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February 27, 2024

ADOPTED

BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES

38 February 27, 2024

Agenda No. 4
09/19/23

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

JEFF LEVINSON
INTERIM EXECUTIVE OFFICER

**Re: Project No. 2017-003465-(3)
Minor Coastal Development Permit No. RPPL2017-
005925-(3)**

Dear Supervisors:

Your Board previously conducted a duly-noticed public hearing regarding the above-referenced Project No. 2017-003465-(3), consisting of Minor Coastal Development Permit No. RPPL2017-005925-(3), to authorize the construction of a 2,241-square-foot single-family residence on a 0.5-acre parcel located at 661 Cold Canyon Road in the Monte Nido Rural Village unincorporated community within the Santa Monica Mountains Coastal Zone within the Malibu Zoned District, applied for by Stephen Montoya. At the conclusion of the public hearing, your Board indicated an intent to approve the project, deny the appeal, and instructed our office to prepare the necessary documents. Enclosed are the findings and conditions.

Very truly yours,

DAWYN R. HARRISON
County Counsel

By
THOMAS R. PARKER
Senior Deputy County Counsel

APPROVED AND RELEASED:

THOMAS J. FAUGHNAN
Senior Assistant County Counsel

TRP:bh
Enclosures

c: Fesia A. Davenport, Chief Executive Officer
Jeff Levinson, Interim Executive Officer, Board of Supervisors
Amy J. Bodek, Director, Department of Regional Planning

**FINDINGS OF THE BOARD OF SUPERVISORS
AND ORDER
PROJECT NO. 2017-003465-(3)
MINOR COASTAL DEVELOPMENT PERMIT NO. RPPL2017-005925-(3)**

1. The Los Angeles County ("County") Board of Supervisors ("Board") conducted a duly-noticed public hearing on January 31, 2023, which was continued to February 14, 2023, and again to September 19, 2023, in the matter of Project No. 2017-003465-(3), consisting of Minor Coastal Development Permit No. RPPL2017-005925-(3) ("CDP"). The County Regional Planning Commission ("Commission") previously conducted a duly-noticed public hearing on the CDP on July 27, 2022.
2. Stephen Montoya ("Permittee") requests the CDP to authorize the construction of a 2,241-square-foot, 28-foot-tall single-family residence with an attached 462-square-foot garage ("Project") on a property located at 661 Cold Canyon Road (Assessor's Parcel Number (APN) 4456-016-024) in the Monte Nido Rural Village unincorporated community within the Santa Monica Mountains Coastal Zone ("Project Site").
3. The CDP is a request to construct a single-family residence, accessory structures, and an on-site wastewater treatment system ("OWTS"), with associated oak tree encroachments and grading in the R-C-10,000 (Rural Coastal – 10,000-square-foot Minimum Required Lot Area) Zone, pursuant to Los Angeles County Code ("County Code") Section 22.44.810.
4. The Permittee requests authorization pursuant to the CDP to grade a total of 949 cubic yards of earth.
5. The Permittee requests authorization to encroach into the protected zones of two coast live oaks and within H1 Buffer and H1 Quiet Zone habitat categories.
6. The Project Site is 0.5 gross acres in size and consists of one legal lot, which is irregular in shape. It consists of a hill on its eastern portion, sloping downward to the west toward Thornhill Road.
7. The Project Site is currently undeveloped.
8. Surrounding zoning within a 500-foot radius includes:
 - North: R-C-10,000;
 - South: R-C-10,000;
 - East: R-C-10,000; and
 - West: R-C-10,000 and Rural Coastal-1 Acre Minimum Required Lot Area.

9. Surrounding land uses within a 500-foot radius includes:
 - North: Rural Village;
 - South: Rural Village;
 - East: Rural Village; and
 - West: Rural Village.
10. The Project Site is zoned R-C-10,000 and its existing land use designation is Rural Village in the land use category of the Santa Monica Local Coastal Program ("LCP") Land Use Policy ("LUP") Map.
11. The Project Site would be accessed by Cold Canyon Road, a 60-foot-wide Limited Secondary Highway immediately to the east.
12. The Permittee proposes the construction of a 2,241-square-foot single-family residence and 462-square-foot attached garage on the eastern portion of the 0.5-acre Project Site. The two-story residence would have a maximum height of 28 feet above grade, and a total of 949 cubic yards of earth (505 cubic yards cut, 444 cubic yards fill, and 61 cubic yards export) would be graded.
13. The Project would also include landscaping, a new OWTS, retaining walls, and other appurtenant facilities on a total building site of approximately 6,200 square feet. The residence is proposed for a location on the hilly eastern portion of the Project Site, within the H1 Quiet Zone. It would be accessed by a 45-foot-long concrete driveway to Cold Canyon Road to the east. Grading, fuel modification, and OWTS seepage pits would be located within the H1 Buffer.
14. The Project Site partially encroaches into the protected zones of two coast live oaks. Permittee shall conduct on-site tree monitoring and boulder relocation. Permittee shall plant 10 off-site mitigation oak trees on Mountains Recreation and Conservation Authority ("MRCA") land that is part of the King Gillette Ranch Project, located in the Stokes Canyon Watershed.
15. The Project Site is mapped as H3 Habitat and is within 200 feet of H1 Habitat at Cold Creek and its riparian zone, placing it within the H1 Buffer or Quiet Zone.
16. The residence location is on the hilly eastern portion of the Project Site and is within the H1 Quiet Zone. It is accessed by a 45-foot-long concrete driveway to Cold Canyon Road to the east.
17. Grading, fuel modification, and OWTS seepage pits are located within the H1 Buffer.
18. Permittee completed a biological assessment that was reviewed by the Staff Biologist and the Environmental Review Board ("ERB"). The Staff Biologist conducted a site visit and confirmed the Project Site was appropriately mapped. The Staff Biologist agreed with the biological assessment of Permittee. The biological assessment notes no environmental resources of hazardous or critical

concern. No plants or animals listed as federal, State, or local sensitive designation exist. The Project Site is not considered a particularly sensitive environment.

19. The Project is located within an area with H3 Habitat, which according to the Local Implementation Program ("LIP"), includes native vegetation communities that have been significantly disturbed or removed as part of lawfully established development and fuel modification areas around existing development. The area subject to the Project's fuel modification is H3 Habitat, and the proposed building site area is within H3 Habitat only. The Project, with a maximum height of 28 feet above grade, is not expected to impact scenic resources, such as the designated Scenic Highway. It is also not likely to have a cumulative or significant effect on the environment, as it consists of one single-family residence in an area of existing development, and no hazardous waste sites or historic resources would be affected. Based on the above, the Project is categorically exempt from the California Environmental Quality Act ("CEQA").
20. The Project qualifies for two Categorical Exemptions (Class 3-New Construction or Conversion of Small Structures and Class 4-Minor Alterations to Land) under CEQA and the County environmental guidelines.
21. Pursuant to section 15303 of the State CEQA Guidelines, the Class 3 Categorical Exemption includes construction of a single-family residence, accessory structures, and associated infrastructure. The Project constructs a new single-family residence, a garage, associated infrastructure, an access driveway, and retaining walls.
22. Pursuant to section 15304(i) of the State CEQA Guidelines, the Class 4 Categorical Exemption addresses alterations in the conditions of land, water, and/or vegetation not removing healthy, mature, scenic trees except for forestry and agricultural purposes. The Class 4 Categorical Exemption includes grading on land with a slope of 10 percent or greater that is involved with a single-family residence and accessory uses. The Project qualifies for this exemption because it includes 949 cubic yards of grading, new landscaping, oak/native tree encroachment, and fuel management activities associated with the construction of a new single-family residence.
23. The Project is not subject to section 15300.2 of the State CEQA Guidelines, exceptions to the CEQA exemptions. The biological inventory and environmental assessment of the Project Site disturbance does not indicate the presence of sensitive biological resources that would be impacted by the implementation of the Project.

24. Agency recommendations:
 - A. The County Department of Parks and Recreation recommended clearance to public hearing, with no conditions, in a letter dated March 16, 2017.
 - B. The County Department of Public Health recommended clearance to public hearing, with no conditions, in a letter dated June 8, 2019.
 - C. The County Department of Public Works recommended clearance to public hearing, with conditions, in a letter dated June 12, 2019.
 - D. The County Fire Department recommended clearance to public hearing, with no conditions, in a letter dated July 3, 2019.
 - E. The County ERB recommended clearance to public hearing, with conditions, at a meeting held on April 19, 2021.
25. A duly-noticed public hearing was held before the Department of Regional Planning ("Regional Planning") Hearing Officer ("Hearing Officer") on May 3, 2022. The Hearing Officer approved the Project. Ms. Alicia Gonzalez, President of the Monte Nido Valley Community Association, timely filed an appeal to the Commission on May 16, 2022.
26. A duly-noticed Commission hearing was held on July 27, 2022. The Commission heard a presentation from Regional Planning staff ("Staff"), testimony from the representative of the Permittee, and opponents of the Project (Ms. Alicia Gonzalez and Ms. Joan Simclaski). Concerns raised by the opponents were the height of the Project, the calculation of the size of the Project with the attached garage, alleged lack of clarity of the location of the OWTS, possible impacts on oaks, underlying geotechnical Project Site conditions, overflow pipe runoff soil erosion, the color of the residence, lighting, enforcement of construction mitigation measures, traffic safety on Cold Canyon Road, traffic safety mitigation, County Policy LU38, visibility of the story poles, the need for a two-story residence, the alleged cumulative effects of the Project, and the siting of the proposed driveway. Permittee's representative provided supportive testimony regarding the Project.
27. At the conclusion of the Commission's hearing, the Commission closed the public hearing. It found that the Project is categorically exempt pursuant to CEQA Guidelines sections 15303 and 15304(i), that section 15300.2 of the CEQA Guidelines is not applicable to the Project, denied the appeal, and approved the Project on a unanimous vote. Ms. Alicia Gonzalez timely appealed the Commission's decision to the Board on August 10, 2022.
28. A duly-noticed public hearing was held by the Board on January 31, 2023. The Board continued the appeal hearing to February 14, 2023, by a unanimous vote.

29. A duly-noticed public hearing was held by the Board on February 14, 2023. The Board opened the public hearing. The appellant, Ms. Gonzalez, provided testimony and represented that the Project Site is an archeological site, which necessitated an archeological assessment, and requested the appeal be continued. The Permittee likewise provided testimony, highlighting the details of the Project, denying the appellant's representations, and requesting denial of the appeal. Additionally, three speakers provided testimony in opposition of the Project and in favor of the appeal. Supervisor Lindsey Horvath raised questions for Staff regarding fire safety, biodiversity, traffic, the siting of the residence, whether the Project Site is an archaeological site, and oversight and enforcement. Based on concerns regarding the archeological assessment, the Board, without closing the public hearing, referred the appeal back to Regional Planning for further assessment of the Project Site as a claimed archeological site.
30. A further duly-noticed Board hearing was held on September 19, 2023. The Board heard a presentation from the Regional Planning Director, who represented that an archeological assessment was completed and determined no archeological facts of concern were on the Project Site. Additionally, the appellant provided further testimony, the Permittee provided testimony, three speakers provided testimony in opposition of the Project and in favor of the appeal, and the owner of the property testified in favor of the Project.
31. The Board closed the public hearing and indicated its intent to deny the appeal by a 4 to 0 vote, with Supervisor Hilda Solis not present.
32. The Board finds that the Project is consistent with the goals and policies of the LUP because the Rural Village land use designation is intended for single-family residential uses on small lots. A single-family residence is specifically listed as a principal permitted use under this designation.
33. The Board finds that the Project would be consistent with the following policies of the LUP:
 - A. The Board finds that the Project is consistent with the R-C-10,000 zoning classification as a single-family residence is a principal permitted use in such zone with a CDP, pursuant to County Code Section 22.44.1750. County Code Section 22.44.1620 requires a Minor CDP for projects proposing between 50 and 5,000 cubic yards of grading. Since 949 cubic yards of grading is proposed, a Minor CDP is required.
 - B. The Board finds that the Project is consistent with the standards identified in County Code Section 22.44.1750, as the Project would comply with all required setbacks.

- C. The Board finds that the Project is consistent with the standard identified in County Code Section 22.44.2040. Because the Project is not within a Scenic Resource Area, it is limited to a maximum height of 30 feet above grade. A maximum height of 28 feet above grade is proposed.
- D. The Board finds that the Project is consistent with the standard identified for development in a Rural Village (County Code Section 22.44.2140), as the Project would provide two covered parking spaces in an attached garage and two uncovered parking spaces on the driveway.
- E. The Board finds that the Project is consistent with the standards identified in County Code Section 22.44.1310. Fences in the Santa Monica Mountains Coastal Zone must be wildlife-permeable, unless they are within Fuel Modification Zone "A" which typically extends 20 feet from habitable structures. The only fencing proposed for the Project Site would be within this zone, so a wildlife-permeable fence is not required. Retaining walls are also relatively short and located within this same zone.
- F. The Board finds that the Project is consistent with the standards identified in County Code Section 22.44.2140. Because the Project Site is located within a Rural Village, there is a maximum gross structural area ("GSA") that is calculated based on the building site and the average slope. The maximum allowed GSA for the residence is 2,448 square feet. The Project GSA of 2,303 square feet—which includes 62 square feet added from the attached garage—is less than the maximum allowed under this standard.
- G. The Board finds that the Project is consistent with the standard identified in County Code Section 22.44.1920. The Project Site is designated as H1 Habitat Buffer, H1 Quiet Zone, and H3 Habitat by the LUP. While all development would occur within H3 Habitat, it would be located within the H1 Quiet Zone and H1 Buffer. The Project would result in no direct development or new fuel modification within the H1 Habitat, as the entire Project Site is within the existing fuel modification zones of the current on-site residence and adjacent residences. However, some direct development, including grading, drainage structures, and an OWTS seepage pit, would occur within the H1 Buffer. Due to the County not having a valid Resource Conservation Program ("RCP"), these impacts cannot be mitigated through a habitat impact in-lieu fee (County Code Section 22.44.1950). Instead, on-site and off-site mitigation measures would be conditioned. These measures include retaining a biological monitor, a best management practices plan, the screening of the Project Site and staking of grading limits, runoff control measures, and preparation of surveys and restoration plans for nesting birds and native trees. Mitigation measures for H1 Buffer development and native tree

encroachments require the off-site planting of 10 coast live oaks as part of an MRCA program, promoting native plant growth circles around on-site oak trees, and relocating existing boulders containing sensitive lichens, as well as monitoring the on-site mitigations for a period of 10 years.

- H. While the Project would be entirely within H3 Habitat, the residence is proposed within an H1 Quiet Zone and some ancillary development, such as grading, an OWTS, and drainage structures, are proposed within the H1 Buffer. Per the requirements of the LIP, residential development may only be permitted within an H1 Quiet Zone or H1 Buffer when all of the following apply:
- i. The Project Site is on a lawfully created parcel;
 - ii. The development is the minimum necessary to provide the landowner a reasonable economic use of the property, and in no case shall it exceed the maximum standards provided in County Code Sections 22.44.1910 and 22.44.1920;
 - iii. There is no other feasible alternative building site location that can avoid H1 Habitat Buffer or H1 Quiet Zone;
 - iv. The maximum feasible buffer width is provided between the development and the H1 Habitat area;
 - v. The development is sited and designed to prevent impacts that would significantly degrade H1 Habitat; and
 - vi. All feasible mitigation measures have been provided to minimize adverse environmental effects.
- I. The parcel was lawfully created as part of a Lot Line Adjustment ("LLA") with a Certificate of Compliance issued in 1995 (LLA 101,388). The proposed location is the most appropriate site for development, as its location on the eastern portion of the Project Site is farthest from mapped H1 Habitat. Because almost the entirety of the Project Site is within H1 Buffer or H1 Quiet Zone, it is infeasible to place the Project in a more appropriate location, and there would be no direct impact to H1 Habitat. Relocating the residence any further to the north or east would necessitate the removal of at least one oak tree. Restricting the development entirely within the H1 Quiet Zone is also infeasible as, due to underlying geotechnical conditions, grading of the pad for a residence in the H1 Quiet Zone necessitates some encroachment into the H1 Buffer Zone. The OWTS leach field is also proposed for the most appropriate location, as it is infeasible to place it on sloping terrain and moving it any further to the west or south would result in an inadequate setback from either an oak

tree (50 feet) or the stream (150 feet). Required mitigation measures would also minimize environmental effects to H1 Habitat.

- J. The Board finds that the Project would result in encroachments into the protected zones of two coast live oaks. The tree protected zone ("TPZ") of a large oak at the front of the house would be less than 30 percent encroached by the driveway, septic line, and entry walks. The TPZ of a second oak would be less than 10 percent encroached by proposed septic lines. Due to the abundance of other oaks and native trees on other portions of the Project Site, as well as the H1 Buffer Zone on the western portion of the Project Site, the currently proposed location is the most appropriate for development and would result in the fewest native tree impacts. Further, these impacts will be lessened by required on-site and off-site mitigation. A total of five replacement mitigation oaks and five contingency oaks are proposed to be planted off-site under a MRCA program. These plantings would be within the Stokes Canyon watershed, which is physically close to where the Project Site is located. On the Project Site, mitigation for oak woodland impacts will promote native plant growth circles around severely pruned oaks within the fuel modification zones on the west side of the residence. The landscape plan also has two areas set aside for relocation of hilltop boulders, which were identified as hosting sensitive lichen-bryophyte flora. These on-site mitigations will be monitored for a period of 10 years. The mitigation plan was reviewed by Staff as well as the ERB and has been included as a condition of approval for the Project.
- K. The Board finds that the Project is consistent with the standards identified in County Code Section 22.44.1340, which prohibits OWTS leach fields or seepage pits within 50 feet of the dripline of any oak or other native tree. Leach fields and seepage pits must also be 100 feet and 150 feet, respectively, from any stream. The Project's proposed seepage pit would meet these standards, as it is located on the southwestern portion of the Project Site, more than 50 feet from all oaks and 150 feet from the stream to the west.
- M. The Board finds that the Project is consistent with the standards identified in County Code Section 22.44.1270, as outdoor lighting is proposed to be minimal and must be shielded to the requirements of the LIP.
- N. The Board finds that the Project is consistent with the standards identified in County Code Section 22.44.2040. The Project Site is not located within 50 feet (vertical or horizontal) of a designated significant ridgeline.

34. The Board finds that the proposed development is in conformity with the certified LCP. As proposed, the Project would comply with all applicable development standards for residences in the Santa Monica Mountains LCP, which includes the LUP and LIP, including those standards related to permitted uses, OWTS, building site area, habitat categories, height restrictions, and native tree preservation.
35. The Board finds that any development between the nearest public road and sea or shoreline of any body of water located within the coastal zone, is in conformity with the public access and public recreation policies of Chapter 3 of Division 20 of the Public Resources Code. The Project Site is not located between the ocean and the nearest public road, so coastal access requirements would not be applicable.
36. The Board finds that the Project is exempt from CEQA, pursuant to State CEQA Guidelines sections 15303 (Class 3, New Construction or Conversion of Small Structures Categorical Exemption) and 15304 (Class 4, Minor Alterations to Land Categorical Exemption). This Class 3 Categorical Exemption specifically pertains to a single-family residence and its appurtenant structures, while the Class 4 Categorical Exemption specifically refers to grading vegetation removal, and tree encroachments proposed as part of the Project.
37. The Board finds that pursuant to Section 22.44.990 of the County Code, the community was properly notified of the public hearing by mail, newspaper (LA Bulletin), and property posting. Additionally, the Project was properly noticed, and case materials were available on Regional Planning's website. On August 17, 2023, a total of 180 Notices of Public Hearing were mailed to all property owners as identified on the County Assessor's record within a 1,000-foot radius from the Project Site.
38. The location of the documents and other materials constituting the record of proceedings upon which the Board's decision is based in this matter is at Department of Regional Planning, 13th Floor, Hall of Records, 320 West Temple Street, Los Angeles, California 90012. The custodian of such documents and materials shall be the Section Head of the Coastal Development Services Section, Regional Planning.

BASED ON THE FOREGOING, THE BOARD OF SUPERVISORS CONCLUDES THAT:

- A. The proposed development is in conformity with the certified LCP.
- B. The proposed development is located between the nearest public road and the sea or shoreline of any body of water located within the coastal zone and is in conformity with the public access and public recreation policies of Chapter 3 of Division 20 of the Public Resources Code.

THEREFORE, THE BOARD OF SUPERVISORS:

1. Finds that the Project is exempt from CEQA, pursuant to State CEQA Guidelines sections 15303 (Class 3, Construction or Conversion of Small Structures) and 15304 (Class 4, Minor Alterations to Land) Categorical Exemptions;
2. Denies the appeal of the Project; and
3. Approves Minor Coastal Development Permit No. RPPL2017-005925-(3), subject to the attached conditions.

**CONDITIONS FOR APPROVAL
AND ORDER
PROJECT NO. 2017-003465-(3)
MINOR COASTAL DEVELOPMENT PERMIT NO. RPPL2017-005925-(3)**

1. This grant authorizes the construction of a new 2,241-square-foot, 28-foot-tall single-family residence with an attached 462-square-foot garage ("Project") on a property located at 661 Cold Canyon Road in the Monte Nido Rural Village unincorporated community within the Santa Monica Mountains Coastal Zone ("Project Site"), subject to the following conditions of approval.
2. Unless otherwise apparent from the context, the term "Permittee" shall include the applicant, owner of the property, and any other person, corporation, or other entity making use of this grant.
3. This grant shall not be effective for any purpose until the Permittee, and the owner of the subject property if other than the Permittee, have filed at the office of the Los Angeles County ("County") Department of Regional Planning ("Regional Planning") their affidavit stating that they are aware of and agree to accept all of the conditions of this grant, and that the conditions of this grant have been recorded as required by Condition No. 5 and until all required monies have been paid, pursuant to Condition No. 10. Notwithstanding the foregoing, this Condition No. 3 and Condition Nos. 4, 6, 8, and 9 shall be effective immediately upon the date of final approval of this grant by the County.
4. Unless otherwise apparent from the context, the term "date of final approval" shall mean the date the County's action becomes effective, pursuant to the Los Angeles County Code ("County Code") Section 22.44.1090.
5. Prior to the use of this grant, the Permittee, or the owner of the subject property if other than the Permittee, shall record the terms and conditions of this grant in the office of the County Registrar-Recorder/County Clerk. In addition, upon any transfer or lease of the property during the term of this grant, the Permittee, or the owner of the subject property if other than the Permittee, shall promptly provide a copy of this grant and its conditions to the transferee or lessee of the subject property.
6. The Permittee shall defend, indemnify, and hold harmless the County, its agents, officers, and employees from any claim, action, or proceeding against the County or its agents, officers, or employees to attack, set aside, void, or annul this permit approval, which action is brought within the applicable time period of Government Code section 65009 or any other applicable limitations period. The County shall promptly notify the Permittee of any claim, action, or proceeding and the County shall reasonably cooperate in the defense. If the County fails to promptly notify the Permittee of any claim, action, or proceeding, or if the County fails to

cooperate reasonably in the defense, the permittee shall not thereafter be responsible to defend, indemnify, or hold harmless the County.

7. In the event that any claim, action, or proceeding as described above is filed against the County, the Permittee shall within 10 days of the filing make an initial deposit with Regional Planning in the amount of up to \$5,000, from which actual costs and expenses shall be billed and deducted for the purpose of defraying the costs or expenses involved in Regional Planning's cooperation in the defense, including, but not limited to, depositions, testimony, and other assistance provided to Permittee or Permittee's counsel.
 - A. If during the litigation process, actual costs or expenses incurred reach 80 percent of the amount on deposit, the Permittee shall deposit additional funds sufficient to bring the balance up to the amount of \$5,000. There is no limit to the number of supplemental deposits that may be required prior to completion of the litigation.
 - B. At the sole discretion of the Permittee, the amount of an initial or any supplemental deposit may exceed the minimum amounts defined herein. Additionally, the cost for collection and duplication of records and other related documents shall be paid by the Permittee according to County Code Section 2.170.010.
8. This grant shall expire unless used within two years from the date of final approval of this grant. A single one-year time extension may be requested in writing and with the payment of the applicable fee prior to such expiration date.
9. If any material provision of this grant is held or declared to be invalid by a court of competent jurisdiction, this grant shall be void and the privileges granted hereunder shall lapse.
10. The subject property shall be maintained and operated in full compliance with the conditions of this grant and any law, statute, ordinance, or other regulation applicable to any development or activity on the subject property. Failure of the Permittee to cease any development or activity not in full compliance shall be a violation of these conditions. No provision of any easement of any other encumbrance on the property shall exempt the Permittee and/or property owner from compliance with these conditions and applicable regulations. Inspections shall be made to ensure compliance with the conditions of this grant as well as to ensure that any development undertaken on the subject property is in accordance with the approved site plan on file. The Permittee shall deposit with the County the sum of \$200. The deposit shall be placed in a performance fund, which shall be used exclusively to compensate Regional Planning for all expenses incurred while inspecting the premises to determine the Permittee's compliance with the conditions of approval. The fund provides for one inspection after three years have elapsed. Inspections shall be unannounced.

11. If additional inspections are required to ensure compliance with the conditions of this grant, or if any inspection discloses that the subject property is being used in violation of any one of the conditions of this grant, the Permittee shall be financially responsible and shall reimburse Regional Planning for all additional enforcement efforts necessary to bring the subject property into compliance. The amount charged for additional inspections shall be \$200 per inspection, or the current recovery cost at the time any additional inspections are required, whichever is greater.
12. Notice is hereby given that any person violating a provision of this grant is guilty of a misdemeanor. Notice is further given that the Regional Planning Commission ("Commission") or a Hearing Officer may, after conducting a public hearing, revoke or modify this grant, if the Commission or Hearing Officer finds that these conditions have been violated or that this grant has been exercised so as to be detrimental to the public's health or safety or so as to be a nuisance, or as otherwise authorized, pursuant to County Code Sections 22.44.1130 and/or 22.44.1140.
13. All development pursuant to this grant must be kept in full compliance with the County Fire Code to the satisfaction of the County Fire Department ("Fire Department").
14. All development pursuant to this grant shall conform with the requirements of the County Department of Public Works ("Public Works") to the satisfaction of said department.
15. All development pursuant to this grant shall comply with the requirements of Title 22 of the County Code and of the specific zoning of the subject property, unless specifically modified by this grant, as set forth in these conditions, including the approved Exhibit "A" or a revised Exhibit "A" approved by the Director of Regional Planning ("Director").
16. The subject property shall be developed and maintained in substantial conformance with the plans marked Exhibit "A."
17. If subsequent revisions to the approved Exhibit "A" are submitted, the Permittee shall submit one digital copy of the proposed plans to the Director for review and approval. All revised plans must substantially conform to the originally approved Exhibit "A." All revised plans must be accompanied by the written authorization of the property owner(s) and applicable fee for such revision.
18. The building site area, as defined in County Code Section 22.44.630, shall be limited to an area no greater than 6,200 square feet. The Gross Structural Area, as defined in County Code Section 22.44.2140, shall be limited to an area no greater than 2,448 square feet.

19. Prior to the issuance of building permits, the Permittee shall submit a completed "Form 196—Information on Fire Flow Availability for Building Permit" to the Fire Department to the satisfaction of said department.
20. Prior to the issuance of building permits, the Permittee shall obtain a "Post Coastal Commission Approval of NOWTS" from the County Department of Public Health ("Public Health")—Environmental Health Division and a will-serve letter from the local water purveyor with all conditions met, to the satisfaction of the Public Health.
21. The Permittee shall comply with all conditions set forth in the attached Public Works letter dated June 12, 2019, to the satisfaction of said department.
22. The exterior colors of all structures shall be earth-toned and shall not include bright or white tones. No glossy or reflective materials are permitted for exterior construction, other than glass, which shall be the least reflective variety available.
23. Prior to any grading or other site disturbance, boulders in the grading zone for the Project shall be marked with compass orientation. The boulders shall be moved using adequate protection to prevent damage to the encrusting bryophyte-lichen flora, to a location outside of the disturbance zone, as identified in the approved Exhibit "A." The final position for each relocated boulder shall be the same as its original compass orientation.
24. Equipment for grading, construction, and fuel modification shall be pressure-washed before transport to the property to remove dirt and any invasive plant propagules. Contractors for grading and construction shall be informed of a policy to pressure-wash equipment before transport to the site to remove any encrusted soil and/or plant propagules from the undercarriage, chassis, wheel wells, or other parts and that the biological monitor will be checking equipment at entry to the site. Contractors shall be informed of the requirement to supply drip pans to be placed under all construction vehicles when parked on the site. The biological monitor shall have authority to check entering construction equipment and send out for washing any equipment with encrusted dirt and/or plant propagules in the undercarriage, chassis, wheel wells, or other parts. The biological monitor shall report on the procedures to check equipment washing and results. The biological monitor shall report on whether the contractor has supplied drip pans to be placed under stationary equipment and other parked vehicles. The biological monitor shall report on these procedures and results in the initial Project reports to Regional Planning.
25. A Construction Runoff Plan ("Plan") shall be prepared that depicts the locations of any sediment and debris traps, any straw wattles, sandbags, or silt fence that will be used to direct flows to the traps and flow directions. The Permittee's contractor should inspect the traps and other containment devices to ensure

proper function. The Plan should be implemented during the rainy season or prior to rain events.

26. The Permittee's contractor shall comply with all litter and pollution laws and will provide covered trash receptacles so that all food scraps, food wrappers, beverage containers, etc., can be disposed of. The contractor will empty the trash receptacles at the end of each day, or as needed, and dispose of the trash at an off-site landfill.
27. The Permittee's contractor shall ensure that no debris, bark, slash sawdust, rubbish, cement or concrete or washing thereof, oil petroleum products, or other organic material from any construction, or associated activity of whatever nature, shall be allowed to enter into, or be placed where it may be washed by rainfall or runoff into the nearby stream.
28. The Permittee's contractor shall refuel and lubricate all equipment over drip pans or other appropriate containment devices.
29. The Permittee's contractor shall position all stationary equipment and any equipment that is to be repaired over drip pans or other appropriate containment devices.
30. The Permittee's contractor shall check and maintain all equipment on a daily basis in order to prevent leaks. If a leak occurs, the Permittee's contractor shall immediately clean up any spills and fix the leak.
31. The Permittee's contractor shall make available at the site all supplies necessary for clean-up of spills (absorbent and barrier materials in quantities determined by the Permittee's contractor to be sufficient to capture the largest reasonably foreseeable spill and drums or containers suitable for holding and transporting contaminated materials).
32. As mitigation for the encroachment into the protected zones of two on-site coastal live oaks, five coast live oak mitigation trees and five contingency trees shall be planted on Mountains Recreation and Conservation Authority ("MRCA") land that is part of the Gillette Ranch Project, as described in the Memorandum of Authorization between the Permittee and MRCA dated April 12, 2021. Prior to final approval, a fee of \$15,000 or the rate required at the time of planting shall be paid to MRCA to undertake these plantings to the satisfaction of MRCA.
33. All encroached trees, on-site oak trees, relocated boulders, and mitigation trees shall be monitored for 10 years following the completion of construction, with annual reports provided to the Permittee and the Regional Planning Zoning Enforcement Section.
34. Circles of a 15-foot radius around all on-site oak trees shall be weeded of all non-native trees twice a year (including non-native grasses and other non-native

herbaceous plants). Native plants in the 15-foot radius circle shall be allowed to grow. Weeding shall be in fall prior to the rainy season and in spring, prior to weed seed set. Weeding shall include plant roots. All weed parts shall be sent to a landfill in closed containers.

35. The arborist-of-record shall provide and maintain four-foot-high fencing to protect trees during construction. For work in native tree protected zones ("TPZ"), the arborist may take down fencing, supervise work, and reinstall fencing after work completion.
36. All grading and construction work within a TPZ shall be supervised by the arborist-of-record in conjunction with foremen. All work within TPZs shall be done with hand tools as supervised by the arborist-of-record.
37. If any encroached tree dies or has deteriorating health during the monitoring, a total of 10 mitigation trees of that species shall be planted on the Project Site or in a satisfactory off-site location, as determined by the Director. Mitigation trees shall be monitored for a total of 10 years after planting. Reports on new mitigation trees shall be added to the annual reports.
38. If any mitigation tree dies or deteriorates during monitoring, it shall be replaced by one mitigation tree of the same species and monitored to the end of the original monitoring period. Replacement trees shall be of the stock of the Santa Monica Mountains of Los Angeles and Ventura counties.
39. All current storage and any planned storage of accessory uses and movable items (e.g., recreational vehicle, picnic table, or garden equipment) shall not encroach into TPZs. No structures shall impact TPZs except as authorized by a specific permit. TPZs shall have no storage, no dumping, or irrigation, except for irrigation during exceptional drought.
40. TPZs of existing native trees shall be allowed to accumulate six-inch-thick layers of dropped native tree leaves. Initial treatment of TPZs shall be a four-inch layer of native tree leaf mulch/chopped native plant mulch in the TPZs, which shall not touch the tree trunk.
41. All other provisions of the Permittee's planned environmental mitigations, as delineated in Appendix "B" of the minutes of the Environmental Review Board ("ERB") meeting of April 19, 2021—attached hereto and incorporated herein by this reference—shall be followed unless specifically contradicted by these conditions.
42. Prior to issuance of building or grading permits, seasonally timed special status and sensitive plant survey(s) shall be conducted by a qualified botanist to document the locations(s) and number(s) of any special status plants that may occur within the Project Site. These survey(s) shall be conducted not more than one year prior to the initiation of construction and shall coincide with the

appropriate blooming periods for each special status plant species with potential to occur. A summary of findings shall be submitted to Regional Planning Staff (and to other pertinent resource agencies, if necessary) prior to the onset of construction activities.

43. If any special status plants are identified on the Project Site, the following avoidance and restoration measures shall be followed:
 - A. All special status plants that can be feasibly avoided shall be protected from harm during the construction phase and initial fuel modification.
 - B. If any special status plants cannot be feasibly avoided, a mitigation plan shall be developed that contains the following information: the number of specimens affected; identification of on-site preservation location(s); method for restoration, enhancement, and/or transplanting; a performance standard replacement ratio of 1:1 per impacted Rare Plant Rank ("RPR") 4 specimen and 2:1 per impacted RPR 1, 2, or 3 specimen, to be achieved within three years; and adaptive management and remedial measures if the performance standard is not achieved. If on-site mitigation is not feasible, off-site mitigation may be allowed at a replacement ratio of 2:1 per impacted RPR 4 specimen and 4:1 per impacted RPR 1, 2, or 3 specimens.
44. During fuel modification, the Permittee shall retain as many non-sprouting species as possible. Such species usually have a single trunk, which shall not be cut off in pruning, as this results in the death of the plant. The Permittee shall utilize multiple-trunked, resprouting species for removal over non-sprouters. The remaining multi-trunked shrubs shall be pruned in a staggered, clumped pattern on an alternating schedule, allowing two to three years between pruning for any one clump. Re-sprouting species can be pruned to near ground level. Local indigenous plants thinned for fuel modification shall be chipped up and used as native plant mulch. Disking and indiscriminate clearing is prohibited in any fuel modification zone. During the removal of fuel ladders from trees, lower branches shall be pruned up to one-third of tree height, or up to six feet maximum for trees 18 feet and taller.
45. The Permittee shall include provisions for irrigation, both permanent in Fuel Modification Zones A and B, and temporary for the establishment of new native plants in Zone C and outside of fuel modification zones.
46. Exterior lighting shall follow the provisions of County Code Section 22.44.1270 to avoid light trespass.
47. Prior to the issuance of a grading permit, a qualified biologist shall be retained by the Permittee as the lead biological monitor subject to the approval of the Director. That person shall ensure impacts to all biological resources are

minimized or avoided and shall conduct (or supervise) pre-grading field surveys for species that may be avoided, affected, or eliminated as a result of grading or any other site preparation activities. The lead biological monitor shall ensure all surveys are conducted by qualified personnel (e.g., avian biologists for bird surveys, herpetologists for reptile surveys, etc.) and they possess all necessary permits and memoranda of understanding with the appropriate agencies for the handling of potentially occurring special-status species. The lead biological monitor shall also ensure that daily monitoring reports (e.g., survey results, protective actions, results of protective actions, adaptive measures, etc.) are prepared, and shall make these monitoring reports available to Regional Planning and the California Department of Fish and Wildlife ("CDFW") at their request.

48. The Permittee shall delineate the proposed grading limits of the building site or the extents of the proposed development area, whichever is greater, the driveway, and the extents of the fuel modification zones before any of the measures outlined below are implemented. The contractor shall not remove any native vegetation during staking and shall set the stakes so that they are clearly visible. The locations of the stakes within the fuel modification zones shall be recorded using GPS and provided to the Project biologist.
49. Initial staging, grubbing, grading, and construction shall be scheduled to occur outside the nesting season of birds as defined by the CDFW, if feasible. Regardless of timing, breeding bird surveys shall be conducted before any activities are scheduled to occur and before installation of any protective fencing (see below), as follows:
 - A. If initial grubbing, grading, and construction activities are scheduled to occur outside CDFW's defined nesting season (generally February 1 to August 31), a qualified biologist with experience in conducting breeding bird surveys in the Santa Monica Mountains shall conduct a survey within seven days prior to, and again within three days prior to, the date that activities are scheduled to begin. The biologist shall focus efforts within the grading area, development area, the fuel modification zones, the driveway area, and areas within 50 feet of them. The biologist shall also survey 300 feet beyond these areas, as access allows.
 - B. If avoidance of the avian breeding season is not feasible, a qualified biologist with experience in conducting breeding bird surveys in the Santa Monica Mountains shall conduct weekly bird surveys beginning 30 days prior to the initiation of Project activities, to detect protected native birds occurring in suitable nesting habitat that is to be disturbed and (as access to adjacent areas allows) any other such habitat within 500 feet of the disturbance area. The surveys shall continue on a weekly basis with the last survey being conducted no more than three days prior to the initiation

of Project activities. If a protected native bird is found in suitable nesting habitat, all Project activities within 300 feet of on- and off-site suitable nesting habitat (within 500 feet for suitable raptor nesting habitat) may be delayed until August 31. Alternatively, the qualified biologist may continue the surveys to locate any active nests. If the biologist determines that there are active nests within or adjacent to these areas, they should establish appropriate buffer zones, as defined in "C" below.

- C. If an active nest is found, regardless of time of year, Project activities within 300 feet of the nest (within 500 feet for raptor nests) or as determined by a qualified biological monitor, shall be postponed until the nest is vacated and juveniles have fledged and there is no evidence of a second attempt at nesting. Flagging, stakes, or construction fencing shall be used to demarcate the inside boundary of the buffer of 300 feet (or 500 feet) between the Project activities and the nest. Project personnel, including all contractors working on-site, shall be instructed on the sensitivity of the area.
- D. The qualified biologist shall provide the Director with a brief report summarizing the results of the surveys, as well as a description and assessment of implemented protective measures described above to document compliance with applicable State and federal laws pertaining to the protection of native birds.
- E. If the qualified biologist determines that a narrower buffer between the Project activities and observed active nests is warranted, they shall submit a written explanation as to why (e.g., species-specific information; ambient conditions and birds' habituation to them; and the terrain, vegetation, and birds' lines of sight between the Project activities and the nest and foraging areas) to Regional Planning and CDFW. Based on the submitted information, the Director (in consultation with CDFW) will determine whether to allow a narrower buffer. In circumstances when activities are scheduled to occur between an original buffer and a reduced buffer, a qualified biologist shall monitor the nest before, during, and after the activities, to determine if it is being affected.
 - i. The only activities that shall be allowed between the original buffer and the reduced buffer are those that generate noise levels less than 60 dBA as measured at the resource. The biologist shall record noise levels every hour and must have the authority to stop any activities that exceed 60 dBA, if they determine that it is affecting, or has the potential to affect, the outcome of a nest.
 - ii. The biologist shall send weekly monitoring reports to Regional Planning and, upon request, to CDFW, documenting the status of

monitored nests, and shall notify Regional Planning immediately if Project activities damage active avian nests.

50. Temporary wildlife fencing shall be utilized to reduce the potential for wildlife being harmed by or moving into the work site. The Project proponent's contractor shall delineate the grading limits/approved development area and shall fence the area in its entirety with green screen before beginning removal of any vegetation, as follows:
 - A. To install the screen, laborers will remove a five-foot strip of vegetation at the limits of the grading limits/development area using hand-held tools to allow wildlife, including special status species, a chance to escape and reduce the potential of them being crushed by heavy machinery.
 - B. The green screen shall be partially buried, or fitted with silt fencing that is partially buried, in a manner that reduces the potential for wildlife moving back in.
 - C. Laborers installing the fence shall remain within the cut areas and any paths leading to it.
 - D. A biologist shall monitor fence installation so that they can capture and relocate wildlife as necessary, and to ensure that no protected trees or special status plants are impacted during installation.
 - E. The biologist shall hold a CDFW Scientific Collectors Permit authorizing handling of invertebrates, reptiles, amphibians, and mammals.
 - F. A gated entrance shall allow ingress and egress. The gates shall remain open until after the Project biologist conducts a pre-construction survey and shall be closed only after vegetation is cleared from within the fenced area (see below).

51. A pre-construction biological resources survey shall be conducted within the area that is screened and within areas adjacent to the driveway the day after screening.
 - A. The Permittee shall plan to remove vegetation from within the screened area no more than one day after completion of the pre-construction biological resources survey.
 - B. Laborers shall use handheld tools to remove the vegetation. Using handheld tools will allow wildlife, including special-status species, a chance to escape and reduce the potential of them being crushed by heavy machinery.
 - C. A biologist shall monitor vegetation removal to capture and relocate wildlife as necessary. The biologist shall hold a CDFW Scientific

Collectors Permit authorizing handling of invertebrates, reptiles, amphibians, and mammals.

52. Initial grubbing and grading shall occur three to seven days after vegetation has been cleared from the proposed development area/grading limits. The delay between vegetation clearance and the grubbing and grading activities allows wildlife, including special-status species, a chance to escape and reduces the potential of them being crushed by heavy machinery. A biologist shall monitor grubbing and grading to capture and relocate wildlife, as necessary. The biologist shall hold a CDFW Scientific Collectors Permit authorizing handling of invertebrates, reptiles, amphibians, and mammals.
53. The site shall be fuel-modified after or concurrently with the construction phase of the proposed Project, as directed by the Fire Department.
 - A. A qualified biologist shall implement the Nesting Bird Survey and Protection Plan before fuel modification occurs.
 - B. A qualified biologist shall be present during initial fuel modification activities and shall stake the limits of fuel modification and flag any areas or plants to be excluded from fuel modifications. The stakes shall remain in place until after fuel modification activities have been completed.
 - C. A qualified biologist shall be present during initial fuel modification activities to ensure no protected trees or special-status species are damaged by the fuel modification activities.
54. Any future development on the subject property or improvements to the approved development shall require a Minor Coastal Development Permit ("CDP") amendment or new CDP. Prior to final approval, the Permittee shall provide evidence of the recordation of a deed restriction against the property, free of prior liens, including tax liens and encumbrances which the Director determines may affect the interest being conveyed. The Director shall approve the text of the deed restriction reflecting this future improvement restriction. The deed restriction shall apply to the entirety of the Project Site, and shall ensure that any future structures, future improvements, or change of use to the permitted structures authorized by the CDP, including, but not limited to, any grading, clearing or other disturbance of vegetation, shall require the approval of an amendment to the CDP or the approval of an additional CDP, and that the exemptions otherwise provided in Subsections A.1 or A.2 of County Code Section 22.44.820 shall not apply. The Permittee shall provide evidence that the deed restriction appears on a preliminary report issued by a licensed title insurance company for the Project Site.

55. Pursuant to County Code Section 22.44.1260.F, grading shall be prohibited during the rainy season, defined as October 15 of any year through April 15 of the subsequent year.

Attachments:

County Department of Public Works letter dated June 12, 2019

Environmental Review Board Minutes dated April 19, 2021



MARK PESTRELLA, Director

COUNTY OF LOS ANGELES

DEPARTMENT OF PUBLIC WORKS

"To Enrich Lives Through Effective and Caring Service"

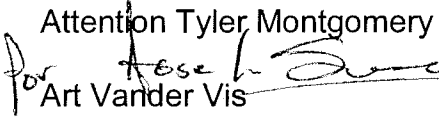
900 SOUTH FREMONT AVENUE
ALHAMBRA, CALIFORNIA 91803-1331
Telephone: (626) 458-5100
<http://dpw.lacounty.gov>

ADDRESS ALL CORRESPONDENCE TO:
P.O. BOX 1460
ALHAMBRA, CALIFORNIA 91802-1460

IN REPLY PLEASE
REFER TO FILE:

June 12, 2019

TO: Rob Glaser
Coastal Permits Section
Department of Regional Planning

Attention Tyler Montgomery
FROM: 
Art Vander Vis
Land Development Division
Department of Public Works

RPPL2017005925 (CDP)
ASSESSOR'S MAP BOOK 4456, PAGE 016, PARCEL 024
UNINCORPORATED COUNTY COMMUNITY OF CALABASAS

Thank you for the opportunity to review the zoning permit application and plan associated with the subject project. The proposed project includes the construction of a single family residence, decks, planters, landscaping, a driveway, utilities and other infrastructure.

- Public Works recommends that the conditions shown below be applied to the project if ultimately approved by the advisory agency.
- Public Works has comments on the submitted documents and therefore a Public Hearing shall NOT be scheduled until the following comments have been addressed:

1. Building and Safety

- 1.1. Submit a grading/drainage plan to Public Works, Building and Safety Division, Calabasas Office for review and approval. The grading plans must show and

Rob Glaser
June 12, 2019
Page 2

call out the construction of at least all drainage devices and details, paved driveways, and elevation and drainage of all pads, retaining walls, the water quality devices, and Low Impact Development (LID) features, and all existing easements.

- 1.2. Per County Code Section 12.84.440, comply with LID standards in accordance with the LID Standards Manual, which can be found at <http://dpw.lacounty.gov/idd/lib/fp/Hydrology/Low%20Impact%20Development%20Standards%20Manual.pdf>.
- 1.3. Provide a maintenance agreement/covenant for privately maintained drainage devices.
- 1.4. Obtain soil/geology approval of the grading plan by Public Works, Geotechnical and Materials Engineering Division.
- 1.5. Obtain Fire Department approval of the grading plan.
- 1.6. Provide permits and/or letters of non-jurisdiction from all applicable State and Federal agencies. These agencies may include but may not be limited to the State of California Regional Water Quality Control Board, State of California Department of Fish and Wildlife, State of California Department of Conservation, Division of Oil, Gas, and Geothermal Resources, and the Army Corps of Engineers.

For questions regarding the building and safety conditions, please contact Rachelle Taccone of Public Works, Building and Safety Division at (818) 880-4150 or rtaccone@dpw.lacounty.gov.

If you have any other questions or require additional information, please contact Toan Duong of Public Works, Land Development Division at (626) 458-4945 or tduong@dpw.lacounty.gov.

AM:

\\pw01\pwpublic\ldpub\SUBPCHECK\Plan Checking Files\CUP\RPPL2017005925 - APN 4456-016-024\RPPL2017005925\2019-06-03 SUBMITTAL\DPW_Cleared_2019-06-12_RPPL2017005925.docx



**MINUTES OF THE ENVIRONMENTAL REVIEW BOARD (ERB)
Unincorporated Coastal Zone, Santa Monica Mountains, Los Angeles County
Virtual Meeting of April 19, 2021
(Approved by ERB on 17 May 2021)**

PRESENT:

ERB Members

Rosí Dagit
Ron Durbin
Danielle LeFer, PhD
Travis Longcore, PhD (Vice Chair)
Caroline Chen, PhD (*pro tempore*)

Regional Planning Staff

Tyler Montgomery, Planner
Shirley Imsand, PhD, Senior Biologist,
ERB coordinator

Case materials, ERB Resource descriptions, and a link to full video recording of the ERB meeting are posted under the meeting date: <http://planning.lacounty.gov/agenda/erb>

PART I: PRELIMINARY BUSINESS

- 1a. Roll call.
- 1b. Shirley Imsand provided instruction on the virtual meeting and how the public and applicant may participate in the meeting.

PART II: APPROVAL OF MINUTES

- 2a. Discussion and approval of minutes from ERB meeting of 17 August 2020.
Motion/Second by Chen/Longcore: Move to approve minutes, Vote - Ayes: Unanimous
- 2b. Discussion and approval of minutes from ERB meeting of 25 January 2021.
Motion/Second by Longcore/Dagit: Move to approve minutes, Vote - Ayes: Unanimous

PART III: NEW BUSINESS

3. Shamam Single Family Residence

Project No. 2017-003465-(3)
Permit No. Minor CDP RPPL2017005925
APNs: 4456-016-024
Address: 661 Cold Canyon Road, Calabasas, CA 91302
Location: Cold Creek and Dark Canyon Watersheds, tributaries of Malibu Creek, Santa Monica Mountains
Rural Village: Monte Nido
USGS Quad: Malibu Beach
Applicant: Stephen Montoya, SJM Associates.net
Biologist: Andrew Forde, Forde Biological Consultants
Arborist: Richard Ibarra, Trees, Etc.
DRP Planner: Tyler Montgomery
DRP Biologist: Shirley Imsand, PhD

Present: Stephen Montoya, Andrew Forde, Justin Holt, Erit Shamam

- Mr. Montoya accepted Dr. Chen as a *pro tempore* member for review of the project.
- The planner, Tyler Montgomery, provided a presentation on the project that included the following information:

Minor Coastal Development Permit No. CDP RPPL2017-004365

The Applicant proposes the construction of a new 2,241-square-foot, two-story single-family residence and attached 462-square-foot garage, including a new onsite wastewater treatment system (OWTS) with seepage pits, and landscaping/hardscaping on the southeastern portion of a 0.52-acre vacant parcel on Cold Canyon Road, a 60-foot-wide limited secondary highway. Access to the property would be via a paved, 45-foot-long concrete driveway to Cold Canyon Road, immediately to the southeast of the property. The subject parcel is within the Santa Monica Mountains Coastal Zone, is surrounded by single-family residences and vacant land to the north, south, east, and west. An existing stream and H1 Habitat area is located less than 200 feet to the northwest of the property. The proposed project will involve a total of 949 cubic yards ("CY") of grading – 505 CY of cut and 444 CY of fill, with 61 CY of export. The calculated total building site area is 6,200 square feet. The residence would have a maximum height of 28 feet above grade. While the entire project site is designated H3 Habitat, ERB review is required, as the project site is within 200 feet of mapped H1 Habitat. While no oak trees are proposed for removal as part of the project, the new OWTS tank and portions of the residence and driveway would encroach into the protected zone of two oak trees, one less than 10%, and one less than 30%, but requiring replacement planting. Land use designation is RV—Rural Village; Zoning Code is R-C-10,000, Rural Coastal—10,000-square-foot min. lot size. The project does not propose remapping of habitat, and no new fuel modification is proposed within H1 or H2 Habitat for the project. The only new fuel modification proposed would be approximately 5,400 square feet of Zone "A" irrigated fuel modification within 20 feet of the residence. Domestic water service will be provided by the Las Virgenes Municipal Water District.

Resources: H1 Habitat Buffer; H1 habitat elements; Riparian Canopy; Oak Woodland; Cold Creek & Dark Canyon Watersheds, tributaries to the Malibu Creek Watershed

- The staff biologist, Shirley Imsand, provided a presentation on the project that included the following additional information:

The project parcel is on a small hill between Cold Canyon Road and Thornhill Road in the rural village of Monte Nido. Access will be a driveway off Cold Canyon near the northeast corner. A small drainage is shared along the parcel's northern line with the northeast neighbor. The parcel and especially the hilltop have numerous boulders with diverse lichen-bryophyte flora on the north sides, considered an H1 element. Cold Creek and its H1 riparian area run along the west side of Thornhill Road near the parcel, so that the northwestern approximate third of the parcel is in H1 buffer, and the remainder of the parcel is in the H1 Quiet Zone. Dark Canyon is on the south and east, but over 200-ft. distant. Conserved public lands are approximately 1500-ft. distant. The proposed house will be near the hilltop in the Quiet Zone with only a small amount of area in the H1 buffer. Large oaks are on the parcel on the peripheral sides, but chiefly the Dark Canyon side. A large oak at the front of the house will have encroachment of the tree protected zone (TPZ) by the driveway, septic line, and entry walks, requiring 5 mitigation trees. A second oak has encroachment of the waste line in less than 10% of the TPZ. Because of overhead transmission lines and fuel modification, 5 replacement mitigation oaks and 5 contingency oaks will be planted under an MRCA program in Stokes Canyon watershed, which is also part of the Malibu Creek greater watershed. On the parcel, mitigation for oak woodland impacts will be promoting native plant growth circles around severely pruned oaks

within the fuel modification zones on the west side of the residence. This will promote the spaced growth of native vegetation clumps that is now used in fuel modification zones. The landscape plan has two areas set aside for relocation of hilltop boulders with the lichen-bryophyte flora. The runoff plan uses planter boxes and rain barrels for runoff capture. The lowest part of the driveway could not be captured, which means that about 7% of the runoff will flow onto Cold Canyon Rd. without filtration on the project parcel.

ERB COMMENTS AND REQUESTS:

1. ERB asked about use of captured water for irrigation.
 - The plants in the planter box will be irrigated by captured water as it passes through soil layers for filtration. Rain barrel capture will be used for irrigation on the parcel.
2. ERB asked about overflow beyond the 0.75-in. capture.
 - This is piped variously, some to the parcel vegetation; some to streets, Thornhill and Cold Canyon; and some to the drainage that is along the north parcel line.
3. ERB asked about erosion that might be caused by overflow from the overflow of the planter boxes.
 - One member suggested that filtered water in the overflow pipe would be slowed considerably by the filtration process, and probably not cause erosion.
 - The DRP biologist responded that the engineer provides a plan which would control erosion according to specifications of County Building and Safety.
 - Mr.Holt, the civil engineer of the runoff plan, commented that the overflow pipe goes to the pavement of Thornhill Road so that there is no erosion.
4. ERB commented that the offsite mitigation plan location looks good. However, the technique outlined uses a scheme termed “deep hole” which is not appropriate for native oaks. Instead ERB recommends that the trunk-root interface be the standard, at grade or slightly above grade, to avoid accumulating water at the oak trunk. Water on the trunk can result in growth of fungus that eventually kills the tree.
5. ERB also commented that planting slightly above grade for the trunk-root interface takes care of eventual settlement with time, so slightly above grade is the best position for planting the trunk-root interface.
6. The offsite mitigation is now located in a different area, west of the location shown in the presentation slides.
 - The Onsite Tree Protection Plan (rev.2020.12) shows the offsite location on p.18.
7. County Fire limits pruning within an oak tree to 13.5-ft. height. On all plans that show “clear-to-sky” under the driveway oak, replace “Clear-to-sky” with “Clear to height of 13-ft.6-in. above pavement.”
8. ERB recommends onsite arborist supervision during excavation of the waste line trench within the tree protected zones (TPZs) to preserve as possible all roots with a diameter of 1-in. or more. During the period of exposure, roots should be wrapped with wet cloth/burlap that is repeatedly wetted, until the soil around the roots is back-filled.
 - Supervision of trench excavation is described, App.B Tree Care Conditions, Construction, #7
9. ERB commented that the bio filtration plan is similar to one recommended by Fire some time ago.
10. The seed mix for the planters needs to be changed to eliminate California sagebrush (*Artemisia californica*) and the buckwheats (*Eriogonum cinereum* and *E.fasciculatum*), which are considered flammable by County Fire. These plants cannot be approved for Zone A planting.

11. The parcel is an infill category parcel that is consistent with County Fire policy. It is annually in brush clearance, so the oaks on the western side are not pruned but are configured by weed whipping for County Fire standards. Probably none of the oaks in the west part of the parcel was ever ordinance size.
12. Because of the infill category, there will not be a requirement for brush clearance offsite.
13. ERB asked what an "H1 element" is, and how they are managed in the ordinance (SMM LIP).
 - DRP Biologist answered that contiguity is used to determine when a kind of habitat listed as H1 in the ordinance is mapped as H1 and then has limited uses and buffers with limited uses. So a rock outcrop with lichen bryophyte flora having some extent of surface area would be mapped as H1, while boulders dotted around non-native grassland would be conserved as best possible with reasonable use of the property for a residence. The minimum mapping unit for determining the distinction between H1 and H1 elements has not been defined, and probably is a matter decided for each case individually.
14. ERB stated that microhabitats must be very important to a fragile flora such as bryophytes and lichens, and the native plants adjacent to the boulders may contribute to that microhabitat. ERB recommends that native plants adjacent to the boulders should be transplanted along with the boulder relocation to try to better replicate the microhabitats.
15. ERB recommended that there be a monitoring plan for the boulder relocation, probably for a term of 5 years. Annual photos of the boulder flora could be used to judge whether relocation was a successful strategy for conservation of the lichen-bryophyte flora.
 - Mr. Forde stated that he does not have previous experience with boulder relocation, maintaining compass orientation in the final resting areas. He has not found anything in research on the internet that is similar to what is planned.
16. ERB recommended there be success/performance criteria with remediation if the boulder relocation caused substantial diminution of the lichen-bryophyte communities.
17. ERB asked if there would be use of the boulders as seats or if they would have another use that might abrade the flora.
 - Mr. Montoya pointed out that there are no access paths planned from the house to the boulder areas.
18. The area of the driveway adjacent to Cold Canyon Road is nearly flat, so possibly something like a bioswale could be created downslope of the driveway in the ROW (public right-of-way).
19. ERB asked if permeable pavers had been considered for the driveway.
 - Mr. Holt stated that the driveway slope is about 5-20%, and to count as permeable, the permeable pavers would need to be on a slope of about 3%. Slope determines if water has time to percolate or simply flows off. It will not really help to pave the project driveway with a permeable surface. Further, the permeable surfaces do not hold up well to wear and tear of vehicles on that kind of slope.
 - The part of the driveway in the ROW has a slope of 5%, so permeable pavers could be used with some percolation in that part of the driveway.
20. ERB recommends using permeable pavers in the part of the driveway that has 5% slope or less.

ERB MOTIONS:

The Draft Recommendations for the Project shall be adopted with additional recommendations from the ERB, noting especially

- Plant mitigation oaks according to standard of root crown at or above soil level (#4,5)
- Avoid impact to oak roots 1-in. and larger during construction, using wet wraps until roots are covered by backfill (#8; App.B Tree Care Conditions, Construction, #7)
- Remove flammable plants (*Artemisia.californica*, *Eriogonum* spp.) from seed mix (#10)
- Use permeable pavers in the part of the driveway that has a 5% grade or less (#20)
- Monitoring and annual reports on relocated boulders should include performance and measurement of performance to determine the outcome of the boulder relocation (#15,16)
- Include relocation of native plants next to boulders with boulder relocation (#14)
- Limit clearing of oak canopy at driveway to height of 13.5-ft. (#7)

Motion/Second by Durbin/Dagit

Vote – Ayes: unanimous

The project with the recommended modifications added to draft recommendations is consistent with the biological resource protection policies and development standards of the Santa Monica Mountains Local Coastal Program and Local Implementation Program.

Motion/Second by Durbin/Dagit

Vote – Ayes: unanimous

PART IV: PUBLIC COMMENT

4. Public comment pursuant to Section 54954.3 of the Government Code.

No person wished to address the ERB panel.

PART V: ADJOURNMENT : Adjournment to 1:00 pm, 17 May 2021.

APPENDIX A: RECOMMENDATIONS FOR CDP RPPL2017-004365, Shamam

Best Management:

1. Previous to any grading or other disturbance, boulders in the grading zone for the project shall be marked with compass orientation. They shall be carefully moved, by using protection to prevent rock chipping and prevent disturbance of the encrusting bryophyte-lichen flora, to the designated location in the landscape and grading plans, outside the disturbance zone. Final position for all moved boulders shall be in the original compass orientation.
2. Equipment for grading, construction, and fuel modification shall be pressure-washed before transport to the property to remove dirt and any invasive plant propagules. Contractors for grading and construction shall be informed of a policy to pressure-wash equipment before transport to the site to remove any encrusted soil and/or plant propagules from the undercarriage, chassis, wheel wells or other parts and that the biological monitor will be checking equipment at entry to the site. Contractors shall be informed of the requirement to supply drip pans to be placed under all construction vehicles when parked on the site. The biological monitor shall have authority to check entering construction equipment and send out for washing any equipment with encrusted dirt and/or plant propagules in the undercarriage, chassis, wheel wells or other parts. The biological monitor shall report on the procedures to check equipment washing and results. The biological monitor shall report on whether the contractor has supplied drip pans to be placed under stationary equipment and other parked vehicles. The biological monitor shall report on these procedures and results in the initial project reports to DRP.
3. Wildlife surveys and accommodation shall be done according to standard recommendations following subtitle 'Project Preconstruction Recommendations' below.

Construction Runoff and Pollution Control Plan (CRPCP):

4. A Construction Runoff Plan shall be prepared that depicts the locations of any sediment and debris traps, any straw wattles, sand bags, or silt fence that will be used to direct flows to the traps, and flow directions. The permittee's contractor should inspect the traps and other containment devices to ensure proper function. The plan should be implemented during the rainy season or prior to rain events
5. The permittee's contractor shall comply with all litter and pollution laws and shall provide covered trash receptacles so that all food scraps, food wrappers, beverage containers, etc. can be disposed of. The contractor will empty the trash receptacles at the end of each day or as needed, and dispose of it at an off-site landfill.
6. The permittee's contractor shall ensure that no debris, bark, slash sawdust, rubbish, cement or concrete or washing thereof, oil petroleum products, or other organic material from any construction, or associated activity of whatever nature, shall be allowed to enter into, or be placed where it may be washed by rainfall or runoff into any of the nearby watercourses.
7. The permittee's contractor shall refuel and lubricate all equipment over drip pans or other appropriate containment devices.
8. The permittee's contractor shall position all stationary equipment and any equipment that is to be repaired over the drip pans or other appropriate containment devices.
9. The permittee's contractor shall check and maintain all equipment on a daily basis in order to prevent leaks. If a leak occurs, the permittee's contractor shall immediately clean up any spills and fix the leak.
10. The permittee's contractor shall make available at the site all supplies necessary for clean-up of spills (absorbent and barrier materials in quantities determined by the permittee's contractor to be sufficient to capture the largest reasonably foreseeable spill and drums or containers suitable for holding and transporting contaminated materials).

Permanent Runoff Control:

11. Runoff from the house, the hardscape around the house, and the driveway shall be conveyed as planned, shown on sheet 4 of 5 of the grading plans of 11/12/2020. All runoff of a 0.75-in. rainfall event from the house and upper driveway (1736 gal.) is planned for capture and filtration in planters, while some runoff of the lower driveway, about 7% of the total runoff (134 gal), will flow to Cold Canyon Road.

Oak and Oak Woodland Mitigation:

- Conditions from [Onsite] Tree Protection & Mitigation, rev.2020.12, are in Appendix B.

12. Two (2) protected coast live-oaks will be encroached, one for about 20% of TPZ (tree protected zone) and one less than 10% TPZ. Ten replacement trees shall be planted in MRCA land as part of the Gillette Ranch Project, 5 replacement and 5 contingency oaks. This is planned to be in the Stokes Canyon Watershed, a tributary of Malibu Creek.

13. For impact to oak woodland, the landscape plan of 02/03/2021 shows some existing oaks, *Quercus agrifolia* and *Q.berberidifolia* on the project parcel, which have been severely pruned previously. These oaks shall be allowed to grow without pruning for 10 years and 15-ft. radius circles around them shall be selectively weeded twice yearly of all non-native plants (including non-native grasses and other non-native herbaceous plants). Native plants allowed by County Fire that seed into the circles shall be allowed to grow, forming small clumps of native plants within the Zone B circles around existing oaks.

- Weeding shall be in fall previous to the rainy season and in spring, previous to weed seed set.
- Weeding shall include plant roots.
- All weed parts shall be sent to a landfill in closed containers.

14. Arborist-of-record is to provide before construction and maintain throughout construction 4-ft.-high chain link fencing to protect trees. For work in TPZs, arborist may take down fencing, supervise work, and then reinstall fencing after work completes.

15. All grading and construction work within TPZs shall be supervised by arborist-of-record in conjunction with foremen. All work within TPZs shall be done with hand tools as supervised by arborist-of-record.

16. If any encroached tree dies or has deteriorating health during the monitoring, a total of 10 mitigation trees of that species shall be planted in the MRCA programs or other agency programs that are in the Malibu Creek Watershed. Mitigation trees shall be monitored for a total of 10 years after planting. Reports on new mitigation trees shall be added to the annual reports.

17. If any mitigation/replacement tree dies or deteriorates during monitoring, it shall be replaced by 1 mitigation tree of the same species and monitored to the end of the original monitoring period.

18. Annual reports from the arborist shall be made to the applicant and to DRP on the oak mitigation for 10 years following the end of construction, and shall include the condition of the encroached trees for 10 years, and the landscape restorative weeding around 19 other oaks for 7 years. (The other oaks are shown in the landscape plans of 02/03/2021 as letters B and D.) Condition of the weeding circles shall also be reported as they contribute to restoration of oak woodland.

ERB STANDARD RECOMMENDATIONS PLANS

1. Fuel Modification

- a. Retain as many non-sprouting species as possible. These usually have a single trunk. Do not cut off the single trunk in pruning, as this kills the plant.
- b. Choose multiple-trunked, resprouting species for removal over non-sprouters. The remaining multi-trunked shrubs shall be pruned in a staggered, clumped pattern on an

alternating schedule, allowing 2 – 3 years between prunings for any one clump. Re-sprouting species can be pruned to near ground level.

- c. It is recommended that locally-indigenous plants thinned for fuel modification be chipped up and used as native plant mulch. SMM native plant mulch is not widely available in stores, but is an excellent addition to the landscape to retain soil moisture and reduce growth of invasive weeds.
 - d. Disking and indiscriminant clearing is not allowed in any Fuel Modification Zone.
 - e. For trees to have fuel ladders removed: prune lower branches up to three times understory height, or up to 6 feet maximum for trees 18-feet and taller, per County Fire requirements. Consult with County DRP and/or Foresters before pruning protected native trees.
 - f. Include provisions for irrigation, both permanent for Zones A and B, and temporary for establishment of native plants in Zone C and outside of Fuel Modification Zones.
2. Glass shall be least reflective and/or have frit patterns that will promote energy conservation and prevent bird strikes caused by the bird mistaking a reflection of habitat for available flight space, per §22.44.1320.
 3. Lighting shall carefully follow provisions of §22.44.1270 for exterior lighting. Avoid trespass of light into the night sky and onto natural areas both on and off the project parcels.

PROJECT PRE-CONSTRUCTION RECOMMENDATIONS

4. Biological Monitor—Prior to the issuance of a grading permit, a qualified biologist shall be retained by the Applicant as the lead biological monitor subject to the approval of DRP. That person shall ensure that impacts to all biological resources are minimized or avoided, and shall conduct (or supervise) pre-grading field surveys for species that may be avoided, affected, or eliminated as a result of grading or any other site preparation activities. The lead biological monitor shall ensure that all surveys are conducted by qualified personnel (e.g. avian biologists for bird surveys, herpetologists for reptile surveys, etc.) and that they possess all necessary permits and memoranda of understanding with the appropriate agencies for the handling of potentially-occurring special-status species. The lead biological monitor shall also ensure that daily monitoring reports (e.g., survey results, protective actions, results of protective actions, adaptive measures, etc.) are prepared, and shall make these monitoring reports available to DRP and CDFW at CDFW request.
5. Staking of Grading Limits—The Applicant's contractor shall delineate the proposed grading limits of the building site or the extents of the proposed development area, whichever is greater, the driveway, and the extents of the fuel modification zones before any of the measures outlined below are implemented. The contractor shall not remove any native vegetation during staking and shall set the stakes so that they are clearly visible. The locations of the stakes within the fuel modification zones shall be recorded using GPS and provided to the project biologist.
7. Nesting Bird Survey & Protection Plan—Initial staging, grubbing, grading, and construction shall be scheduled to occur outside the nesting season of birds as defined by the CDFW, if feasible. Regardless of timing, breeding bird surveys shall be conducted before any activities are scheduled to occur and before installation of any protective fencing (see below), as follows:
 - a. A qualified biologist with experience in conducting breeding bird surveys in the Santa Monica Mountains shall conduct a survey within 7 days prior to and again within 3 days of the date that activities are scheduled to begin. The biologist shall focus efforts within the grading area, development area, the fuel modification zones, the driveway area, and areas within 50 feet of them. The biologist shall also survey 500 feet beyond these areas, as access allows.
 - b. If avoidance of the avian breeding season (December 1-September 30) is not feasible, a qualified biologist with experience in conducting breeding bird surveys in the Santa Monica Mountains shall conduct weekly bird surveys beginning thirty days prior to the initiation of project activities, to detect protected native birds occurring in suitable nesting

habitat that is to be disturbed and (as access to adjacent areas allows) any other such habitat within 500 feet of the disturbance area. The surveys shall continue on a weekly basis with the last survey being conducted no more than 3 days prior to the initiation of project activities. If a protected native bird is found in suitable nesting habitat, all project activities within 300 feet of on- and off-site suitable nesting habitat (within 500 feet for suitable raptor nesting habitat) may be delayed until August 31. Alternatively, the qualified biologist may continue the surveys in order to locate any active nests. If the biologist determines that there are active nests within or adjacent to these areas, they should establish appropriate buffer zones, as defined in "c" below.

- c. If an active nest is found, regardless of time of year, project activities within 300 feet of the nest (within 500 feet for raptor nests) or as determined by a qualified biological monitor, must be postponed until the nest is vacated and juveniles have fledged and there is no evidence of a second attempt at nesting. Flagging, stakes, or construction fencing shall be used to demarcate the inside boundary of the buffer of 300 feet (or 500 feet) between the project activities and the nest. Project personnel, including all contractors working on site, shall be instructed on the sensitivity of the area.
 - d. The qualified biologist shall provide DRP with a brief report summarizing the results of the surveys, as well as a description and assessment of implemented protective measures described above to document compliance with applicable State and Federal laws pertaining to the protection of native birds.
 - e. If the qualified biologist determines that a narrower buffer between the project activities and observed active nests is warranted, he/she shall submit a written explanation as to why (e.g., species-specific information; ambient conditions and birds' habituation to them; and the terrain, vegetation, and birds' lines of sight between the project activities and the nest and foraging areas) to DRP and CDFW. Based on the submitted information, CDFW personnel with ornithological knowledge shall provide written permission to allow a narrower buffer. The permission shall be included with the report of biological surveys for nesting birds.
 - i. In circumstances when activities are scheduled to occur between an original buffer and a reduced buffer, a qualified biologist shall monitor the nest before, during, and after the activities, to determine if it is being affected.
 - ii. The only activities that shall be allowed between the original buffer and the reduced buffer are those that generate noise levels less than 60 dBA as measured at the resource. The biologist shall record noise levels every hour and must have the authority to stop any activities that exceed 60 dBA if they determine that it is affecting, or has the potential to affect the outcome of a nest.
 - iii. The biologist shall send weekly monitoring reports to DRP and to CDFW, documenting the status of monitored nests, and shall notify DRP and CDFW immediately if project activities damage active avian nests.
8. A biologist shall monitor vegetation removal so that they can capture and relocate wildlife as necessary. The biologist must hold a CDFW Scientific Collectors Permit authorizing handling of invertebrates, reptiles, amphibians, and mammals.

APPENDIX B: TREE CARE CONDITIONS FOR CDP RPPL2017-004365, Shamam

- From the [Onsite] Tree Protection and Mitigation Plan for CDP RPPL2017-004365, Rev. 2020.12.

Best Management Practice (BMP)

Oaks [§22.44.950.A]

Native Trees [§22.44.1920.K]

Specific Requirement in code is noted.

PRECONSTRUCTION

1. All current storage and any planned storage of accessory uses and movable items (as examples: an RV, picnic table, garden equipment) shall be moved out of Tree Protected Zones (TPZs). [§22.44.950.B.2, 22.44.950.G.4; §22.44.1920.K.2.a; BMP]
2. Storage structures shall not impact Tree Protected Zones (TPZs) except by specific permit. [§22.44.950.B.2, 22.44.950.G.4; §22.44.1920.K.2.a; BMP]
3. TPZs are to have no storage, no dumping, and irrigation appropriate to the tree species before, during construction, and for the life of the project except irrigation during exceptional drought. Existing oak TPZs are to have no irrigation. Instead, TPZs of existing native trees shall be allowed to accumulate 6-in.-thick layers of dropped native tree leaves. Initial treatment of TPZs shall be a 4-in. layer of native tree leaf mulch/chopped native plant mulch in the TPZs, but mulch shall not touch the tree trunk. [§22.44.950.B.2; §22.44.1920.K.2.a, BMP]
4. Native plants that occur/propagate within the TPZs may remain according to County Fire prescription. Non-native plants within the TPZs shall be weeded with hand tools, and all plant parts of weeded non-natives shall be sent to a landfill in closed containers. [BMP]
5. The applicant shall retain the services of an Arborist of Record (AOR) or qualified biologist of record (BOR), for preparation of a monitoring plan; supervision of impacts to native trees during construction; and for monitoring and reporting annually to DRP on native trees of the parcel and any replacement trees [§22.44.950.O.3.a; §22.44.950.O.3.e; §22.44.1920.K.1, §22.44.1920.K.2]
 - for ten (10) years after construction completes for existing native trees with encroachment, and [§22.44.950.O.1, §22.44.950.O.5; §22.44.1920.K.1]
 - ten years after planting of any mitigation trees [§22.44.950.O.1, §22.44.950.O.5; §22.44.1920.K.1]
6. Mitigation trees are to be planted before or within the year of construction completion. [BMP]
7. Replacement trees need to be from stock of the Santa Monica Mountains of Los Angeles and Ventura Counties [§22.44.950.O.3.d; §22.44.1920.K.2; BMP]
8. The applicant shall provide the County with notification of the AOR or BOR and contact information of the AOR or BOR. If the AOR or BOR changes during the term of post-construction monitoring, then the permittee shall inform the County of the new AOR or BOR and contact information. [§22.44.950.O.3.a; §22.44.950.O.3.e; §22.44.1920.K.1, §22.44.1920.K.2]
9. The AOR or BOR shall present the County with a letter that states responsibilities for care of the native trees and native tree woodland of the project [§22.44.950.O.3.a; §22.44.950.O.3.e; §22.44.1920.K.1, §22.44.1920.K.2; BMP];

AOR or BOR-PRECONSTRUCTION

- Responsible for installation of protective fencing of the native trees at the outer boundary of the County-defined TPZ, with 5-ft. chain link fencing supported by steel stakes

AOR or BOR-DURING CONSTRUCTION

- Responsible for maintaining protective fencing during all of construction
- Responsible for supervising pruning of native trees and any measures for preventing infection
- Responsible for supervising any work within the tree protected zone (TPZ) including root cuts and care within TPZs

- Responsible for notifying the County of any unsatisfactory conditions and non-compliance with conditions.
- The AOR or BOR may make unannounced visits to fulfill duties.

AOR or BOR-POST-CONSTRUCTION

- Responsible for annual reports to permittee and to DRP on condition of all native trees affected by the project for the mitigation term years following end of construction.
- Responsible for arranging (in conjunction with permittee) for planting of mitigation trees for any encroached native tree or mitigation tree that dies during the monitoring period.
- Responsible for including mitigation native tree data in annual reports, if there are any mitigation native trees.

10. A post-construction landscape plan shall be prepared that follows Best Management Practice [BMP] for native trees:

- a. No planting of any plant, irrigation, or irrigation overspray shall occur within the TPZ of an existing native tree. Only naturally-occurring native plants should remain or be allowed to grow in TPZs. [BMP]
- b. The garden irrigation shall be directed away from the TPZ of native oak trees (canopy dripline + 5-ft. or 15-ft. from trunk, whichever is the greater distance) [BMP]
- c. Instead, provide initially 4-in. organic mulch in the TPZ (native oak leaf mulch is best), and plans shall direct allowing native tree leaf accumulation to 6-in. depth within all TPZs. [BMP] Weed out by hand any non-natives that sprout in the TPZs of parcel native trees. [BMP]
- d. Only native plants shall be planted within twenty feet of native tree trunks that have canopy extending 15-feet or less. Native plants may be planted at the edge of TPZs of protected native trees and shall be at least 20-ft. from the trunk. [BMP]
Native plants that naturally sprout within TPZs may be allowed to grow there. [BMP]
- e. Directions for pruning post construction shall be included on the plans. Removal post construction shall be limited to dead wood removal and hazard removal. Pruning shall preserve the bark collar (i.e. no “flush cuts” shall be made) and be made in a way that prevents the tearing of bark from the tree. [BMP]
- f. All landscape sheets shall have a prohibition on use of rodenticides on the project parcel. Instead prescribe use of non-pervasive methods to control rodents such as trapping and fumigation. [§22.44.1240.B.13; BMP]
- g. All landscape sheets shall have a prohibition on use of herbicides and other chemicals such as fertilizer on the project parcel in native plant areas and native tree TPZs. Instead use hand tools for excavation to remove non-native plants including roots and send plant parts of non-natives to a landfill in closed containers. [§22.44.1240.B.13; BMP]
- h. Pruned parts of native trees may be chopped to 1-in. dimensions or smaller and used for the required mulch (4-in. depth in native tree TPZs). [BMP]

11. The Tree Protected Zone (TPZ) is the greater distance of canopy drip line + 5-ft. outside the canopy or 15-ft. [§22.44.950.B.3; §22.44.1920.K] The TPZ shall be defined according to the original TPZ of the trees (before pruning) until replaced by development according to the project plan. [BMP]

12. In order to avoid violation of the Migratory Bird Treaty Act [(MBTA) of 1918 (50 C.F.R. Section 10.13). Sections 3503, 3503.5, and 3513 of the California Fish and Game Code)] and impact to bird and bat reproduction, alterations to trees (pruning, removal) and start of construction is best done in the off-season of bird and bat nesting and maternity, between September 1 and November 30. If pruning and/or construction commences in another period, bird nesting surveys shall be performed by a biologist experienced in nesting surveys commencing 30 days previous to start of tree alterations and/or construction. Surveys are to be done out to 500-ft. from the project site at weekly intervals, with the final survey within three (3)

days of the start of tree alteration and/or construction. If a protected native bird is found nesting, the project proponent shall delay all project activities until the qualified biologist determines the nest is vacated and juveniles have fledged and there is no evidence of a second attempt at nesting. Alternatively, the qualified biologist may mark a buffer zone for the nest with flagging, stakes and construction fencing to demarcate 300 feet for passerines (or 500 feet for raptors) between the project activities and the nest. CDFW must authorize closer buffer distances in written communication. Monitoring biologist shall use judgment, but in general, buffers should be determined so that construction activities result in noise less than 60 dB at the nest. The monitor shall communicate about the prohibition buffers with the foremen and work crews. Project personnel, including all contractors working on site, should be instructed on the sensitivity of the area. Surveys shall be repeated in the case of work cessation for a period of 2 weeks or more. The project proponent shall provide a report of the results of surveys and protective measures to the CDFW and DRP, in order to document compliance with applicable State and Federal laws pertaining to the protection of native birds and bats.

13. Tree removals shall be according to CDFW prescription for allowing escape of birds and bats that sequester in foliage and bark:

“It is preferable to bring down trees or structures in a controlled manner using heavy machinery. In order to ensure the optimum warning for any roosting bats and/or birds that may still be present, the trees or structures shall be nudged lightly two to three times, with a pause of approximately 30 seconds between each nudge to allow bats and/or birds to become active. Trees or structures may then be pushed to the ground slowly under the supervision of a bat/bird specialist. Felled trees shall remain in place for a period of at least 48 hours previous to sawing up the tree.”

14. TPZs of encroached trees shall be fenced with temporary chain-link fence of at least 5-ft. height, and fencing shall be supported by steel stakes driven directly into the ground. Fencing shall have no gate or easy entry into the TPZ. [§22.44.950.O.6.a; §22.44.950.O.3.e; §22.44.1920.K.2.a; BMP]

DURING CONSTRUCTION

1. Fencing shall be modified as needed during work within the TPZ and then replaced when work in the TPZ finishes. The fencing shall be installed and maintained for the remainder of the project construction by the AOR or BOR in consultation with the foremen of construction activities. [§22.44.950.O.6.a; §22.44.950.O.3.e; §22.44.1920.K.2.a; BMP]

2. Fencing like that for encroached trees around the TPZs shall also protect other trees of the project parcels from construction activities and be maintained by the AOR or BOR. [§22.44.950.O.6.d; §22.44.1920.K.2.a; BMP]

3. From time to time, construction dust shall be rinsed from the leaves of all native trees on the parcel. [BMP]

4. The AOR shall be present and supervise all trimming of native trees for the project and provide any remedial treatment needed to prevent infection of the trees. [§22.44.950.O.6.f; BMP]

5. The AOR or BOR shall be present and supervise all work within protected zones of protected native trees. [§22.44.950.O.6.b; §22.44.950.O.3.e; §22.44.1920.K.1, §22.44.1920.K.2]

6. “Natural” or pre-construction grade shall be maintained for as great a distance from the trunk of each tree as construction permits. Soil shall never be placed in contact with the trunk of the tree above natural grade. [BMP]

7. The AOR or BOR shall be present and supervise any ground work or trenching within the original tree protected zone (TPZ) of the trees.

BMPs for digging within the TPZ:

- Any excavations in the TPZs shall be done with hand tools or air spade to spare any roots of 1-in. diameter and larger. [§22.44.950.O.6.c; §22.44.1920.K.2.b; BMP]
 - Whenever possible use the same trench for multiple utilities. [§22.44.950.O.6.g; BMP]
 - In cases of needed cutting of large roots (1-in. diameter or larger), an arborist or qualified expert shall supervise the TPZ work for making the cuts correctly and provision of any treatment needed to prevent root infection. [BMP]
 - When possible, piping or other installation shall be threaded through roots of 1-in. or larger. [BMP]
 - Exposed roots shall be covered with wet cloth or wet burlap during exposure to air. [BMP]
 - Trenches and holes shall be cleared of small animals that fall in and are trapped at the beginning and end of each working day and before final covering/closing of the trench or hole. [BMP]
 - Plywood bridges at intervals of 20-ft. shall cover an open trench or hole to provide passage for small animals over the trench between the end of the working day and the start of the next working day. After removal of the plywood for work is the best time to check for trapped small animals and before placement of the plywood at the end of the working day is also a good time. [BMP]
 - There shall be a check and release of trapped small animals before covering any trench or hole. [BMP]
8. When removing pavement, keep disruption of soil beneath as minimal as possible. [BMP]
9. No dumping, storage of any kind, or parking of vehicles shall be in the TPZ of protected native trees, not before construction, not during construction, nor following construction for the life of the project. [§22.44.950.B.2, 22.44.950.G.4; §22.44.1920.K.2.a; BMP]
10. TPZs shall not be subjected to construction impacts such as flooding incidental to construction work, storage or disposal of construction debris of any kind including solutions, nor shall fueling or chemical mixing occur within any TPZ. [§22.44.950.B.2, 22.44.950.G.4; §22.44.1920.K.2.a; BMP]
11. All activity and traffic within TPZs shall be minimized. [§22.44.950.B.2, 22.44.950.G.4; §22.44.1920.K.2.a; BMP]
12. Care shall be exercised to prevent physical damage to tree trunks, root crowns, and lower scaffold branches during construction. This means project foremen are responsible for attention to careful driving and manipulation of scrapers, buckets, hoes, and other vehicles and equipment of construction near trees. [BMP]

POST-CONSTRUCTION MONITORING

1. The AOR or BOR shall prepare annual reports for the permittee and for DRP on the condition of all native trees of the project parcel of 5-in. and larger DBH for a time of 10 years following the initiation of ground disturbance. Reports shall be due following summer and before 1 October of the year, so that any replacement mitigation native trees may be planted during the rainy season. [§22.44.950.O.3.a; §22.44.950.O.3.e; §22.44.1920.K.1, §22.44.1920.K.2; BMP]
2. The annual report shall have
 - Title page giving information on date of report and dates of any updates, County permit numbers, permittee, contact information; preparer, contact information; parcel APN
 - Introduction describing the project location and local conditions with respect to the native trees;
 - Methods including: date, personnel, and methods of observation and mitigation
 - Table of all native trees on the parcel including oaks 5-in. DBH and larger and including offsite native trees impacted by the project (example table above, p.4)
 - inclusion of any mitigation native trees with data (example table above, p.4)

- Plot of all native trees of protected size and oaks of 5-in. DBH and larger, identification number, canopy and TPZ (to scale, showing scale bar, north arrow, and outline of structures) [[§22.44.950.O.3.a; §22.44.950.O.3.e; §22.44.1920.K.1, §22.44.1920.K.2; BMP]:
- Plot of all mitigation native trees, identification number, canopy and TPZ (to scale, showing scale bar, north arrow, and outline of structures)
- Summary of results: encroached native trees monitored; mitigation native trees, if any, planted; mitigation native trees monitored