



CITY of CALABASAS
CITY COUNCIL AGENDA REPORT

DATE: AUGUST 5, 2024

TO: HONORABLE MAYOR AND COUNCILMEMBERS

**FROM: MICHAEL KLEIN, COMMUNITY DEVELOPMENT DIRECTOR
TOM BARTLETT, CITY PLANNER
GLENN MICHITSCH, SENIOR PLANNER**

SUBJECT: CONSIDERATION OF A RESOLUTION APPROVING FILE NOS. SPR-2024-007, DPR-2024-001, SCP-2024-001, OTP-2024-008, VAR-2024-003, AND TTM-2024-001, 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) 70 SINGLE-FAMILY RESIDENTIAL UNITS, OCCUPYING APPROXIMATELY 12.45 ACRES (16.1% OF THE PROPERTY);**
- (2) PRESERVATION OF APPROXIMATELY 63.83 ACRES (82.4% OF THE PROPERTY) AS PERMANENT OPEN SPACE;**
- (3) TWO STORMWATER RETENTION/DEBRIS CATCHMENT BASINS (ONE RELOCATED AND ONE NEW) OCCUPYING APPROXIMATELY 1.12 ACRES (1.4% OF THE PROPERTY);**
- (4) ROADWAY DEDICATION OF 0.08 ACRES FOR STREET IMPROVEMENTS ADDING A THIRD NORTHBOUND LANE (WITH CURB, GUTTER AND SIDEWALK) ON LAS VIRGENES ROAD (0.1% OF THE PROPERTY); AND,**
- (5) PERMANENT DEDICATION OF A PUBLIC TRAIL EASEMENT THROUGH THE PROPERTY CONNECTING TO OPEN SPACE LANDS TO THE EAST.**

THE PROPOSED PROJECT ALSO INCLUDES THE FOLLOWING ANCILLARY FEATURES: SITE ACCESS AND INTERNAL ROADWAY

SYSTEM WITH SIDEWALKS AND PARKWAYS, RETAINING WALLS, LANDSCAPING, COMMON AREAS, ON-AND-OFF-STREET PARKING, AND LIGHTING. DEVELOPMENT OF THIS PROJECT WOULD ALSO REQUIRE A SIGNIFICANT AMOUNT OF REMEDIAL GRADING TO STABILIZE A LANDSLIDE HAZARD AREA ON THE SOUTHERN PORTION OF THE SITE. REQUESTED PERMITS INCLUDE: SITE PLAN REVIEW, DEVELOPMENT PLAN, SCENIC CORRIDOR PERMIT, OAK TREE PERMIT, VESTING TENTATIVE TRACT MAP (FOR SUBDIVISION OF LAND AND FOR CONDOMINIUM PURPOSES), AND VARIANCES FOR: 1) CALCULATING THE MAXIMUM BUILDING HEIGHT FROM FINISH GRADE, 2) EXCEEDING THE MAXIMUM RETAINING WALL HEIGHT OF SIX FEET, AND 3) A REDUCTION IN THE MINIMUM REQUIRED SETBACK DISTANCE OF 20' BETWEEN BUILDINGS. THE PROJECT IS CONSISTENT WITH THE PRIOR PROJECT AS ANALYZED IN A CERTIFIED AMENDED FINAL ENVIRONMENTAL IMPACT REPORT AND ADOPTED STATEMENT OF OVERRIDING CONSIDERATIONS, NO FURTHER CEQA REVIEW IS REQUIRED. THE 77-ACRE PROPERTY IS ZONED PLANNED DEVELOPMENT (PD); RESIDENTIAL-MULTI-FAMILY, 24 UNITS PER ACRE (RMF (24)); OPEN SPACE - DEVELOPMENT RESTRICTED (OS-DR); AND IS WITHIN THE SCENIC CORRIDOR (SC) OVERLAY ZONE AND LAS VIRGENES GATEWAY MASTER PLAN AREA.

MEETING DATE: AUGUST 14, 2024

SUMMARY RECOMMENDATION:

That the City Council consider adoption of City Council Resolution No. 2024-1918 (Attachment A), approving all requested entitlement permits as described above, for the proposed 70-unit single-family residential detached condominium project located at 4790 Las Virgenes Road (APNs: 2069-078-009 and 2069-078-011).

EXECUTIVE SUMMARY:

The New Home Company submitted an application for a 205-unit townhome multi-family project in October 2016. After technical reviews, the developer revised the project to a 180-unit project in 2017. The City Council denied the 180-unit project in May 2021. The applicant, and a building industry trade group, sued to challenge the City's denial of the project. In November 2023, the Los Angeles County Superior Court ruled against the City, overturning the denial and directed the City to approve the 180-unit project instead. The City had denied the project

primarily due to safety and open space concerns. The ruling ordered the City to allow The New Home Company to build 180 residential units without further review or approval.

Following the ruling, the city hired legal counsel with specific expertise in appellate cases to review the options. Legal counsel analyzed the record closely and concluded that the City, on appeal, would have an extremely difficult time challenging the ruling. Furthermore, to initiate the appeal, the court would have required that the City post a bond to cover potential liabilities associated with the appeal, which could have been beyond the City's ability to pay. While many appeals do not require a bond, part of the Housing Accountability Act now requires cities to post bonds to appeal housing project cases.

In December 2023, The New Home Company approached the City to discuss a settlement agreement. Following negotiations between the City and the developer, the City Council unanimously approved a settlement in January 2024. The settlement agreement changed the project from multi-family units to single family residences and reduced the number of units from 180 to no more than 76 units. Additionally, the developer agreed to assist the City with its obligation to provide affordable housing, either by contributing approximately \$2.25 million to the City's affordable housing fund or constructing on-site affordable units. Finally, the settlement relieved the City of the court order to pay The New Home Company an estimated \$1 million for their attorney fees incurred to date and potentially tens of millions of dollars in other financial liabilities if an appeal was unsuccessful. After considering the risks and significantly lower overall unit count, the City Council unanimously agreed to this settlement.

Implementing the Settlement Agreement, the City Council certified the project's Amended Final Environmental Impact Report in January 2024. The applicant has now applied for the final project consistent with the Settlement Agreement – 70 units of single-family residential detached condominiums. The proposed project is smaller than the original 180 units and commercial retail project and consistent with, and smaller than, the Settlement Agreement's maximum 76 units.

BACKGROUND:

Prior Canyon Oaks Project - On May 31, 2016, the City Council approved the Canyon Oaks project which included: 1) 67 single-family detached homes and four affordable units within two duplex structures, and 2) a 72,872 square-foot, three-story hotel [on approximately 16 acres], and 3) preservation of approximately 61.0 acres as permanent open space. Subsequently, on November 8, 2016, the Canyon Oaks project entitlements were effectively rescinded when Calabasas voters

successfully passed Measure F, a referendum to reverse the approved amendments to the General Plan and Development Code.

New West Village Project – before the November 2016 election, at which the City’s voters effectively rescinded the Canyon Oaks project approvals, the applicant applied for a different multi-family residential and commercial project. On October 17, 2016, the applicant submitted applications for a project consisting of 205 for-sale and for-rent housing units and 150,000 square feet of office and retail space. Following DRC review and comments, the project was revised and downscaled to include 180 multi-family residential units (including 18 affordable units) and 5,876 square feet of commercial space. Following public hearings at the Planning Commission on July 11 and 12, 2019, April 15, 2021, and April 21, 2021, and at the City Council on May 12, 2021 and May 17, 2021; on May 26, 2021, the City Council declined to certify an Environmental Impact Report and denied applications for the West Village project that included: 1) 180 multi-family residential condominiums (including 18 affordable units), 2) 5,867 square feet commercial retail shopping center, and 3) a 0.36-acre community park [on approximately 11 acres], 4) two detention/debris basins, 5) public trail dedication, and 6) dedication of a conservation easement over approximately 66 acres for permanent open space. All staff reports and related attachments for the above-listed public hearings can be found on the West Village project page (<https://www.cityofcalabasas.com/our-city/current-projects/west-village-at-calabasas>).

Both projects included extensive remedial grading to stabilize a landslide hazard area that exists over the southern portion of the property.

Following the City Council’s May 26, 2021 action, the project owner (TNHC Canyon Oaks, LLC) and the Building Industry Association of Southern California (BIASC) filed writs challenging the City’s decision in LA County Superior court. On November 27, 2023, the court issued its ruling, siding with the project owner and BIASC, and ordered the City to approve the project. Subsequent to the court ruling, the project owner and the City entered into a negotiated settlement agreement with the following summarized parameters:

Maximum Project per Settlement Agreement

- 76 or fewer market rate housing units comprised of either detached condominiums or single-family homes, and payment of an affordable housing in-lieu fee and other applicable development fees (subject to agreed-upon fee credits described below)

Affordable housing units (if provided) to be subject to a recorded covenant restricting occupancy for 55 years

Agreed Upon Settlement Agreement Project Parameters

- Project is to utilize the same approximately 25-acre remedial grading area, and the same approximately 36 acres of total grading area as analyzed in the EIR.
- The structures, roads, and common area amenities shall be located within an approximately 13.6-acre development footprint similar to the 180-unit West Village Project.
- Building height – to allow for three-story residential structures up to a maximum height of 40' from finished grade; and
- Retaining wall height – to allow for retaining walls over the maximum height of 6', and can extend for longer horizontal lengths (and need not include breaks in horizontal lengths). However, no retaining wall shall be taller than the tallest retaining walls proposed under the 180-unit original project (which was 15 feet), and the applicant shall use commercially reasonable efforts to cause retaining walls along the boundary with the adjacent Colony development on Estrella Drive and the property boundary along Las Virgenes Road to meet all Municipal Code height requirements; and
- Such other deviations from building standards necessary to not preclude development of the revised project, including, but not limited to siting, setback, and/or separation requirements
- The revised project may contain certain non-legislative requests for development code modifications pursuant to one or more entitlement pathways allowed under applicable provisions under state law and the Calabasas Municipal Code including, without limitation, Planned Development (PD) standards, requests for variances allowed under local ordinance or otherwise granted pursuant to the State Density Bonus Law (Gov. Code Section 65915), as applicable, or other requests, waivers, incentives, and modifications within the City's non-legislative, quasi-adjudicative discretion.

Agreed Upon Review Process

- City will consider in good faith a revised project, provide all necessary and appropriate process, and reserving all discretion under applicable law and the City Council's police powers.

- With a disclaimer that the City makes no representation or assurances that the revised project will be approved, or that the EIR will be certified, the petitioners agree to dismiss all actions and claims, including recovery of attorney’s costs when all of the following occur:
 - The Amended Final EIR is certified on or before January 10, 2024. *The EIR was certified via CC Resolution 2024-1881 on January 10, 2024.*
 - The revised project entitlement is approved within 90 days of TNHC submitting a revised project application to the City’s Community Development Department. *The application and materials were submitted on May 14, 2024, and thus need to be approved by August 14, 2024.*
 - The City has issued building permits for the entirety of the revised project reflecting the full amount of the agreed upon fee credits.
 - The expiration of any pertinent statutes of limitation has occurred, and if applicable, any third-party opposition has been resolved such that the revised project can be completed, and the final terms of the settlement agreement can be fully effectuated.

Other Settlement Agreement Terms

- The revised project is considered vested so that only the applicable ordinances, policies, and standards that were in effect September 2017 shall be applied to the revised project, unless TNHC consents to the application of any later-adopted ordinances, policies and standards.
- The following agreed-upon fee credit options shall apply to the revised project:
 - If the revised project does not include sufficient on-site affordable housing, a fee credit of \$3.25 million shall be provided to off-set such in-lieu fees, up to and including such fees charged at the time of building permit issuance; or
 - Fee credits shall not apply against any portion of the City’s standard Building and Safety Plan Check fees that the City pays to a third-party contractor.

On January 10, 2024, the City Council adopted Resolution No. 2024-1881, certifying an Amended Final Environmental Impact Report and approving a Statement of Overriding Considerations, associated with File no. 160003152, analyzing the original proposed 180-unit 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), consistent with the Settlement Agreement approved by the City Council on January 5, 2024. This was the first step in moving a smaller project under the Settlement Agreement forward.

Subsequently, the applicant elected to move forward with a 70-unit single-family residential detached condominium project, with affordable housing provided via an in-lieu fee. Applications, project plans, and a CEQA Checklist for this final project were submitted on May 14, 2024. As stipulated in the settlement agreement, the typical project review meetings such as holding Community Development Forums, reviews by the Development Review Committee (DRC), Architectural Review Panel (ARP), and Planning Commission, as well as the requirement for placement of story poles per the City's Story Pole Policy have been waived. With that said, because DRC review is a technical review committee made up of both internal City Departments and outside agencies responsible for permitting, plan checking, public safety, and protection of public welfare, the project was circulated to all departments and agencies that make up the DRC for an expedited review period to provide technical comments to the City. Following an initial review, the applications were deemed complete on June 7, 2024.

DISCUSSION/ANALYSIS:

Final Proposed Project – 70 Units Single Family Residential:

The proposed project includes the following components:

- Seventy (70) single-family residential detached condominium units on approximately 12.45 acres, and includes:
 - Three plan types ranging in size between 2,596 s.f. and 3,077 s.f.
 - Plan 1 and 2 offer 4 bedrooms
 - Plan 3 offers 4 bedrooms with an 5th room that can be a study or optional bedroom
 - Three architectural styles consisting of Spanish Monterey, Santa Barbara, and Tuscan
 - Building height ranging between 26' and 29' – 3" from finished grade
- 63.83 acres of permanent open space
- Two-hundred and fifty-five (255) parking spaces located within garages, driveways, and on the street.
- Two (2) debris/detention basins:

- The primary basin re-located from near the Colony community to just east of the proposed development (on 1.12 acres); and
- A secondary debris/detention basin placed just north of the proposed development (located on lot 4)
- Project grading consisting of:
 - Remedial grading of 2,403,418 c.y. cut and 2,406,971 c.y. fill to remove, recompact, and re-contour (to stabilize) a landslide hazard on the southern hillside area of the project site;
 - 250,797 c.y. cut and 300,270 c.y. fill of project-specific grading
 - All earthwork to be balanced on-site, with no import or export necessary
- Retaining walls up to 11 feet tall
 - Per the settlement agreement, all walls located adjacent to the Colony and Las Virgenes Road do not exceed 6 feet in height
- Project access and circulation consisting of:
 - An ungated primary access roadway extending east from the Las Virgenes Rd/Agoura Rd intersection into the community
 - A gated secondary access roadway to be used for emergency ingress/egress only located north of the primary access roadway
 - An internal roadway system to access the housing units
- A public trail connecting Las Virgenes Rd to the New Millennium Homes Loop Trail system to the east.
- Landscaping consisting of a restored native habitat for the repaired hillside area, and native and/or drought tolerant project landscaping for the project entrance area, street parkways and project common areas
- A 0.08 acres road dedication to facilitate the addition of a 3rd northbound travel lane on Las Virgenes Road between the project site and the US 101 freeway. The project also includes the installation of a sidewalk, curb and gutter along the property frontage on Las Virgenes Road.
- The final project does not include any commercial or retail development.

Required Applications

Vesting Tentative Tract Map: The project includes a proposal to divide and reorganize the two existing parcels comprising the subject site into 5 parcels as follows (Attachment C, Sheet C-4):

- Lot 1 – 12.45 acres for the 70 single-family residential detached condominiums
- Lot 2 – 1.12 acres for the primary detention basin
- Lot 3 – 32.91 acres for open space
- Lot 4 – 3.68 acres for open space (and the secondary detention basin)
- Lot 5 – 27.24 acres for open space

Vesting Tentative Tract Map (Condominium Purposes): The project includes a proposal to divide the airspace of Lot 1 into 70 for-sale detached residential condominium units, arranged in a single-family home configuration.

Development Plan: Per Section 17.62.070 of the CMC, a Development Plan is required for all development proposed within the PD zoning district. For this project, the Development Plan relates to the proposal of 40 single-family residential detached condominium units on the westernmost portions of the development envelope. The Development Plan also sets the parameters for parcel area, parcel width, residential density, floor area ratio and setbacks.

Site Plan Review: Per Section 17.62.020 of the CMC, a Site Plan Review is required for new site development, inclusive of the construction of the new homes, surface parking areas, and other structures.

Oak Tree Permit: Per Chapter 17.32 of the CMC, an Oak Tree Permit is required for the removal, alteration, or encroachment of oak trees. The applicant is requesting to remove 39 oak trees (19 Heritage) and encroach into the protected zone of 6 oak trees.

Scenic Corridor Permit: Per Section 17.62.050 of the CMC, a Scenic Corridor Permit is required for construction or site development within the Scenic Corridor Overlay Zone. The project site is visible from Las Virgenes Road and various vantage points from the Ventura Freeway (U.S. 101) designated scenic corridors.

Comparison To Original (180-unit) Project

Per the settlement agreement, the applicant submitted a downscaled, revised project, generally utilizing the same grading and development footprint (i.e. disturbance area) as the original project. The revised project consists of 70

detached single-family residential homes compared to the 180 multi-family residential units proposed with the original project. Although both the original project and revised project consist of residential units all located on one lot (via a proposed condominium map), the revised project is designed as detached, two-story single-family-style homes compared to the original project that was situated in clusters of multi-family units within larger three-story buildings.

Access is generally the same as the original project, utilizing one (ungated) main project entrance as an eastern extension of Agoura Road, and also includes a secondary (gated) emergency-only access north of the main access. One minor deviation from the original project is that, per staff's request, a dedicated right-turn-only lane for use by northbound traffic on Las Virgenes Road into the project's main access roadway has been eliminated. Installation of the right-turn-only lane would require removal of a portion of the City's newly installed landscaped median in front of the project site to meet street design standards for the new lane. The City Engineer determined that the right-turn-only lane is not necessary to mitigate any traffic hazard, and deleting the right-turn-only lane from the project will improve street and bike lane alignments and is consistent with the Certified Amended Final Environmental Impact Report. Additionally, an added right-turn-only lane would increase the distance, and therefore the amount of time, a pedestrian would need to cross an already significant width of roadway.

As with the original project, the revised project would relocate an existing detention/debris basin from the western portion of the property (adjacent to the Colony) to east of the proposed project development at the mouth of the canyon area, and also proposes a smaller new secondary detention/debris basin on the northern side of the development to collect stormwater and debris from the northern hillside areas. Like the original project, a second existing detention/debris basin will remain intact south of the project site adjacent to the Colony.

The revised project, as with the original project, includes remediation of a large landslide feature located on the hillside areas immediately south of the proposed homes, per recommendations of the geotechnical engineer. The exact remedial grading disturbance area for the revised project is slightly modified from that of the original project in an effort to preserve sensitive Yerba Mansa and Alkali Saltgrass biological habitat associated with a natural seep located just southeast of the proposed project area.

Like the original project, all remedial grading areas will be restored with native landscaping per required mitigation measures contained within the Final Environmental Impact Report (EIR), and will also include robust native and/or

drought tolerant landscaping within the development including at the project entrance, along the internal parkways (as street trees), and within common areas. Additionally, as with the original project, the revised project includes a public trail from Las Virgenes Road through the site to access the broader New Millennium Homes Loop Trail system east of the project site.

Project retaining walls for the revised project will extend up to a maximum height of 11 feet compared with the original project that included retaining walls up to 15 feet in height. Per the settlement agreement, all retaining walls facing Las Virgenes Road and the Colony community are designed not to exceed 6 feet in height. The revised project does not include a public green space/park as was included with the original project. Please see Attachment D for an expanded table comparing the revised project characteristics to the original project.

CEQA

An original and an Amended Environmental Impact Report (EIR) were prepared and circulated for public review for the original 180-unit multi-family project (see the CEQA Section at the following link: <https://www.cityofcalabasas.com/our-city/current-projects/west-village-at-calabasas>). In accordance with the settlement agreement, the City Council certified the project's Amended Final EIR on January 10, 2024 per City Council Resolution No. 2024-1881 (Attachment F). The proposed project's changes, as needed for the proposed 70-unit detached condominium single-family residential project, as compared to the original project's 180-unit multifamily residential project, do not create any new significant environmental effects nor increase the severity of any previously identified significant environmental effects. As detailed in the attached CEQA Checklist included as Attachment E, all previously identified significant environmental effects will be the same as originally analyzed or reduced in effect, with no previously identified significant environmental effects worsened. The Certified Amended Final EIR concluded placing development on a currently undeveloped project site within a scenic corridor would permanently and significantly alter the visual character of the site. To this end, the City Council adopted a statement of overriding considerations for aesthetic impacts. The CEQA Checklist provides analysis of the revised project's environmental impacts relative to those identified for the original project for each environmental impact issue area.

The revised project is a significantly smaller-scale project (70 residential units vs. 180 residential units), and with a minor exception as noted below, is proposed in the same general development footprint as the original project, and includes similar grading to remediate the landslide hazard feature. The minor exception includes:

- The overall grading/development footprint was altered slightly to preserve sensitive Yerba Mansa and Alkali Saltgrass biological habitat associated with a natural seep located toward the eastern portion of the development on the lower southern slope area that was proposed to be fully impacted by the original project and will now be left undisturbed.

Like the original project, the landslide repair areas in addition to the natural areas (left undisturbed) will be preserved in perpetuity as open space. To this end, all identified environmental impacts of the revised project are found to be either the same or less than the original project, and therefore, fall within the scope of the Certified Amended Final EIR and no further environmental review is needed under CEQA.

FISCAL IMPACT/SOURCE OF FUNDING:

The project, as proposed by the applicant for 70 condominiums, is expected to produce approximately \$50,000 per year in additional property tax for the benefit of the City. The project will also be subject to development impact fees, including an in-lieu affordable housing fee of approximately \$2.25 million to be paid to the City and reserved for future affordable housing in the City, after accounting for certain credits in the Settlement Agreement. Implementation of this Settlement Agreement and approval of the project also relieves the City of the court order to pay The New Home Company an estimated \$1 million for their attorney fees incurred to date and potentially tens of millions of dollars in other financial liabilities if an appeal was unsuccessful.

REQUESTED ACTION:

That the City Council adopt City Council Resolution No. 2024-1918 (Attachment A), approving File Nos. SPR-2024-007, DPR-2024-001, SCP-2024-001, OTP-2024-008, VAR-2024-003, and TTM-2024-001, a request for development of an approximately 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) inclusive of: (1) 70 single-family residential detached condominium units; (2) two detention/debris basins (one relocated and one new); (3) a roadway dedication of 0.08 acres; (4) permanent dedication of a trail access easement through the site and connecting to open space lands to the east; and (5) preservation of approximately 63.83 acres (82.4% of the site) as permanent open space.

ATTACHMENTS:

Attachment A: City Council Resolution No. 2024-1918

Attachment B: Approved Settlement Agreement

Attachment C: Project Plans

Attachment D: Project Comparison Table

Attachment E: CEQA Checklist

Attachment F: City Council Resolution No. 2024-1881

Attachment G: Project Description (Applicant-Prepared)