

Attachment 2

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RESOLUTION NO. 19-___

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF AGOURA HILLS, CALIFORNIA, APPROVING AMENDMENT CASE NO. AMND-01521-2018 TO VARIANCE CASE NO. VAR-01081-2015 TO EXCEED THE APPROVED HEIGHT OF THE REAR, AND SIDE YARDS RETAINING WALLS NOT TO EXCEED 10 FEET IN HEIGHT, AND THE APPROVED HEIGHT OF THE FRONT RETAINING WALLS NOT TO EXCEED 6 FEET IN HEIGHT FOR THE PROPERTY LOCATED AT 28254 LAURA LA PLANTE DRIVE; AND MAKING A FINDING OF EXEMPTION UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

THE PLANNING COMMISSION OF THE CITY OF AGOURA HILLS, CALIFORNIA, HEREBY FINDS, RESOLVES AND ORDERS AS FOLLOWS:

Section I. An application was duly filed by Pouya Payan with respect to the real property located at 28254 Laura La Plante Drive (Assessor's Parcel No. 2061-017-007), requesting approval of an amendment to Variance, Case No. VAR-01081-2015, to increase the approved height of retaining walls in the rear yard from 6 feet to 9.16 feet and from 9 feet to 10 feet, in the east side yard from 3 feet to 10 feet, in the west side yard from 1.25 feet to 9.58 feet, and various changes in height for the proposed retaining walls in the front yard not to exceed 6 feet in height in connection with the construction of a 2,541 square-foot home and attached 577 square-foot garage, (the "Project").

Section II. The project is a request for one single-family residence and is exempt from the California Environmental Quality Act (CEQA), per CEQA Guidelines Section Nos 15301(a) and 15303(e) for interior or exterior alternations involving such things as interior partitions, plumbing, and electrical conveyances and accessory (appurtenant) structures, including garages, carports, patios, swimming pools, and fences), which is applicable to address minor revisions to an approved development. The increase in height of the retaining walls is a minor alteration, given that City staff has reviewed the retaining walls to verify that they are safe. The modifications are not expected to cause any environmental impacts. No exception to this categorical exemption applies as set forth in Section 15300.2 of the CEQA Guidelines including but not limited to subsection (c) which relates to unusual circumstances.

Section III. The Planning Commission of the City of Agoura Hills considered the application at a public hearing held on February 21, 2019, at 6:30 p.m. in the Council Chambers, City Hall, at 30001 Ladyface Court, Agoura Hills, California. Notice of the time, date, place, and purpose of the aforesaid hearing was duly given and published as required by state law.

Section IV. Evidence, both written and oral, including the staff report and supporting documentation, was duly presented to and considered by the Planning Commission at the aforesaid public hearing.

Section V. Based on the evidence presented at the public hearing, including the staff report and oral and written testimony, the Planning Commission finds, pursuant to Section 9676.2 and 9606.2.D of the Agoura Hills Municipal Code, that:

- A. Because of special circumstances applicable to the subject property, including size, shape, topography, location or surroundings, the strict application of the Zoning Ordinance deprives the property of privileges enjoyed by other property owners in the vicinity and under identical zoning classification. As the lot is steeply sloped, the topography requires the use of retaining walls in the front yard for pedestrian and vehicular access that exceed the maximum allowed height of three and one-half (3.5) feet. The height was revised in the field to adjust to field conditions and revise the design of the front planter. The highest wall proposed in the front yard (6 feet high) does not exceed the maximum allowable retaining wall height that can be built outside of the front yard setback area. However, the rear yard retaining walls were built taller than the maximum height allowed by the original variance to compensate for the revised building pad elevation in the rear yard and the steeper than anticipated slope up above. The walls continue to serve the same purpose, which is to retain the ascending slope of the lot, provide a walking path for emergency services around the footprint, and allow a small private space for the occupants in the rear yard. The soils report require that the higher wall stand one foot above the grade to prevent debris from rolling down onto the structure. The side retaining walls were raised proportionally to connect to the rear retaining walls with minimal exposure on the adjacent properties while maintaining a landscape planter at their base. With no other feasible option to adequately address retention, the amendment to the variance ensures that the property can be reasonably and safely developed with a single family home and a back yard as other property owners in the vicinity have done under the same zoning classification.
- B. The amendment to the variance does not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone. The retaining walls are necessary to provide a reasonable size home, a building pad with sufficient access around and private yard areas, given the steep slope on the site. The sunk-in rear yard as well as the taller walls provide additional privacy to adjacent neighbors. Other properties in the neighborhood have similar limitations with respect to hillside grading and in some circumstances would require a similarly sized retention wall.
- C. The strict interpretation and enforcement of the provisions of the Zoning Ordinance would result in practical difficulty or unnecessary hardship inconsistent with the objectives of the Zoning Ordinance. The residence was

placed on the lot to comply with the required front and rear yard setback but requires walls to support a useable space around the structure both for a private space and for emergency access all around the footprint of the house. The proposed change increases the privacy of the neighbors. Retaining walls exceeding three and one-half (3.5) feet in the front yard and six (6) feet in all other yards have been built to provide a side and rear yard due to the steep slopes and the need to accommodate a single-family residence and limited outdoor spaces on a lot this size. The composition of the soil is such that structural changes had to be made in the field and the retaining walls were redesigned to be taller and close together as a monolithic structure for a safer construction thereby eliminating the need for additional free-standing walls up above to retain the slope.

- D. The amendment to the variance will not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements of the aesthetic value in the vicinity. The walls comply with the Building Code requirements and do not impact views to the traffic travelling eastbound on Laura La Plante Drive and will not block neighbors' access into their property. A geotechnical study was prepared to demonstrate that the height of the wall will safely retain the hillside it supports. The City Building Official has reviewed the geotechnical study and concurs with its conclusions. In most cases, the walls were designed to accommodate a landscape planter to provide an opportunity for screening of the new walls and integrate them in their natural environment.
- E. The amendment to the variance is consistent with the character of the surrounding area. The retaining walls are similar to retaining walls on other properties, some of which are also greater than six (6) feet high, and will be screened from the public view from the street by the home and from neighbors' views with landscaping and the rear yard retaining wall will be screened by the eastern side yard retaining wall. The walls will be painted to match the colors of the house to increase the blending effect.

Section VI. Based on the aforementioned findings, the Planning Commission hereby approves Amendment Case No. AMND-01521-2018 to Variance Case No. VAR-01081-2015 subject to the attached conditions in Exhibit A with respect to the property described in Section I hereof.

Section VII. The Secretary of the Planning Commission shall certify to the passage, approval, and adoption of this resolution, and shall cause this resolution and his certification to be entered in the Book of Resolutions of the Planning Commission of the City.

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PASSED, APPROVED, and ADOPTED this 21st day of February, 2019, by the following vote to wit:

AYES: (0)
NOES: (0)
ABSENT: (0)
ABSTAIN: (0)

John Asuncion, Chairperson

Doug Hooper, Secretary

EXHIBIT A

CONDITIONS OF APPROVAL (Case No. AMND-01521-2018 to VAR-01081-2015)

1. This decision, or any aspect of this decision, can be appealed to the City Council within fifteen (15) days from the date of Planning Commission action, subject to filing the appropriate forms and related fees.
2. This action shall not be effective for any purpose until the applicant has agreed in writing that the applicant is aware of, and accepts all conditions of this permit with the Planning Department.
3. Except as modified herein, the approval of this action is limited to and requires complete conformation to the conditions stated below and, except as modified herein, the conditions initially approved as part of the Variance.
4. It is hereby declared to be the intent that if any provision of this permit is held or declared to be invalid, the permit shall be void and the privileges granted hereunder shall lapse.
5. It is further declared and made a condition of this action that if any condition herein is violated, the permit shall be suspended and the privileges granted hereunder shall lapse; provided that the applicant has been given written notice to cease such violation and has failed to do so for a period of thirty (30) days.
6. Unless the approval is used within two (2) years from the date of City approval, Case No. AMND-01521-2018 to Case Nos. CUP-0 will expire. A written request for a one (1) year extension may be considered prior to the expiration date.
7. The Amendment, Case No. AMND-01521-2018 to Variance Case No. VAR-01081-2018, is valid only in conjunction with the Amendment to Conditional Use Permit Case No. CUP-01080-2015 and VAR-01081-2015, and the conditions of approval therein.
8. The Applicant, and property owner(s), and their successors in interest, shall indemnify, defend and hold harmless the City, its officials, officers, agents and employees (collectively "Indemnitees") from and against any and all claims, actions, lawsuits, damages, losses and liabilities arising or resulting from the granting of this approval by the City or the exercise of the rights granted by this approval. This indemnification obligation shall include, but not be limited to, paying all fees and costs incurred by legal counsel of the City's choice in representing the Indemnitees in connection with any such claims, actions or lawsuits, any expert fees, and any award of damages, judgments, verdicts, court costs or attorneys' fees in any such claim, action or lawsuit. The City shall promptly notify Applicant and property owners of any claim, action, or proceeding and the City shall reasonably cooperate

Conditions of Approval
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in the defense. In the event such a legal action is filed, the City shall estimate its expenses for litigation. Applicant or property owners shall deposit such amount with the City or enter into an agreement with the City to pay such expenses as they become due. Applicant and property owners shall reimburse the City, and each of the Indemnitees for any and all legal expenses and costs incurred by it in enforcing the indemnity herein provided. Although the Applicant is the real party in interest in an action, the City may, at its sole discretion, participate in the defense of the action, but such participation shall not relieve the Applicant of any obligation under this condition.

END