

RESOLUTION NO. XXXXX

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SANTA ROSA APPROVING A ZONING VARIANCE TO ALLOW AN ENCROACHMENT OF 30-FEET INTO THE REQUIRED 30-FOOT CREEKSIDE SETBACK FOR AN 8-FT. TALL DECORATIVE WROUGHT IRON SECURITY FENCE ALONG THE SOUTHERN PROPERTY LINE (I.E., THE NORTHERN EMBANKMENT OF IRWIN CREEK) AT 400 GATE WAY, ASSESSOR'S PARCEL NOS. 146-160-049, 146-160-050, 146-170-056, 146-170-057; FILE NUMBER ZV19-002

WHEREAS, on July 16, 2019, the Planning & Economic Development Department of the City of Santa Rosa received an application for a Zoning Variance pursuant to the provisions of Title 20 of the Santa Rosa City Code, to allow the encroachment of up to 30-feet into the required 30-foot Creekside setback for the proposed construction of an 8-foot tall decorative wrought iron security fence located at fence along the southern property line of Woodgate Glen Condominiums (i.e., the northern embankment of Irwin Creek), located at 400 Gate Way, also known as Accessor's Parcel Nos. 146-160-049, 146-160-050, 146-170-056, 146-170-05; and

WHEREAS, on July 9, 2020, the Planning Commission held a duly noticed public hearing on the subject property, where it heard and considered evidence regarding the proposed Zoning Variance and made findings in connection therewith; and

WHEREAS, the Planning Commission, after due consideration, investigation and study made by itself and in its behalf, and after due consideration of all evidence and reports offered at said meeting, does find and determine the following:

- a. There are special circumstances applicable to the property (e.g., location, shape, size, surroundings, topography, or other conditions), so that the strict application of this Zoning Code denies the property owner privileges enjoyed by other property owners in the vicinity and under identical zoning districts or creates an unnecessary and non-self-created hardship or unreasonable regulation which makes it obviously impractical to require compliance with the applicable development standards. Special circumstances relate to both the size of the property, and, to development standards under which the surrounding environs were constructed.

In 1983, the project was developed consistent with the Zoning Code for the PD 226 Zone. The PD Zone and development was established in response to the unique physical setting of the creek as demonstrated in the Policy Statement and the approved Conditional Use Permit and Design Review applications. The 30-foot Creekside setback development standard was added to the Zoning Code in 2004. The strict application of the current Creekside Setback now established in the Zoning Code applied to the development which has occurred within the PD226 Zone, creates an unnecessary and unreasonable regulation which makes it impractical to require compliance due to: the location of the graveled access road

adjacent to the creek bank; the location of portions of the pool facilities and fencing within the Creekside Setback; the location of portions of condominium units within the current Creekside Setback; and the location of front doors and front door access on several condominium units adjacent conflicting with the current Creekside Setback Further, with a reasonable level of safety and security for residents of the residential complex also a project goal which is highlighted in the PD226 Zone, the fence location creates a practical setback location intended to provide property owners with privileges enjoyed by other projects along this segment of Irwin Creek.

- b. A non-self-created hardship peculiar to the subject property does exist by reason of the conditions, and these conditions are not common to all or most of the properties in the immediate area which are also within the identical zoning district. In this context, personal, family, or financial difficulties, loss of prospective profits, and existing zoning violations, or legal nonconforming uses or structures existing on neighboring properties shall not be deemed hardships justifying a Variance.

A reduction in reasonable privacy and security for the project site has occurred in more recent years, well after the adoption of the Creekside Setback in the City's Zoning Code. The existing on-site conditions are not common to all nearby properties because of the variation of planned development zoning districts. Further, the site was developed in a manner that oriented development towards the creek and near the creek bank, in accordance with the previously adopted policy statements and conditions of approval for the project, which are also not common to other properties nearby. In doing so, the relationship of the creek bank to physical improvements already developed on-site in accordance with the PD226 Zone demonstrates that such conditions are not common to other properties because each PD Zone is unique and, therefore, cannot be common to most of the properties along this section of Irwin Creek. Therefore, the variance is warranted based upon a unique, non-self created hardship peculiar to the subject property and is not the result of previous actions of the property owners.

- c. Granting the variance is necessary for the preservation and enjoyment of a substantial property right possessed by other properties in the vicinity which are within the identical zoning district as the subject property, and a variance, if granted, would not constitute a special privilege to the subject property which is not held or enjoyed by neighboring properties within the identical zoning district.

The variance is necessary for the preservation and enjoyment of the property owners' right to safely and securely use the on-site improvements, which are part of the project. Several other adjacent projects also back up to Irwin Creek and have placed fences along the creek to provide reasonable levels of safety and security. The granting of this variance will provide a reasonable level of security and safety and maintain an open view into the creek area within a unique PD

Zoning District. Because each PD Zone is unique to the project itself, the variance will not create a special privilege.

- d. The Variance would not be of substantial detriment to adjacent properties and would not be in conflict with the purposes and intent of this Zoning Code, the General Plan, any applicable specific plan, or the public interest or welfare.

The Variance would not be of substantial detriment or impact to adjacent properties and would not be in conflict with the purposes and intent of the Zoning Code, the General Plan, including but not limited to the Santa Rosa Citywide Creek Master Plan Bicycle and the Pedestrian Master Plan Update 2018. Nor would the Variance be a substantial detriment or impact the public interest or welfare because it provides reasonable levels of security and maintains views into and through the creek area. The construction of the proposed decorative security fence would not affect the functionality or substantially impact the aesthetics of the neighboring properties because: the decorative security fence respects developed patterns along the creek; it does not block the existing pedestrian access to J.X. Wilson School from apartments to the south; it maintains the PD 266 Policy Objectives for pedestrian use of the graveled trail/maintenance road on-site; it is consistent with development in this area where fences and walls have been constructed adjacent to Irwin Creek to maintain reasonable levels of safety and security.

- e. The project has been reviewed in compliance with the California Environmental Quality Act (CEQA), and qualifies for the following exemptions: a Class 1 Exemption pursuant to CEQA §15301 as a minor alteration to private structures and facilities involving negligible or no expansion of existing uses; a Class 3 Exemption pursuant to CEQA §15303(e) as the construction and location of limited new structures including, but not limited to, accessory structures such as fences; and, a Class 5 Exemption pursuant to CEQA §15305(a) as a minor alteration in land use limitations in areas with average slopes less than 20%, which does not result in any changes in land use or density, including, but not limited to, set back variances not resulting in the creation of a new parcel.

NOW, THEREFORE, BE IT RESOLVED, that the Planning Commission of the City of Santa Rosa does hereby approve the requested Zoning Variance to allow a thirty-foot encroachment into the required thirty-foot Creekside setback along the southern property line, also being the northern bank of Irwin Creek, for the proposed construction of an 8-foot tall decorative wrought iron security fence, located at 400 Gate Way, Assessor's Parcel Numbers 146-160-049, 146-160-050, 146-170-056, 146-170-057, subject to the following conditions:

1. A building permit is required for all on site construction of fencing over seven feet in height, and/or change of use.

- Failure to comply may result in issuance of a citation and/or revocation of approval.

- REGULARLY PASSED AND ADOPTED by the Planning Commission of the City of Santa Rosa on the 9th day of July 2020, by the following vote:

APPROVED: _____
 _____, CHAIR

Exhibit A: EDS report, Attached