

RESOLUTION NO. 34-2023

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PACIFICA TO RESCIND, SET ASIDE AND DEEM NULL AND VOID CITY COUNCIL RESOLUTION NO. 70-2020 AND PLANNING COMMISSION RESOLUTION NO. 2020-017, WHICH ADOPTED THE INITIAL STUDY/MITIGATED NEGATIVE DECLARATION AND MITIGATION MONITORING AND REPORTING PROGRAM AND APPROVED SITE DEVELOPMENT PERMIT PSD-714-02, USE PERMIT UP-904-02, TENTATIVE SUBDIVISION MAP SUB-204-02, HERITAGE TREE REMOVAL AUTHORIZATION AND LOGGING OPERATION APPROVAL (FILE NO. 2002-001) FOR AN APPROXIMATELY 53,000-SF (1.217 ACRES) UNDEVELOPED LOT ON THE EAST SIDE OF MONTEREY ROAD AND HICKEY BOULEVARD INTERSECTION (APN 009-381-010) KNOWN AS THE “VISTA MAR PROJECT”

WHEREAS, on May 9, 2002, an application for a residential development project at 503-511 Monterey Road (APN 009-381-010) (“Property”) was filed by Javier Chavarria on behalf of then Property owner, Vistamar Development; and

WHEREAS, Chavarria and Vistamar Development proposed a residential development project on the Property which, after various revisions, included a total of eight dwelling units, including four (4) separate buildings each containing two (2) side-by-side, three-story townhomes (“Vista Mar Project”); and

WHEREAS, the City prepared an Initial Study, Mitigated Negative Declaration (“IS/MND”) and Mitigation Monitoring and Reporting Program (“MMRP”) for the Project pursuant to the California Environmental Quality Act (“CEQA”); and

WHEREAS, on August 3, 2020 and October 19, 2020 the Planning Commission of the City of Pacifica held public hearings to consider the Vista Mar Project; and

WHEREAS, on October 19, 2020, the Planning Commission adopted Resolution No. 2020-017 adopting the IS/MND and MMRP prepared for the Vista Mar Project and approving Site Development Permit PSD-714-02; Use Permit UP-904-02; Tentative Subdivision Map SUB-204-02, Heritage Tree Removal Authorization, and Logging Operation Approval; and

WHEREAS, the Vista Mar Preservation Alliance filed an appeal on October 27, 2020, of the Planning Commission’s decision to adopt Resolution No. 2020-017, and Kristin Cramer filed an appeal on October 28, 2020, of the Planning Commission’s decision to adopt Resolution No. 2020-017 (collectively, the “Appeals”); and

WHEREAS, on November 23, 2020, the City Council of the City of Pacifica held a duly noticed public hearing to consider the Appeals and adopted Resolution No. 70-2020, “A Resolution of the City Council of the City of Pacifica Denying the Appeals and Upholding the Planning Commission’s Adoption of a Mitigated Negative Declaration and Mitigation Monitoring Reporting Program Pursuant to the California Environmental Quality Act (“CEQA”) and Approval of Site Development Permit PSD-714-02, Use Permit UP-904-02, Tentative Subdivision Map SUB-204-02, Heritage Tree Removal Authorization, and Logging Operation Approval (File No. 2002-001), subject to Conditions, for Construction of Four New Townhouse Duplex Buildings (Total of Eight Dwelling Units), and Associated Subdivision of Airspace for Condominium Purposes, on an Approximately 53,000-SF 1.27 Acres) Undeveloped Lot on the East Side of Monterey Road Approximately 250 feet Southeast of the Monterey Road and Hickey Boulevard Intersection (APN 009-381-010”); and

WHEREAS, on December 21, 2020, an unincorporated association calling itself the Coalition of Pacificans for an Updated Plan and Kristin Cramer (“Petitioners”) filed litigation in the Superior Court of San Mateo County (Civil Case No. 20-CIV-05719) to challenge the City Council’s action on the Vista Mar Project; and

WHEREAS, the Superior Court entered Judgment and issued a peremptory writ of mandate (“Writ”) on December 15, 2022 and December 20, 2022, respectively, which among other things granted Petitioners partial relief on their claims and ordered the City of Pacifica to set aside, and deem null and void Resolution Nos. 2020-17 and 70-2020 approving the Vista Mar Project and to refrain from re-approving the Vista Mar Project unless and until it has conducted additional CEQA review consistent with the Court’s decision.

NOW, THEREFORE BE IT RESOLVED by the City Council of the City of Pacifica as follows:

- A. The above recitals are true and correct and material to this Resolution.
- B. The City Council hereby rescinds City Council Resolution No. 70-2020, “A Resolution of the City Council of the City of Pacifica Denying the Appeals and Upholding the Planning Commission’s Adoption of a Mitigated Negative Declaration and Mitigation Monitoring Reporting Program Pursuant to the California Environmental Quality Act (“CEQA”) and Approval of Site Development Permit PSD-714-02, Use Permit UP-904-02, Tentative Subdivision Map SUB-204-02, Heritage Tree Removal Authorization, and Logging Operation Approval (File No. 2002-001), subject to Conditions, for Construction of Four New Townhouse Duplex Buildings (Total of Eight Dwelling Units), and Associated Subdivision of Airspace for Condominium Purposes, on an Approximately 53,000-SF 1.27 Acres) Undeveloped Lot on the East Side of Monterey Road Approximately 250 feet Southeast of the Monterey Road and Hickey Boulevard Intersection (APN 009-381-010)” and Planning Commission Resolution No. 2020-017, referenced therein, in their entirety.
- C. The previous actions of the City Council as set forth in Resolution No. 70-2020 and Planning Commission Resolution No. 2020-017 are hereby set aside and deemed null and void.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Pacifica, California, held on the 10th day of April, 2023, by the following vote:

AYES, Councilmembers: *Beckmeyer, Bier, Bigstyck, Vaterlaus.*

NOES, Councilmembers: *n/a.*

ABSENT, Councilmembers: *n/a.*

ABSTAIN, Councilmembers: *Boles.*

Tygarjas T. Bigstyck
Tygarjas Twyrts Bigstyck, Mayor

ATTEST:

Sarah Coffey

Sarah Coffey, City Clerk

APPROVED AS TO FORM:

Michelle Kenyon

Michelle Kenyon, City Attorney