commission Resolution No. 2023-753, was adopted by the Planning Commission at a regular meeting held September 7th, 2023 and was adopted by the following vote:

AYES:

NOES:

ABSENT:

ABSTAINED:

“The Secretary of the Planning Commission shall certify the adoption of this Resolution, and transmit copies of this Resolution to the applicant along with proof of mailing in the form required by law and enter a copy of this Resolution in the book of Resolutions of the Planning Commission. Section 1094.6 of the Civil Code of Procedure governs the time in which judicial review of this decision may be sought.”