

RESOLUTION NO. 2024-1927

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CALABASAS APPROVING AN OVERALL REDUCTION IN TOTAL SIZE AND A REDUCTION IN THE NUMBER OF RESIDENTIAL UNITS FOR SITE PLAN REVIEW 2023-005, CONDITIONAL USE PERMIT NOS. 2023-003, 2023-004 AND 2023-005, SCENIC CORRIDOR PERMIT 2023-003 AND TENTATIVE TRACT MAP 2023-002, A MIXED-USE PROJECT LOCATED AT 4799 COMMONS WAY (APN: 2068-003-021) WITHIN THE COMMERCIAL MIXED-USE ZONING DISTRICT, SCENIC CORRIDOR OVERLAY ZONE AND AFFORDABLE HOUSING OVERLAY

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 October 19, 2023 and November 16, 2023, before the Planning Commission.
3. Staff presentation at the public hearing held on December 6, 2023, before the City Council.
4. The City of Calabasas Land Use and Development Code, General Plan, and all other applicable regulations and codes.

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

1. The applicant, The Commons at Calabasas, LLC, submitted an application on May 1, 2023.
2. Files SPR-2023-005, CUP-2023-003, -004, and -005, SCP-2023-003, and TTM-2023-002 seek approval to improve a portion of The Commons at Calabasas ("The Commons"), located at 4799 Commons Way (APN: 2068-003-02) within the Commercial Mixed-Use Zoning District, Scenic Corridor Overlay Zone and Affordable Housing Overlay with the construction of two new mixed-use buildings containing 210,921 square feet of total new floor area with up to 119 residential units, including 12 affordable units, and up to 24,163 square feet of neighborhood-serving

commercial uses. To accommodate the project, the existing 33,091 square foot theatre building will be demolished along with a portion of the existing surface parking lot and associated landscaping.

3. The project application and plans were reviewed by the Development Review Committee on May 23, 2023.
4. On May 31, 2023, staff determined that the application was incomplete and the applicant was duly notified of the incomplete status.
5. The proposed application and plans were reviewed by the Architectural Review Panel (ARP) on June 23, 2023 and July 28, 2023, at public meetings. On July 28, 2023, the ARP recommended moving the project on to the Planning Commission with a final recommendation for the applicant to continue exploring ways to: 1) Create an engaging pedestrian atmosphere on all sides of buildings and good connectivity between open spaces, 2) Create a better connection of visual character, materials, and building massing between existing and proposed development, and 3) Soften or reduce the massing of Building A in the area near the Civic Center.
6. On July 27, 2023, the application was deemed complete and the applicant was notified.
7. Notice of the October 19, 2023 Planning Commission public hearing was posted at Juan Bautista de Anza Park, the Calabasas Tennis and Swim Center and at Calabasas City Hall.
8. Notice of the October 19, 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 October 19, 2023 Planning Commission public hearing was mailed or delivered at least ten (10) days prior to the hearing to the project applicant.
10. At the October 19, 2023 public hearing, the Planning Commission reviewed staff's presentation, took public testimony, deliberated, and continued the matter to a regularly scheduled meeting on November 16, 2023.
11. At the November 16, 2023 public hearing, the Planning Commission reviewed additional staff presentation, took additional public testimony,

deliberated, and approved a motion by a vote of 5-0 adopting Planning Commission Resolution No. 2023-780, recommending approval of the project and all associated applications and requests to the City Council, and directing additional comments to be conveyed to the City Council via the staff report.

12. Notice of the December 6, 2023 City Council public hearing was posted at Juan Bautista de Anza Park, the Calabasas Tennis and Swim Center and at Calabasas City Hall.
13. Notice of the December 6, 2023 City Council public hearing was provided to property owners within 500 feet of the property as shown on the latest equalized assessment roll.
14. Notice of the December 6, 2023 City Council public hearing was mailed or delivered at least ten (10) days prior to the hearing to the project applicant.
15. At the December 6, 2023 public hearing, the City Council reviewed staff's presentation, took public testimony, deliberated, and approved a motion by a vote of 5-0 adopting Resolution No. 2023-1880, approving the project and all associated applications.
16. On June 3, 2024, the applicant submitted revised plans with a reduced overall project scope, seeking verification from the City for conformance with the approved entitlements.
17. The project site is currently within the Commercial Mixed-Use Zoning District, Scenic Corridor Overlay Zone and Affordable Housing Overlay Zone.
18. The land use designation for the project site under the City's adopted General Plan is Mixed Use (MU 0.95).
19. The surrounding land uses around the subject property are zoned Commercial Mixed-Use Zoning District, Scenic Corridor Overlay Zone and Affordable Housing Overlay, and Open-Space Development-Restricted.
20. Notice of the Planning Commission and City Council public hearings included the notice requirements set forth in Government Code Section 65009 (b)(2).

- 21. In compliance with Government Code Section 65863, the City has made written no net-loss findings.
- 22. In compliance with Government Code Section 66300, the City has made written findings concluding this reduction is not subject to prohibitions to changing zoning, general plan, and specific plan land use designations.
- 23. On October 9, 2024, this approval was sent before the City Council for Consent.

Section 3. In view of all of the evidence and based on the foregoing findings, the City Council concludes that the following findings relative to CEQA are true:

FINDINGS

On September 28, 2021, the City Council certified a Programmatic Environmental Impact Report (PEIR) associated with the City’s 2021-2029 Housing Element and other related updates to the City’s General Plan Land Use, Circulation, and Safety Elements that considered the development of 12 potential development sites for new housing projects within the City with a total of 1,305 dwelling units and 148,853 square feet of new commercial space. The PEIR considered the development of the project site (Site 11) to include 202 dwelling units and 44,393 square feet of net new commercial space, and that the approved project includes 119 dwelling units, the demolition of a 33,091 square foot movie theater, and construction of 24,163 square feet of new neighborhood-serving commercial space, for a net reduction of 8,928 square feet of commercial space. As a result, a draft addendum to the PEIR was prepared pursuant to PRC Section 21166 and CEQA Guidelines Sections 15162 and 15163 and subsequently approved by the City Council on December 6, 2023.

Pursuant to CEQA, the City Council serves as the lead agency with respect to the Current Project in connection with the subject City actions. Accordingly, the City Council (a) has considered the PEIR, the Addendum, and other pertinent evidence in the record, and the environmental effects of the Current Project as set forth in the Environmental Documents, pursuant to CEQA Guidelines Section 15091, and (b) makes the following findings:

- A) Based on substantial evidence in the Environmental Documents and elsewhere in the record, including but not to limited to oral and written testimony provided at the public hearings on the

matter, (a) no Subsequent or Supplemental EIR is required pursuant to CEQA Guidelines Sections 15162 or 15163 for the Current Project, and (b) the Addendum is adequate under CEQA for approval of the subject approvals for the Current Project. The Addendum was prepared under the authority of CEQA Guidelines Section 15164(a), which requires a lead agency to prepare an addendum to a previously certified EIR if some changes or additions are necessary, but none of the conditions described in CEQA Guidelines Section 15162 and 15163 calling for preparation of a Subsequent or Supplemental EIR have occurred; and

- B) The proposed revisions to the project include changes and alterations that avoid or substantially lessen the significant environmental effects of the Current Project as identified in the Environmental Documents, pursuant to CEQA Guidelines Section 15091(a)(1).

Section 4. In view of all of the evidence and based on the foregoing findings, the City Council concludes that the following findings are true:

Government Code Section 65863 states that the City shall not permit the reduction of residential density or allow development of any parcel at a lower residential density, unless the City makes written findings supported by substantial evidence of both of the following:

1. *The reduction is consistent with the adopted general plan, including housing element; and*

The applicant seeks City approval of a revised project which reduces the project's size by at least 39 apartment units, including 8 fewer affordable housing units, compared to the approved original project. The proposed revised project's reduction in unit count is consistent with the Calabasas General Plan Land Use Element, including the Housing Element via Policies II-9, II-10, II-11, II-18, V-8, V-9, V-10, V-15, and V-17. The General Plan highlights the Commons Lane Shopping Center (Commons) as an "'infill' development with high potential for new residential units" (p. V-20). The Commons's newly proposed project reduces the number of residential apartments from 119, including 12 affordable to low-income family units, to up to 80 residential units, including 4 affordable to very low-income family units.

The Land Use Element (Chapter II), Policy II-9 requires the revised

development project be compatible with the overall residential character of the community. As revised, the development project remains compatible in character with the City's residential character in bulk, size, massing, and height. The subject site's land use designation is Commercial Mixed Use (CMU .95)—allowing a maximum floor area ratio (FAR) of .95; the proposed plan with the reduction has a FAR of .67. Additionally, the proposed revised project is under the maximum 24 dwelling units per acre as it has 4.1 dwelling units per acre. The proposed project includes four affordable units deed-restricted to be affordable to very low-income families for 55 years consistent with Policy II-18's objective to increase the opportunity for affordable housing development, and Policy II-10 and II-11's objective of promoting an assembly of distinct neighborhoods that encompass a range of housing types and the mix of diverse retail and service needs. Continually, the Commons development, even with the reduction, would foster a neighborhood with a mix of housing types, near retail, and service needs.

This reduction is also consistent with the Housing Element (Chapter V), which focuses on providing adequate housing sites and assisting with providing affordable housing (p. V-1). The Housing Element seeks to provide opportunities for diverse housing needs (Policy V-8) along with multi-family housing and mixed-use development consistent with Regional Housing Needs Assessment (RHNA) requirements (Policy V-9). The makeup of the Commons, as a retail and residential property, meets the diverse housing goal. Another objective is to pursue opportunities that integrate housing in underutilized commercial centers for reuse of excess or obsolete buildings (Policy V-10); notably the General Plan identifies the Commons as a "infill" development (p. V-20), where the City aims to utilize unused buildings and office space. The Commons project will also disperse affordable housing units throughout the development, consistent with Policies V-10 and V-15. The proposed project with the reduction would utilize the density bonus incentives, under Policy V-17 and applicable provisions of the Calabasas Municipal Code, since it will allot 5% of the total units as very low-income units—resulting in four 55-year deed-restricted very low-income affordable units of the total 80.

As demonstrated above, the proposed reduction is consistent with the adopted general plan, including housing element, and meets this finding.

- 2. The remaining sites identified in the housing element are adequate to meet housing laws and accommodate the City's share of the regional housing need.*

The Common’s project proposes a reduction in the number of residential apartments by 39 residential units, which also inclusively removed 8 affordable units. The City’s 6th Housing Element Cycle Regional Housing Needs Assessment requirement, for the period of October 2021 to October 2029, requires the City to plan and zone for at least 354 new housing units, of which approximately three-quarters are to be affordable. The 354 2021-2029 RNHA units are distributed among the following income categories in Table A:

Table A

Income Level	Percent of Area Median Income (AMI)	Units	Percent
Very Low	31-50%	132	37%
Low	51-80%	71	20%
Moderate	81-120%	70	20%
Above Moderate	120%+	81	23%
TOTAL		354	100%

The City must show that other sites identified in the Housing Element, after approval of this site at the proposed reduced density, are sufficient to accommodate the remaining unmet regional housing need at each income level, as depicted in “Remaining RHNA” column in Table B. Table B shows the City’s remaining Regional Housing Needs Obligation Allocations amounts, by unit type, after project approvals through 2023, excepting this site.

2021-2029 Cumulative Building Summary (Table B)			
Income Category	Assigned RHNA	New Units Permitted 2021-2029	Remaining RHNA
Very Low	132	3	129
Low	71	0	71
Moderate	70	8	62
Above Moderate	81	14	67
TOTALS:	354	25	329

The proposed project modification removes 39 units, inclusive of 8 low-income affordable units, from the approved 119-unit project. However, the proposed project modifications include providing 4 very low-income units in leu of the low-income units. To meet this finding, the City must show the remaining RNHA opportunity sites have sufficient capacity to still accommodate the City’s remaining RNHA – as depicted in Table B, and

composing a total RNHA of 329 units. As shown below in Table C, the remaining RNHA opportunity sites have sufficient capacity to accommodate the remaining RNHA requirements, with a significant additional buffer. Table C below identifies RNHA opportunity sites for multifamily and mixed-use housing opportunities; it also identifies the remaining capacity by the applicable income level for each site.

Table C

Table C								
Multi-family and Mixed-use Housing Opportunity Sites								
Site No.	Site Description	Acres	Existing Zones	Affordable Housing Overlay	Net Unit Potential	Above Moderate Income	Moderate Income	Very Low & Low Income
1	Raznick Office Building ¹	1.93	CMU .95	No	42	37		5
2	Rancho Pet Kennel	6.84	RM (12)	No	60	54	6	
3	Cruzan Parking Lot ²	1.96	CMU .95	Yes	78	58		20
4	Old Town Vacant Site ²	0.96	CMU 1.0	Yes	48			48
5	Las Virgenes Shopping Center ²	0.88	CMU 6.0	Yes	36	27		9
6	Church ²	2.47	RM(16)	Yes	99	50		49
7	Downtown Offices ²	1.34	CMU.95	Yes	54	41	13	
8	Avalon Apartments	30.5	RM(16)	No	71	64	5	2
9	Agoura Road Offices	2.78	CMU.60	Yes	111	83	28	
10	Mureau Road Offices	1.59	CMU.60	Yes	64	48	16	
11	Commons Shopping Center	25.0	CMU.95	Yes	202	152		50
12	Craftsman Corner	9.8	CMU.95	No	196	176		20
	Accessory Dwelling Units				96	32	6	58
Total Opportunity Sites		84.12			1,157	822	74	261

The City listed 1,157 total potential dwelling units across all RNHA opportunity sites – a significant buffer above the minimum 354 RNHA requirement units. Of the 354 units, the RNHA obligations mandates 81 units needed for above moderate-income units and 203 units for very low- and low-income units.

The Commons Shopping Center site was listed on the Housing Element Inventory with 202 potential dwelling units, comprising of 152 AM units and 50 VL/L units. The original approved project contained 119 units, with 12 low-income affordable units. The proposed revised project contains 76-80 units, with 4 very low-income affordable units.

The City's total designated RNHA opportunity sites capacity for Above-Moderate units is 822. RNHA requires 81 units. The City's other approved projects in this Housing Element cycle included 14 above-moderate income units, per Table B. The remaining unmet above-moderate income RNHA requirement before the Commons project is 67 very-low/low-income units. The proposed revised Commons project contains 76 above-moderate income units. After accounting for the proposed, revised Commons project, the remaining unmet above-moderate income RNHA obligation is zero units. With the approval of the revised Commons project, the City will have approved projects containing its entire above-moderate income RNHA capacity. This finding does not apply then, for the above-moderate income category, as the City's approval of the revised Commons project will result in the City approving projects that exceed the above-moderate income units RNHA requirements.

The City's total designated RNHA opportunity sites capacity for very low/low-income combined units is 261 Very-Low/Low income units. RNHA requires 203 units. The City's other approved projects in this Housing Element cycle included 3 very low/low-income units, per Table B. The remaining unmet very-low/low income RNHA requirement before the Commons project is 200 very low/low-income units. The proposed revised Commons project contains 4 very low-income units. After accounting for that partially met RNHA obligation via the proposed, revised Commons project, the remaining unmet combined very low/low-income RNHA obligation is 196 units. If the City removes the 50 allotted very low/low-income units at the Commons site from the total designated capacity of 261 very low/low-income units, the remaining capacity of RNHA opportunity sites to accommodate that remaining unmet 192 very low/low-income need would be 211 units. The remaining RNHA opportunity sites capacity of 211 very low/low-income units, after approving the proposed lower-density Commons project and accounting for its very low/low-income units, is more than sufficient to accommodate the remaining unmet very-low/low income RNHA need of 192 units.

The City's total designated RNHA opportunity sites capacity for moderate income units is 74. RNHA requires 70 moderate income units. The City's other approved projects in this Housing Element cycle included 8 moderate

income units, per Table B. The remaining unmet moderate income RNHA requirement before the Commons project is 62 moderate income units. The Commons projects, both original and revised, do not include any moderate-income units. The RNHA opportunity sites list did not include any moderate-income unit capacity at the Commons site. The remaining RNHA opportunity sites capacity of 74 moderate income units is more than sufficient to accommodate the remaining unmet moderate income RNHA need of 62 moderate income units.

Accordingly, the remaining RNHA opportunity sites, as detailed above and in Table C, are adequate to accommodate the remaining unmet RNHA obligations, after accounting for approval of the Commons project at the proposed lower density of 76-80 units, with 4 very low/low-income affordable units, and thus the proposed reduction in density can be approved under applicable state housing laws. There are sufficient remaining opportunity sites to accommodate the City's share of the regional housing need. Furthermore, the Commons project site can accommodate future development and continue to provide a combination of market rate and affordable housing units, as demonstrated by the current project. For all these reasons, the revised project meets this finding.

Government Code Section 66300, subdivision (b)(1)(A) prohibits the City from "Changing the general plan land use designation, specific plan land use designation, or zoning of a parcel or parcels of property to a less intensive use or reducing the intensity of land use within an existing general plan land use designation, specific plan land use designation, or zoning district in effect at the time of the proposed change, below what was allowed under the land use designation or zoning ordinances of the affected county or affected city, as applicable, as in effect on January 1, 2018, except as otherwise provided in clause (ii) of subparagraph (B) or subdivision (h)" of Section 66300.

The proposed approval of the revised Commons Lane project, as requested by the applicant, at 80 units, with 4 deed-restricted very low-income affordable units, instead of the originally approved 119 units, with 12 deed-restricted low-income affordable units, does not violate the prohibitions on the City under Government Code section 66300, subdivision (b)(1)(A). The City's action to approve a revised project does not change the site's general plan land use designation or zoning. There is not an applicable Specific Plan. The City's action also does not modify the site's residential development capacity, as the site's applicable General Plan land use designation and zoning will remain the same as before. The site will continue to have a General Plan land use designation of MU .95- Mixed-

Use with a floor area ratio maximum of 0.95. The site will continue to be zoned CMU .95 – Commercial Mixed Use 0.95. The site will continue to have a maximum residential development capacity of 20-24 units per acre. The City's approval of the revised project, as requested by the developer, at a smaller scale will not modify its residential development capacity, nor modify any site development restrictions nor reduce the intensity of land uses allowed on the site. The developer remains free to, at a later date if desired, apply for a project modification to seek to build to the maximum residential development capacity, subject to the applicable permitting and process requirements.

The City's proposed action, approving the proposed revised project at a lower density as requested by the developer/applicant, is also not subject to the prohibitions of Government Code section 66300 because the City's action is taken to facilitate the development of housing, and specifically, to facilitate the development of deed-restricted affordable housing. The City's approval of the proposed revised project, is thus an action taken by the City to facilitate housing development, and affordable housing development, by allowing the developer to proceed with the revised project and build its 80 total units, including 4 units deed-restricted to very low-income households for 55 years. (Government Code section 66300, subdivision (e)).

Section 5. In view of all of the evidence and based on the foregoing findings and conclusions, the City Council hereby approves revisions to File Nos. SPR-2023-005, CUP-2023-003, CUP-2023-004, CUP-2023-005, SCP-2023-003 and TTM-2023-002, reducing the overall development to approximately 176,000 square feet of new floor area and up to 80 residential units, inclusive of 4 very low-income units.

The City Council delegates to the Community Development Director the power to approve a revised tentative tract map consistent with this approval of the revised project.

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 this project approval, or the City's activities conducted pursuant to its processing and approval of this project approval, including from inverse condemnation or any other constitutional claim. Accordingly, to the fullest extent permitted by law, the applicant and property owner, and its representative(s), or its successors 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 this project approval, or the City's activities conducted pursuant to its processing and approval of this project approval, including from inverse condemnation or any other constitutional claim. The applicant and property owner, and its representative(s), or its successors 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.

CONDITIONS OF APPROVAL

All conditions of approval set forth in Resolution 2023-1880 shall remain in effect.

Section 6. All documents described in Section 1 of City Council Resolution No. 2024-1927 are deemed incorporated by reference as set forth at length.

The City Clerk shall certify the adoption of this resolution and shall cause the same to be processed in the manner required by law.

PASSED, APPROVED AND ADOPTED this 9th day of October, 2024.

Alicia Weintraub
Mayor

ATTEST:

Lisa Pope
City Clerk

APPROVED AS TO FORM:

City Attorney
Matthew T. Summers