

RESOLUTION NO. 16-70

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, TO APPROVE AMENDMENTS TO SITE PLAN PERMIT 98-63 AND TENTATIVE TRACT MAP 15718, RESERVE LANDSCAPE AMENDMENT, A REQUEST TO ALLOW THE MODIFICATION OF THE APPROVED LANDSCAPE PLAN AND THE REQUIREMENTS LIMITING THE REPLACEMENT OF TREES FOR THE RESERVE COMMUNITY, LOCATED IN THE RESERVE COMMUNITY IN THE GENERAL AREA BETWEEN AVENIDA VISTA HERMOSA AND COSTERO RISCO

WHEREAS, on August 7, 2015, an application was submitted, and completed on October 1, 2016, by Matt Davenport, 34237 Via Santa Rosa, San Juan Capistrano, CA 92674, for an amendment to Site Plan Permit 98-63 to allow the modification of the approved landscape plan and the requirements limiting the replacement of trees for the Reserve community. The project is located in the Residential Low zoning district of the Forster Ranch Specific Plan, at the intersection of Camino Vera Cruz and Avenida Vista Hermosa; and

WHEREAS, on August 20, 2015, the City's Development Management Team reviewed the proposed project for compliance with the General Plan, Zoning Ordinance, and other applicable City ordinances and codes; and

WHEREAS, on June 9, and August 24, 2016, the City's Design Review Subcommittee considered the project and supported it with some recommended modifications to the Maintenance Plan to ensure adequate City oversight is provide for the replacement of skyline trees; and

WHEREAS, on October 19, 2016, the Planning Commission held a duly noticed public hearing on the subject application and considered evidence presented by the City staff, the applicant, and other interested parties, and recommends the City Council approve the project, with the modifications specified in the conditions of approval attached hereto; and

WHEREAS, the Planning Commission recommends that the City Council determine this project scope was adequately addressed under the previously prepared Environmental Impact Reports (EIR) for the Forster Ranch Specific Plan EIR (1986), Forster Ranch Specific Plan Supplemental EIR (1991), and Forster Ranch Specific Plan Amendment Subsequent Program EIR (1998) because the project scope will only result in minor modifications to the landscape plan for the common area slopes of the community and will still be in conformance with the HDO, landscape design requirements, and City standards; and

The project also qualifies as categorical exemption from the requirements of the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Section 15304 Class 4, because the proposal is to replace and install new landscaping that is fire resistant and low water usage landscaping; and

WHEREAS, on November 15, 2016 the City Council of the City of San Clemente held a duly noticed public hearing on the subject application, and considered evidence presented by the applicant, City staff, and other interested parties.

NOW, THEREFORE, the City Council of the City of San Clemente hereby resolves as follows:

Section 1. Based upon its review of the entire record, including the Staff Report, any public comments or testimony presented to the Planning Commission, and the facts outlined below, the Planning Commission hereby finds and determines that the proposed project scope was adequately addressed under the previously prepared Environmental Impact Reports (EIR) for the Forster Ranch Specific Plan EIR (1986), Forster Ranch Specific Plan Supplemental EIR (1991), and Forster Ranch Specific Plan Amendment Subsequent Program EIR (1998) because the project scope will only result in minor modifications to the landscape plan for the common area slopes of the community and will still be in conformance with the HDO, landscape design requirements, and City standards. All of the environmental documents are available for review in the Community Development Department Office. The project also qualifies as categorically exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Section 15304 (Class 4: Minor Alterations to Land), because the proposal is to replace and install new landscaping that is fire resistant and low water usage landscaping.

Section 2: With respect to Amendment to Site Plan Permit 98-63, the City Council finds as follows:

- A. The proposed development is permitted within the subject zone pursuant to the approval of an Amendment to the Site Plan Permit and complies with the San Clemente General Plan and the purpose and intent of the zone in which the project is being proposed in that the project is for a modification to the approved landscape plan and the conditions of approval and the CC&R requirements to remove trees on the common area slopes of the Reserve Community. The amendment to the landscape plan and the tree pallet is an improvement to the existing plan because the trees selected are more fire resistant and require less water than the previously approved trees. The landscape design and the specific placement of the trees comply with the Hillside Development Ordinance (HDO) which requires the trees screen the development. The revisions to the conditions of approval and the CC&Rs will allow the removal and replacement of trees that are dead/dying, diseased, dangerous, and destructive, inappropriately placed trees, and topped trees that cannot be

crown restored. The City will have oversight for the replacement of skyline trees that are critical in ensuring the development is screened from public areas to comply with the HDO. The project is compatible with Urban Design Policy UD-5.20 Landscape Maintenance because the proposed amendment will ensure that the Reserve community's landscape plan is developed in conformance with the HDO and continually maintained. The project is also in compliance with General Plan Policy M-1.30 Protection of Scenic Corridors since the landscape design will ensure the proposed landscape design screens the hillside development of the Reserve community and protects the integrity of the Avenida Vista Hermosa Scenic Corridor.

- B. The site is suitable for the type and intensity of development that is proposed in that the proposed amendment does not increase the density of the development, traffic, noise or pollution. The proposed amendment to the site plan improves the landscape design of the Reserve community and ensures compliance with the HDO that requires hillside developments screen the development from public view. The proposal will result in new landscaping that will be established in three years that will screen the community from public areas. This City is also requiring oversight for the removal and replacement of skyline trees to ensure the Reserve community is in compliance with the HDO by screening the development from public views.
- C. The proposed development will not be detrimental to the public health, safety or welfare, or materially injurious to properties and improvements in the vicinity in that the development will improve the safety of the community and the surrounding improvements given the new tree pallet for the common area slopes will be more fire resistant than the existing trees and the new tree pallet will also use less water than the existing trees in the community.
- D. The proposed development will not be unsightly or create disharmony with its locale and surroundings in that the plan pallet was reviewed by the City's Landscape Architect to ensure the landscape design for the proposed placement of the trees and the plant palette was compatible with the community and the adjacent communities. The placement and type of new trees will ensure the community is in compliance with the HDO with the requirement that skyline trees be placed at the top of the slope in groupings of twos and threes to screen the development and still provide property owners with corridor ocean views.
- E. The proposed development will minimize or eliminate adverse physical or visual effects which might otherwise result from unplanned or inappropriate development, design or location in that the plant pallet was reviewed by the City's Landscape Architect to ensure the landscape

design for the proposed placement of the trees and the plant pallet was compatible with the community and the adjacent communities. The placement and type of new trees will ensure the community is in compliance with the HDO with the placement of skyline trees at the top of the slope in groupings of twos and threes to screen the development and still provide property owners with corridor ocean views. This City is also requiring oversight for the removal and replacement of skyline trees to ensure the Reserve community is in compliance with the HDO by screening the development from public views.

Section 3: With respect to Amendment to Tentative Tract Map 15718, the City Council finds as follows:

- a. The proposed modification to the conditions of approval for the Tentative Tract Map still keeps the development compatible with the objectives, policies, general land uses and programs specified in the General Plan of the City of San Clemente. The project complies with all the applicable provisions of this the specific plan, as appropriate, the goals, and objectives of the San Clemente General Plan, and the purpose and intent of the zone in which the development is being proposed. The modified conditions ensure City oversight to ensure the landscape design for the community is in compliance with the HDO and the General Plan requirements to maintain the landscaping and screen the development from the public areas.
- b. The site is physically suitable for the proposed subdivision in that the site in not modified with the amendment to the conditions. The modified conditions ensure City oversight to ensure the landscape design for the community is in compliance with the HDO and the General Plan requirements to maintain the landscaping and screen the development from the public areas as the development was originally designed..
- c. The site is physically suitable for the proposed density of the subdivision given that the proposed amendment will not modify the site or condition of the subdivision.
- d. The subdivision will not cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat in that the site has already been developed and the conditions are associated with the landscape design of the developed area. The landscape design will still maintain the aesthetic design of the community and screen the development from public areas.
- e. The design of the subdivision and the types of improvements are not likely to cause serious public health problems given the site has already been developed and the modifications to the conditions of approval will not

change the design of the development. The revised conditions of approval will improve the safety of the community and the surrounding improvements given the new tree pallet for the common area slopes will be more fire resistant than the existing trees and the new tree pallet will also use less water than the existing trees in the community.

- f. The design of the subdivision and the type of improvements will not conflict with easements for use of property within the proposed subdivision given there are not easements on the site that would impact the design of the project or the Reserve community.
- g. The proposed amendment to the Tentative Tract Map is consistent with the Subdivision Map Act and the City of San Clemente Subdivision Ordinance given the amended conditions will not change the site and it will still comply with all of the required development standards and all requirements from the Subdivision Map Act.

Section 4: The City Council of the City of San Clemente hereby approves of AMSPP 98-63 and AM TTM 15718, Reserve Landscape Amendment, to allow the modification of the approved landscape plan and the requirements limiting the replacement of trees for the Reserve community, subject to the above findings, and the conditions of approval attached hereto as Exhibit A.


Section 5. The City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

PASSED AND ADOPTED this 6th day of December, 2016.

ATTEST:



City Clerk of the City of
San Clemente, California



Mayor of the City of San
Clemente, California

STATE OF CALIFORNIA)
COUNTY OF ORANGE) §
CITY OF SAN CLEMENTE)

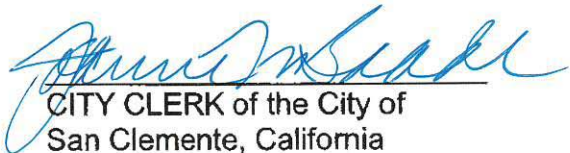
I, JOANNE BAADE, City Clerk of the City of San Clemente, California, do hereby certify that Resolution No. 16-70 was adopted at a regular meeting of the City Council of the City of San Clemente held on the 6th day of December, 2016, by the following vote:

AYES: BROWN, DONCHAK, HAMM, WARD, MAYOR BAKER

NOES: NONE

ABSENT: NONE

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of San Clemente, California, this 14TH day of DEC., 2016.


CITY CLERK of the City of
San Clemente, California

Approved as to form:

/S/ SCOTT SMITH
City Attorney

EXHIBIT A**CONDITIONS OF APPROVAL
Reserve Landscape Amendment
AMSPP 98-63/AMTTM 15718**

1. Conditions associated with Resolution 99-13 for TTM 15718 and SPP 98-63 for the original approval of the Reserve community are still applicable and in effect with the exception to the new landscape design and tree replacement conditions associated with the project that are identified in condition of approval 6 through 8 below.
(PIng.)_____
2. The owner or designee shall develop the approved project in conformance with the site plan, elevations, and any other applicable submittals approved by the Planning Commission on October 19, 2016, subject to these Conditions of Approval.
(PIng.)_____

Any deviation from approved submittals shall require that, prior to the issuance of building permits, the owner or designee shall submit modified plans and any other applicable materials as required by the City for review and obtain the approval of the City Planner or designee. If the City Planner or designee determines that the deviation is significant, the owner or designee shall be required to apply for review and obtain the approval of the Planning Commission, as appropriate. (PIng.)_____

3. The applicant or the property owner or other holder of the right to the development entitlement(s) or permit(s) approved by the City for the project, if different from the applicant (herein, collectively, the "Indemnitor") shall indemnify, defend, and hold harmless the City of San Clemente and its elected city council, its appointed boards, commissions, and committees, and its officials, employees, and agents (herein, collectively, the "Indemnitees") from and against any and all claims, liabilities, losses, fines, penalties, and expenses, including without limitation litigation expenses and attorney's fees, arising out of either (i) the City's approval of the project, including without limitation any judicial or administrative proceeding initiated or maintained by any person or entity challenging the validity or enforceability of any City permit or approval relating to the project, any condition of approval imposed by City on such permit or approval, and any finding or determination made and any other action taken by any of the Indemnitees in conjunction with such permit or approval, including without limitation any action taken pursuant to the California Environmental Quality Act ("CEQA"), or (ii) the acts, omissions, or operations of the Indemnitor and the directors, officers, members, partners, employees, agents, contractors, and subcontractors of each person or entity comprising the Indemnitor with respect to the ownership, planning, design, construction, and maintenance of the project and the property for which the project is being approved. The City shall notify the Indemnitor of any claim, lawsuit, or other judicial or administrative proceeding (herein, an "Action") within the scope of this indemnity obligation and request that

the Indemnitor defend such Action with legal counsel reasonably satisfactory to the City. If the Indemnitor fails to so defend the Action, the City shall have the right but not the obligation to do so and, if it does, the Indemnitor shall promptly pay the City's full cost thereof. Notwithstanding the foregoing, the indemnity obligation under clause (ii) of the first sentence of this condition shall not apply to the extent the claim arises out of the willful misconduct or the sole active negligence of the City. *[Citation – City Attorney Legal Directive/City Council Approval June 1, 2010]* (PIng.)_____

4. AMSPP 98-63 shall become null and void if the landscape installation and amendment to the CC&Rs are not commenced within three (3) year from the date of the approval thereof. Since the use requires the issuance of a building permit, the use shall not be deemed to have commenced until the date that the building permit is issued for the development. *[Citation - Section 17.12.150.A.1 of the SCMC]* (PIng.)_____

A use shall be deemed to have lapsed, and AMSPP 98-63 shall be deemed to have expired, when a building permit has been issued and construction has not been completed and the building permit has expired in accordance with applicable sections of the California Building Code, as amended. *[Citation - Section 17.12.150.C.1 of the SCMC]* (PIng.)_____

5. The owner or designee shall have the right to request an extension AMSPP 98-63 if said request is made and filed with the Planning Division prior to the expiration date as set forth herein. The request shall be subject to review and approval in accordance with Section 17.16.160 of the Zoning Ordinance. *[Citation - Section 17.12.160 of the SCMC]* (PIng.)_____

6. Resolution 99-13, Condition 14.j shall be revised to allow the replacement of trees if they comply with the criteria identified in the Tree Maintenance Plan and in condition of approval 7 and 8 below or if the replacement request is approved by the City Planner or the designated public hearing review body, as stated in condition of approval 8 below. ■■(PIng.)_____

7. As part of the consideration for the replacement of a tree, an arborist shall be involved in evaluating the condition of the tree with the standards recognized and practiced by the International Society of Arboriculture. The arborist along with the landscape maintenance company shall evaluate the condition and location of the tree to determine if it meets the criteria identified below to consider removal. The replacement of a tree is authorized only when it meets at least one of the following criteria:

- Dead/dying
- Diseased
- Dangerous
- Destructive

- Tree is inappropriately centered in the intended view corridor area for a home (as identified in the Plan View graphic below)
- Topped trees that cannot be crown restored

60 days from the identification of a dead tree it shall be removed and replaced with a new tree. ■■(PIng.)_____

8. Tree replacement requests reviewed and supported by an arborist and the landscape maintenance company that qualify for removal for: 1) skyline trees; and 2) trees along Avenida Vista Hermosa, Avenida Vera Cruz, and Costero Ricco, (as stated above) shall provide a submittal package to the City that includes the following information for review:

- Map identifying the tree location
- Description and condition of the tree, including photographs
- Criteria justifying the removal of the tree
- Proposal for replacement tree including location, type, and size. If a replacement is not proposed then the justification shall be provided

Tree replacement requests shall be reviewed by City Planning Division and the City's Landscape Architect to ensure the request complies with the removal criteria and the replacement is in compliance with the approved landscape concept plan to ensure the landscape design remains in compliance with the HDO. Tree replacement requests that do not meet the criteria shall be subject to City Planner review. The City Planner has the discretion to elevate the tree replacement decision to the Planning Commission.

■■(PIng.)_____

9. The Reserve HOA shall install 33 percent of trees each year, over the course of three years, across all quadrants of the development (where needed) to improve the aesthetics and have varied growth to bring the development into compliance with the HDO and the General Plan requirements for the development.

■■(PIng.)_____

10. The tree installations on the slopes and the replacement of inappropriately placed trees or topped trees that cannot be crown restored must be completed within three years from the City Council approval date to avoid citations for being out of compliance with their approved landscape plans and conditions of approval. An extension to the three year installation timeline would be subject to Community Development Director approval.

■■(PIng.)_____

11. Prior to the City approval for the replacement of any trees and the CC&R Recordation, the Reserve Association shall vote, and submit for review, pay a review fee and obtain City Attorney approval of the amended CC&Rs. After recordation a copy of the recorded CC&Rs shall be provided to the City.

■ ■ (PIng.) _____

12. All tree replacements shall be in conformance with the Tree Maintenance Plan to ensure the tree location, type, and blend of trees on the common area slopes is consistent with the City Council approval. ■ ■ (PIng.) _____

All Conditions of Approval are standard, unless indicated as follows:

- Denotes a modified standard Condition of Approval.
- ■ Denotes a project specific Condition of Approval