

**PLANNING COMMISSION RESOLUTION NO. 2023-757**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF CALABASAS TO APPROVE FILE NO(S). SPR-2022-013, SCP-2022-002, AND OTP-2023-009, A REQUEST FOR A SITE PLAN REVIEW, SCENIC CORRIDOR PERMIT, AND OAK TREE PERMIT FOR ENCROACHMENT INTO THE PROTECTED ZONE OF OAK TREES TO CONSTRUCT A TWO-STORY, 1,512 SQUARE-FOOT ADDITION AT THE REAR OF AN EXISTING TWO-STORY SINGLE-FAMILY RESIDENCE LOCATED AT 24325 MULHOLLAND HWY (APN: 4455-045-008) WITHIN THE HILLSIDE MOUNTAINOUS (HM) ZONING DISTRICT AND SCENIC CORRIDOR (-SC) 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 prepared by the Community Development Department.
2. Staff presentation at the public hearing held on September 7, 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 2, 2023 an application was submitted on behalf of the property owner for File No. SPR-2022-013 and SCP-2022-002.
2. The project was reviewed by the Development Review Committee (DRC) on February 16, 2023, and by the City's Architectural Review Panel (ARP) on April 28, 2023.
3. Staff determined that the application was incomplete on February 27, 2023 and the applicant was duly notified of this incomplete status.
4. Plans were revised and resubmitted by the applicant on March 28, 2023.
5. Following a determination by Staff that construction is proposed within the protected zone of oak trees, the applicant was so advised, and a request for an Oak Tree Permit (File No. OTP-2023-009) was submitted.
6. Following subsequent resubmittals, story poles were installed four weeks ahead of the public hearing date, the application and plans were deemed complete by Staff on August 15, 2023.
7. Notice of the September 7, 2023 Planning Commission public hearing was posted at Juan de Anza Park, the Calabasas Tennis and Swim Center, and at Calabasas City Hall.
8. Notice of the September 7, 2023 Planning Commission public hearing was provided to property owners within 500 feet of the property as shown on the latest equalized assessment roll.
9. Notice of the September 7, 2023 Planning Commission public hearing was mailed or delivered at least ten (10) days prior to the hearing to the project applicant.
10. Notice of the September 7, 2023 Planning Commission public hearing included the notice requirements set forth in Government Code Section 65009 (b)(2).
11. A public hearing was held at the September 7, 2023 Planning Commission meeting, during which public testimony was taken.

12. At the September 7<sup>th</sup>, 2023 meeting, the Commissioners recommended that Staff prepare a resolution of approval for File No(s). SPR-2022-013, SCP-2022-002, and OTP-2023-009, to be brought back to the Commission for adoption at the next regularly scheduled Planning Commission meeting.
13. The project site is zoned Hillside Mountainous (HM), and is located within the Scenic Corridor (-SC) overlay zone.
14. The land use designation for the project site under the City's adopted General Plan is Hillside Mountainous (HM).
15. Properties surrounding the project site are zoned HM and Open Space-Development Restricted (OS-DR), and have General Plan land use designations of HM and Open Space – Resource Protected (OS-RP).

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

### **FINDINGS**

Section 17.62.020 of the Calabasas Municipal Code (CMC) allows the Planning Commission to approve a **Site Plan Review Permit** provided that the following findings are made:

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

The subject site is improved with an existing 3,267 square-foot single-family residence, driveway, landscape, hardscape, and pool. The applicant is proposing to construct an addition of 791 square feet to the first floor and 721 square feet to the second floor with associated rear yard improvements including landscape, hardscape, attached trellis, and firepit/fireplace. The proposed addition and associated features are allowed uses within the Hillside Mountainous (HM) zoning district per Section 17.11.010 of the Calabasas Municipal Code (CMC).

The proposed project complies with all development code standards in regard to height, setbacks, and other requirements with the exception of pervious surface coverage, which falls below the minimum standard but is legal non-conforming (see the Technical Appendix within the Planning Commission Agenda Report). Per Section 17.72.020(B)(1)(a) of the CMC, a legally permitted and constructed property improvement that does not

conform to the standards of the applicable zoning district may be structurally altered or enlarged provided that the alteration or addition does not increase the discrepancy between the existing conditions and the current development standards. The minimum pervious surface percentage for the HM zoning district is 86%, while the subject site is currently 75% pervious; but as a result of proposed reductions to existing hardscape, the project will result in 76% pervious surfaces, thereby improving the legal nonconforming condition.

Therefore, the project complies with all applicable provisions of the Development Code, and meets this finding.

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;*

The existing use of the subject site is a two-story single-family residence with attendant landscaping, hardscape, and pool, which are allowed uses per the HM land use designation within the General Plan. The construction of a new two-story addition and associated new rear yard improvements, including landscaping, hardscape, new trellis, firepit, and fireplace will not change the existing land use of the subject site, nor will the proposed work disturb natural features and habitat areas to a degree that is inconsistent with other General Plan policies.

Chapter IX of the General Plan, specifically policies IX-1, IX-5, IX-8 and IX-10, emphasize that new development shall maintain a high-quality appearance, and is aesthetically pleasing and compatible with the area's natural setting. The Architectural Review Panel reviewed the project on April 28, 2023 and recommended approval of the project as proposed.

Therefore, the proposed project is consistent with the General Plan and meets this finding.

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

This project is exempt from environmental impact review under the California Environmental Quality Act (CEQA), pursuant to Section 15061(b)(3)(General Rule Exemption) of the CEQA Guidelines. Additionally, the project is categorically exempt from CEQA pursuant to Section 15332 (In-fill Development Projects), and Section 15301 Class 1(e)(1) (Existing Facilities) of the CEQA Guidelines because the project is limited to an addition to an existing structure where the total area of the addition does not exceed 50% of the floor area of the existing structure.

The proposed addition is 1,512 square feet, and the square footage of the existing structure (inclusive of the garage) is 3,886 square feet.

Therefore, because the proposed project is exempt from environmental impact review under the California Environmental Quality Act, the proposed project meets this finding.

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

The subject site is zoned Hillside Mountainous (HM), and is surrounded by other one and two-story single-family residences. The proposed project includes construction of a 1,512 square-foot addition to the existing residence. With the proposed additions to the first and second floor, the total square footage of the residence will be 4,779 square feet. Residences within the surrounding area range in size from 3,217 square feet to 5,278 square feet (see the Technical Appendix within the Planning Commission Agenda Report), and therefore the proposed project is within the range of home sizes in the vicinity. Additionally, the proposed colors & materials palette maintains the existing residence's Mediterranean architectural style, which includes an off-white stucco, brown trim, and Spanish tile roof.

The proposed project was reviewed by the City's Architectural Review Panel (ARP) on April 28, 2023, in accordance with Section 2.40.040 of the CMC. The ARP recommended approval of the project as proposed.

Based on the above information, the Planning Commission finds that the proposed project is compatible in use, design, appearance, and scale with the existing homes in the surrounding area and meets this finding.

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

The City's Land Use and Development Code contains development standards for setbacks, height limits, and pervious surfaces for the HM zone to ensure that development is adequately proportional to the size of the property. The proposed project includes construction of a 1,512 square foot addition to an existing 3,267 square-foot single-family residence on a 1.11-acre lot. The project does not involve any alteration to the existing undeveloped areas of the lot, and the area of addition is

located in an area of the lot currently occupied by planter boxes and other development features. Additionally, the proposed project complies with all required development standards for the HM zoning district. Therefore, the proposed project meets this finding.

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

The proposed project is designed to respect and integrate with the existing surrounding natural environment to the maximum extent feasible because the proposed project is located on an existing developed lot, surrounded by other one-story and two-story single-family residences, and the addition will be largely screened from view along Mulholland Hwy by the existing landscaped berm running the length of the front property line. Twenty two oak trees are on-site or in the adjacent public right-of-way, and all 22 trees will be protected in place, with only two oak trees being minimally encroached upon with the new addition and associated improvements, which are located in already-developed areas of the site. The applicant has submitted a landscape plan with detail on what new plantings are being proposed in the rear yard area surrounding the addition, to better integrate the project with the surrounding natural environment. Lastly, the ARP determined that the design of the proposed project, inclusive of the proposed landscaping, is compatible with the surrounding natural environment, and recommended approval to the Planning Commission as proposed. Therefore, the proposed project meets this finding.

Section 17.62.050 of the Calabasas Municipal Code (CMC) allows the Planning Commission to approve a **Scenic Corridor Permit** provided that the following findings are made:

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

The proposed project is designed to match the Mediterranean architectural style of the existing residence, with a Spanish tile roof, beige stucco, brown trim/brown wood siding, wrought iron railings, and sandstone detail on the proposed new fireplace. The ARP reviewed the project on April 28, 2023, and found the design to be in conformance with the scenic corridor guidelines, and recommended approval of the project. Therefore, the proposed project meets this finding.

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

The proposed addition is designed to match the architectural style of the existing residence, and additional drought tolerant landscaping is proposed around the area of addition. The area of proposed addition and associated improvements are located at the rear of, and will be largely obscured by, the existing residence. Furthermore, the existing residence is screened from view along Mulholland Hwy by an existing landscaped berm that runs the length of the front property line. Therefore, the proposed project meets this finding.

3. *The proposed project is within an urban scenic corridor designated by the General Plan, and includes adequate design and landscaping, which serves to enhance and beautify the scenic corridor; or*

The subject site is located within an urban scenic corridor, and the design of the proposed addition is in keeping with the architectural style, colors, and materials of the existing single-family residence, which includes a Spanish tile roof, beige stucco, and brown trim/wood siding. Additional landscaping is also proposed around the area of addition at the rear of the residence. Furthermore, an existing landscaped berm is located at the front property line, which will continue to serve to screen the residence and associated improvements from view along Mulholland Hwy. Therefore, this finding is met.

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

The proposed addition maintains the same architectural style of the existing residence, and with the proposed addition, the total square footage of the residence will be 4,779 square feet, within the range of home sizes in the vicinity and therefore compatible in design, appearance, and scale with existing development in the surrounding area. Additionally, the project meets all required development standards with the exception of pervious surfaces due to the fact that the existing residence is considered legal nonconforming as it was constructed in 1977 before the City's incorporation, and the proposed project will not worsen the existing nonconformity (See Technical Appendix within the staff report). Lastly, additional landscaping and hardscape is proposed around the area of new addition to help integrate the project into the surrounding environment. Therefore, the proposed project is compatible with the

surrounding area, and this finding is met.

Section 17.32.010 of the Calabasas Municipal Code (CMC) allows the Planning Commission to approve an **Oak Tree Permit** provided that the following finding is made:

1. *The request to alter or encroach within the protected zone of an oak tree or scrub oak habitat is warranted to enable reasonable and conforming use of the 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.*

The project site is approximately 1.11 acres, developed with an existing single-family residence and associated accessory structures, landscaping, and hardscape. The applicant is proposing to construct a two-story addition of 1,512 square feet, and associated new landscape, hardscape, trellis, firepit, fireplace, and outdoor kitchen area surrounding the new addition, in areas of the site that are already improved with hardscape, landscape, fences, and railroad ties. The property contains nineteen oak trees, and three additional oak trees are located in the right-of-way adjacent to the front property line. Per CMC Chapter 17.32, native oak trees are a protected biotic resource, and per CMC Section 17.32.010(D)(c)(3), encroachment of more than 10% into the protected zone (which for a Heritage oak 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 project proposes to encroach upon the protected zones of Tree No(s) 14 and 15 as identified in the submitted Oak Tree Report, which are both already encroached upon for the existing rear yard improvements at the subject site. To this end, strict application of the Oak Tree Ordinance would not allow the property owners to modify and improve upon their residence and existing rear yard amenities already within the protected zone of the trees, and encroachment into the protected zone of the Heritage oak trees is necessary to enable reasonable and conforming use of the subject property.

The submitted Oak Tree Report indicates that all 22 oak trees analyzed by the report are to be protected in place, and the encroachment activities



involving the two on-site oak trees would not result in significant long-term adverse impacts to either tree. This conclusion has been reviewed and confirmed by the City's Consulting Arborist. 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 No(s). SPR-2022-013, SCP-2022-002, and OTP-2023-009 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 No(s). SPR-2022-013, SCP-2022-002, and OTP-2023-009, or the activities conducted pursuant to this File No(s). SPR-2022-013, SCP-2022-002, and OTP-2023-009. 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 No(s). SPR-2022-013, SCP-2022-002, and OTP-2023-009, or the activities conducted pursuant to File No(s). SPR-2022-013, SCP-2022-002, and OTP-2023-009. 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 and the interim maintenance plan 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 activity 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.

### **Oak Trees**

15. The applicant shall adhere to the specific recommendations and mitigation measures included within Pages 5-7 of the submitted Oak Tree Report, dated June 5, 2023.
16. Within ten (10) days of the completion of work, the Applicant's Oak Tree Consultant shall submit to the Planning Division a written certification that all 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 any such deviation and associated corrective measures applied in the field.

**Public Works Department/Environmental Services Division**

17. 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.
18. 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.
19. 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 are 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**

20. 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. 2023-757 are deemed incorporated by reference as set forth at length.**

PLANNING COMMISSION RESOLUTION NO. 2023-757 PASSED,  
APPROVED AND ADOPTED this 21<sup>st</sup> day of September, 2023.

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Michael Harrison  
Chairperson

ATTEST:

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Michael Klein, AICP  
Community Development Director

APPROVED AS TO FORM:

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Matthew Summers  
Colantuono, Highsmith and Whatley, PC  
City Attorney

Planning Commission Resolution No. 2023-757, was adopted by the Planning Commission at a regular meeting held September 21<sup>st</sup>, 2023 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, 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.”