

RESOLUTION NO. 2024-1881

ADOPTION OF RESOLUTION NO. 2024-1881, CERTIFYING AN AMENDED FINAL ENVIRONMENTAL IMPACT REPORT AND APPROVING A STATEMENT OF OVERRIDING CONSIDERATIONS ASSOCIATED WITH FILE NO. 160003152, ANALYZING PROPOSED 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 CONDOMINIUM UNITS (INCLUDING EIGHTEEN AFFORDABLE UNITS RESERVED FOR VERY LOW INCOME FAMILIES) WITHIN FIFTEEN THREE-STORY BUILDINGS OCCUPYING APPROXIMATELY 9.5 ACRES (12.3%) OF THE PROPERTY; (2) A COMMERCIAL COMPONENT CONSISTING OF A 5,867 SQUARE-FOOT RETAIL COMMERCIAL SHOPPING CENTER SITUATED IN TWO ONE-STORY BUILDINGS OCCUPYING APPROXIMATELY 1.19 ACRES (1.5 %) OF THE PROPERTY; (3) A 0.36 ACRE COMMUNITY GREEN SPACE (PARK); (4) PERMANENT DEDICATION OF A PUBLIC TRAIL EASEMENT THROUGH THE PROPERTY CONNECTING TO OPEN SPACE LANDS TO THE EAST, AND (5) PRESERVATION OF APPROXIMATELY 66.0 ACRES (86% OF THE SITE) AS PERMANENT OPEN SPACE. ANCILLARY FEATURES INCLUDE THE CONSTRUCTION OF TWO DETENTION/DEBRIS BASINS, SITE ACCESS AND INTERNAL ROADWAY SYSTEM WITH SIDEWALKS AND PARKWAYS, RETAINING WALLS, LANDSCAPING, COMMON RECREATION AREAS, AND LIGHTING. DEVELOPMENT OF THIS PROJECT WOULD REQUIRE A SIGNIFICANT AMOUNT OF REMEDIAL GRADING TO STABILIZE A LANDSLIDE HAZARD AREA ON THE SOUTHERN PORTION OF THE SITE. THE PROJECT SITE IS CURRENTLY ZONED PLANNED DEVELOPMENT (PD); RESIDENTIAL-MULTIFAMILY, 20 UNITS PER ACRE (RMF (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 public hearings held on May 12 and 17 2021 before the City Council and at the public meetings on the project at the May 26, 2021 and January 10, 2024 City Council meetings.
3. The City of Calabasas Land Use and Development Code, Calabasas 2030 General Plan (inclusive of the 2014-2021 Housing Element and the 2021-2029 Housing Element), Las Virgenes Gateway Master 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 hearings and meetings, supporting and/or opposing the applicant's requests.
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. The Amended Final Environmental Impact Report, inclusive of public comments and responses to comments, and all appendices.
7. All related documents received and/or submitted at or prior to the public hearings.
8. Planning Commission Resolution No. 2021-713 recommending certification of adequacy of the EIR and approval of File No. 160003152.
9. City Council Resolution No. 2021-1731 denying the Project.
10. The November 27, 2023 ruling by the Los Angeles County Superior Court in *TNHC Canyon Oaks LLC v. City of Calabasas, et al.*, Case No. 21STCP01819, consolidated with Case No. 21STCP02726.
11. The Settlement Agreement by and among TNHC Canyon Oaks LLC, the Building Industry Association of Southern California, and the City of Calabasas and the City Council of the City of Calabasas, dated for reference as of January 4, 2024.

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. On November 16, 2016, staff determined that the application was incomplete and the applicant was duly notified of this incomplete status.
3. The application was deemed complete on September 1, 2017 and the applicant was so notified.
4. A Notice of Preparation was issued on September 1, 2017, and an Environmental Impact Report (EIR) scoping meeting was held on September 14, 2017.
5. The Draft EIR 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 Final Environmental Impact Report.
6. A noticed public hearing was held by the Planning Commission on July 10, 2019 and July 11, 2019, and was continued to July 18, 2019.
7. Notice of the July 10 – 11, 2019 Planning Commission public hearing was 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.
8. Notice of the July 10 – 11, 2019 Planning Commission public hearing 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.
9. At the July 18, 2019 public hearing, the Planning Commission passed a verbal motion recommending to the City Council denial of the project and to not certify the Environmental Impact Report and directed staff to prepare a resolution to that effect for consideration at a future Planning Commission meeting. The Planning Commission further recommended that, in light of the recommendation and responsive to public comments and testimony, the applicant explore further alternatives to the proposed project, and to bring back to the Planning Commission any project design that the applicant wished for further Planning Commission consideration.
10. Based on the Planning Commission's recommendation, the applicant subsequently submitted new information consisting of an independent third party geotechnical review that included an analysis of the

geotechnical conditions on-site, and included an analysis of feasibility of developing a project alternative that did not implement a grading remediation solution to repair the landslide hazard on the southern hillside and all other identified project alternatives in the Environmental Impact Report, and a new project design alternative for review.

11. Based on a review of the new information, the City determined that preparation of an amendment to the original Final EIR was required under Section 15088.5 of the CEQA Guidelines.
12. An Amended Draft EIR 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.
13. 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..
14. Notice of the 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.
15. Notice of the 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).
16. Notice of the 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.
17. The City Council continued the Project from the May 12, 2021 public hearing to a further public hearing on May 17, 2021 and to a City Council public meeting on May 26, 2021.

18. After hearings on May 12 and 17, 2021, the City Council voted unanimously on May 26, 2021 to adopt Resolution No. 2021-1731 denying the proposed project.
19. On June 4, 2021, the applicant sued in Los Angeles County Superior Court to challenge the City's denial of the proposed 180-unit project. On August 20, 2021, the Building Industry Association of Southern California also sued to challenge the City's project denial.
20. On November 27, 2023, the Los Angeles County Superior Court ruled against the City, overturning the City's denial of the 180-unit project.
21. On January 4, 2024, the City Council approved a Settlement Agreement providing for the City to consider certification of the Amended Final Environmental Impact Report for the original 180-unit project, and in turn for the developer to apply for, and the City to consider approval of, at a future City Council hearing, a revised up to 76-unit project.
22. 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).
23. 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.
24. 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 presented and based on the following findings and conclusions, the City Council hereby certifies the adequacy of the Amended Final Environmental Impact Report (EIR), in accordance with CEQA Guidelines, Sections 15090 and 15091, and adopts a statement of overriding considerations.

EIR ADEQUACY CERTIFICATION

Based upon the facts and information contained in the proposed Amended Final Environmental Impact Report, together with all written and oral reports included for the environmental assessment for the application, and the

November 27, 2023 Court ruling, the City Council finds that: (1) the Amended Final Environmental Impact Report has been prepared in full compliance with the California Environmental Quality Act and the State CEQA Guidelines promulgated thereunder in effect on September 22, 2020, the date the Amended Final EIR was made available for public review (Cal. Code Regs., tit. 14, § 15007, subd. (c).); (2) the Amended Final Environmental Impact Report reflects the independent judgment and analysis of the City; and (3) this Council has reviewed and considered the information contained in said Amended Environmental Impact Report with regard to the project application, and has determined the analysis to be fully adequate. The Amended Final EIR is hereby incorporated by reference as if set forth herein in full.

ENVIRONMENTAL IMPACT REPORT FINDINGS

- A. The City Council acknowledges that pursuant to Section 15091 of the CEQA Guidelines, “No public agency shall approve or carry out a project for which an Environmental Impact Report has been certified which identifies one or more significant environmental effects of the project unless the public agency makes one or more written findings for each of those significant effects, accompanied by a brief explanation for the rationale for each finding.”

Because the Amended Final EIR identifies a number of potentially significant environmental effects of the proposed project, the City Council hereby adopts the Statement of Facts and Findings set forth below as required by Section 15091 of the CEQA Guidelines:

- i. Based on the analyses provided in the Initial Study and Amended Final EIR prepared for this project, the project may cause potentially significant impacts in the area of “aesthetics”. Meanwhile, impacts to all other resource areas (Biological Resources, Greenhouse Gas Emissions, Land Use/Planning, Transportation/Traffic, Tribal Cultural Resources, Utility and Service Systems, Air Quality, Geology/Soils) would be less-than-significant, provided the appropriate mitigation measures described in the Amended Final EIR, incorporated herein by reference, which substantially reduce the impacts of the project on these resources areas are incorporated and implemented. Accordingly, mitigation measures have been incorporated into the project via the Mitigation Monitoring and Reporting Program (MMRP), on file with the City Clerk’s office, to reduce any potential impacts to these other resource areas to levels that are less-than-significant.

- ii. The analysis of aesthetic impacts in the Amended Final EIR determined that the proposed project would substantially degrade the visual character of the site. In regards to the aesthetics related to housing, the project is consistent with the General Plan, the Las Virgenes Gateway Master Plan, and the Las Virgenes Corridor Design Plan. Furthermore, the project conforms to design considerations contained in the Land Use and Development Code, and the Scenic Corridor Development Guidelines, and would generally provide residential development that is visually compatible with other housing development projects along Las Virgenes Road. However, as to the aesthetic impacts related to the open space, 19 percent (14.4 acres) of the site would be graded for residential development and for two retention basins on the northern slope (non-remedial grading); and an additional 27 percent of the site (21 acres) would be graded to remove and remediate an existing landslide, then re-engineered with remedial landscaping and drainage systems, and which will subsequently be preserved as permanent open space, together with the remainder of the site. The resultant change in visual character would therefore be a significant and unavoidable impact. All feasible mitigation measures have been considered and incorporated to lessen impacts to the visual character of the site to the fullest extent feasible. Moreover, any development of this site's 16 developable acres would cause a significant and unavoidable aesthetic impact to the existing (undeveloped) visual character of the site, both by itself and because, as required by the trial court's ruling, any development of the site must include the remediation of the large, existing, unstable landslide on the prominent southern hillside slope to be consistent with the General Plan and development code.
- iii. Statement of Overriding Considerations: The City Council finds that the impact upon aesthetic resources by the development of the site is outweighed by State housing laws and the court's November 27 ruling requiring the City to approve residential development on this site. The City Council further finds that the project provides additional housing and affordable housing to help alleviate the City's existing housing challenges. The aesthetic impacts are therefore again overshadowed by Regional Housing Needs Allocation (RHNA) requirements. For the foregoing reasons, the City Council finds that the housing and affordable housing benefits of the proposed project to the community override the project's aesthetic impacts.

- B. The City Council hereby further adopts the **Mitigation Monitoring and Reporting Program**, on file with the City Clerk's office for File No. 160003152.
- C. The City Council finds that in considering the record as a whole, including the Initial Study and Amended Final Environmental Impact Report for the project, there is evidence that the proposed project will have potential for a significant adverse impact upon aesthetic resources due to landform alterations and partial obstruction of views to the surrounding ridgelines, and that these impacts will remain significant even with incorporation of design measures and mitigation to reduce these impacts. Based upon substantial evidence contained in the Amended Final EIR for the project, the staff reports and exhibits, and the information provided to the City Council during the public hearings, the City Council hereby rebuts the presumption of adverse effects on wildlife as set forth in Section 753.5(c-1-d) of Title 14 of the California Code of Regulations.
- D. The foregoing findings and determinations for the Amended Final EIR reflect the independent analysis by the City of the matters and information in the record pertaining thereto, and are the independent judgment of the City. The City Council further finds that substantial evidence exists to support each of these findings.
- E. The City Council hereby identifies that the location of records with respect to the Amended Final EIR and other documents and materials constituting the record of proceedings with respect to the certification of the adequacy of the Amended Final EIR is the Community Development Department of the City of Calabasas, and that the Director of Community Development of the City of Calabasas is the custodian of records with respect to the Amended Final EIR and all other documents and materials constituting the record of proceedings with respect to the Amended Final EIR.

Section 4. In view of all the evidence and based on the foregoing findings and conclusions, the City Council hereby certifies the adequacy of the Amended Final Environmental Impact Report and adopts the related Statement of Overriding Considerations and Mitigation Monitoring and Reporting Program.

Section 5. The Community Development Department staff shall prepare a Notice of Determination for the Amended Final EIR consistent with State CEQA Guidelines Section 15094(b), and shall promptly file the Notice of Determination with the County Clerk of the County of Los Angeles.

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 10th day of January, 2024.

Alicia Weintraub, Mayor

ATTEST:

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

APPROVED AS TO FORM:

Matthew T. Summers
Colantuono, Highsmith & Whatley, PC
City Attorney