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DAWYN R. HARRISON
County Counsel

March 19, 2024

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

Agenda No. 4
10/24/23

Re: Santa Monica Mountains Habitat Impact Fee Update Ordinance; Project No. PRJ2023-000322-(3) Advance Planning Case No. RPPL2023000462-(3) Plan Amendment No. RPPL2023000732-(3)

Dear Supervisors:

Your Board previously conducted a duly-noticed public hearing regarding the Santa Monica Mountains Habitat Impact Fee Update ordinance ("Ordinance"), which amends Title 22 – Planning and Zoning of the Los Angeles County Code to update the Habitat Impact Fee in the Santa Monica Mountains Coastal Zone Local Implementation Program (Chapter 22.44) and establish a Habitat Impact Fee in the Santa Monica Mountains North Area Community Standards District (Chapter 22.336). At the conclusion of the public hearing, your Board indicated an intent to approve the Ordinance. Enclosed are the final analysis and ordinance for your Board's consideration.

Very truly yours,

DAWYN R. HARRISON
County Counsel

By *Andriy Pazuniak*
ANDRIY PAZUNIAK
Deputy County Counsel
Property Division

APPROVED AND RELEASED:


THOMAS J. FAUGHNAN
Senior Assistant County Counsel

AP:ll
Enclosures

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

REVISED
ANALYSIS

This ordinance amends Title 22 – Planning and Zoning of the Los Angeles County Code to update the Habitat Impact Fee in the Santa Monica Mountains Coastal Zone Local Implementation Program (Chapter 22.44) and establish a Habitat Impact Fee in the Santa Monica Mountains North Area Community Standards District (Chapter 22.336).

DAWYN R. HARRISON
County Counsel

By *Andriy Pazuniak*
ANDRIY PAZUNIAK
Deputy County Counsel
Property Division

AP:II

Requested: 11-16-2023

Revised: 03-14-2024

ORDINANCE NO. _____

An ordinance amending Title 22 – Planning and Zoning of the Los Angeles County Code to update the Habitat Impact Fee in the Santa Monica Mountains Coastal Zone Local Implementation Program (Chapter 22.44) and establish a Habitat Impact Fee in the Santa Monica Mountains North Area Community Standards District (Chapter 22.336).

The Board of Supervisors of the County of Los Angeles ordains as follows:

SECTION 1. Section 22.44.1950 is hereby amended to read as follows:

22.44.1950 Mitigation.

New development shall be sited and designed to avoid any impacts to H1 Habitat, with the exception of uses permitted within H1 Habitat and H1 Habitat ~~Buffer~~, consistent with Section 22.44.1890. New development shall be sited and designed to avoid any impacts to H2 "High Scrutiny" Habitat and H2 Habitat, if feasible. If there is no feasible alternative that can avoid all impacts to H2 "High Scrutiny" Habitat and H2 Habitat, or if development is permitted within H1 Habitat or H1 Habitat ~~Buffer~~, then the alternative that would result in the fewest or least significant impacts shall be selected, consistent with Sections 22.44.1910 and 22.44.1920. The CDP shall include conditions that require implementation of all feasible mitigation measures that would significantly reduce adverse impacts of the development. Mitigation shall not substitute for the implementation of the project alternative that would avoid impacts. In addition to other mitigation measures required by the LCP, the following mitigation is required for unavoidable impacts to H1 Habitat and H2 Habitat.

A. Resource Conservation Program. Unavoidable impacts to H1 ~~h~~Habitat from the provision of less than a 100-foot H1 ~~h~~Habitat ~~b~~Buffer, and/or to H2 Habitat from direct removal or modification, shall, at a minimum, be compensated ~~by the following~~, at a minimum pursuant to a Resource Conservation Program ("RCP"), as set forth below. At its sole election, the County may require restoration as mitigation instead of reliance on the ~~Resource Conservation Program~~RCP.

1. The County will administer ~~a Resource Conservation Program ("RCP")~~, whichthe RCP. The RCP shall consist of the expenditure of funds to be used for the acquisition and permanent preservation of land in the Santa Monica Mountains ~~e~~Coastal zZone containing substantial areas of H1 Habitat and/or H2 ~~h~~Habitats. The County commits to expend no less than \$2,000,000 over a 10-year period. The RCP shall demonstrate that the lands preserved are, at a minimum, in the Santa Monica Mountains Coastal Zone and proportional to the habitats impacted from permitted development in area (acreage or partial acreage) and habitat value/function.

2. ~~For purposes of analyzing and implementing the RCP, and subsection B of this Section 22.44.1950, the County shall prepare a Habitat Fee Study within five years of certification of the LCP to determine the appropriate fees to adequately compensate for adverse impacts to H1 habitat from the provision of less than a 100 foot buffer, and to H2 habitat from direct removal or modification. The Habitat Fee shall be submitted to the Coastal Commission through an LCP amendment within five years of certification of the LCP. After the first five years following certification of the LCP, n~~No CDPs that involve impacts to H1 ~~h~~Habitat from the provision of less

than a 100-foot H1 ~~Habitat~~ Buffer and/or to H2 ~~Habitat~~ from direct removal or modification may be processed until the amount of the in-lieu Habitat Impact Fee pursuant to the study is incorporated into this LCP through an LCP amendment, subject to the provisions of Section 22.44.700, that is certified by the Coastal Commission.

3. The County shall track and prepare an annual monitoring report at the end of each calendar year the RCP is in operation. The report for the calendar year shall itemize all acquisitions made that year, in addition to all of the following information:

...

f. ~~The amount of the Habitat Impact Fee as determined appropriate for each CDP in accordance with the following:~~ that shall be applied to each CDP, as appropriate, in accordance with the following and Subsection B of this Section 22.44.1950. The Habitat Impact Fee shall be calculated using the In-lieu Fee amount set forth in Subsection i, below, which amount shall be updated and adjusted for inflation annually, pursuant to Subsection ii, below.

i. ~~Current In-Lieu Fee, Baseline:~~ During the first five years following certification of the LCP, or until an updated fee is certified through an LCP amendment, the County shall utilize the Coastal Commission's Habitat Impact Fee that was implemented through individual coastal development permit actions prior to certification of the LCP, adjusted for inflation. year following the effective date of this ordinance. ~~The current fee~~ In-lieu Fee amounts are:

(A) ~~\$15,500~~83,478 per acre for the approved building site area, driveway/access roads and turnarounds areas, any required irrigated fuel modification zones, and required off-site brush clearance areas (assuming a 200-foot radius from all structures);

(B) ~~\$3,900~~20,870 per acre for non-irrigated fuel modification areas (on-site);

ii. Updated In-Lieu Fee: Beginning one year after the effective date of this ordinance, the amount of the Habitat Impact In-lieu Fee, approved through an amendment to the LCP, pursuant to subsection A.2 of this Section 22.44.1950, shall be used and adjusted for inflation annually. Annual adjustments for inflation to the In-lieu Fee shall not require an amendment to the LCP.

...

5. If, as a result of this annual review anytime during the ten-year period, the County determines that the RCP has not met the goals of providing adequate and proportional compensation for impacts to H1 Habitat and/or H2 ~~H~~Habitat; that the cumulative amount of the Habitat Impact Fee required pursuant to issued CDPs exceeds the minimum \$2,000,000; or that the County has elected to discontinue the RCP, the County shall initiate an LCP amendment, pursuant to the provisions of Section 22.44.700, to modify this policy, in coordination with Coastal Commission staff.

...

B. Habitat Impact Fee. Unavoidable impacts to H1 Habitat from the provision of less than a 100-foot H1 ~~H~~Habitat ~~b~~Buffer and/or to H2 Habitat from direct removal or

modification, shall be compensated by the provision of a required ~~in-lieu~~ Habitat Impact Fee, as a condition of approval of individual projects (CDP's), in either of the cases described in ~~s~~Subsection 1 or 2, below:

...

2. When approved confined animal facilities result in the expansion of the required fuel modification area of the principal permitted use and/or equestrian pasture is approved outside the required fuel modification area of the principal permitted use on a property, pursuant to ~~s~~Subsection D or E of Section 22.44.1940.

3. The amount of the ~~in-lieu~~ Habitat Impact Fee, on a per-acre basis, ~~will~~shall be determined by the ~~in-lieu fee study required pursuant to subsection A2 of Section 22.44.1950~~set forth in the annual monitoring report, pursuant to Subsection A.3.f of this Section 22.44.1950. No CDPs that involve impacts to H1 ~~Habitat~~ Buffer and/or to H2 ~~Habitat~~ from direct removal or modification may be processed until ~~the amount of the in-lieu~~ Habitat Impact Fee is incorporated into this LCP through an LCP amendment, subject to the provisions of Section 22.44.700, that is certified by the Coastal Commission.

4. A determination of the total area of H1 Habitat and/or H2 Habitat impacted by a project and the total Habitat Impact Fee amount required (based on the fee per acre multiplied by the total area of habitat impacted) shall be included in the findings of every ~~coastal development permit~~CDP approved for development that is subject to the provisions of this policy. A condition of approval on each ~~coastal development permit~~CDP for development subject to the provisions of this ~~s~~Subsection

shall require the payment of the ~~in-lieu~~Habitat Impact fFee into the "Habitat Impact Fund – Santa Monica Mountains Coastal Zone" administered by the County for use in the Santa Monica Mountains Coastal Zone. The proceeds of the "Habitat Impact Fund – Santa Monica Mountains Coastal Zone" shall be used by the County to purchase and permanently preserve properties that contain substantial areas of H1 Habitat and/or H2 Habitat in the ~~coastal zone of the~~Santa Monica Mountains Coastal Zone.

...

SECTION 2. Section 22.336.060 is hereby amended to read as follows:

22.336.060 Biological Resource Standards.

A. Biological Resources.

...

4. Development Standards for Habitat Categories.

...

f. Streams. Development shall be prohibited in streams,

except where it has been demonstrated that there is no feasible less-environmentally-damaging alternative and where feasible mitigation measures have been provided to minimize adverse environmental effects. Such development shall be subject to

~~mitigation~~Habitat Impact fFees ~~when a mitigation fee is adopted,~~ pursuant to Subsection A.10 of this Section 22.336.060, be consistent with this Section 22.336.060, and be limited to the following uses:

...

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10. Habitat Impact Fees. ~~Reserved~~Unavoidable impacts to S1 Habitat from the provision of less than a 100-foot S1 Habitat Buffer and/or to S2 Habitat from direct removal or modification shall be compensated by the provision of a required Habitat Impact Fee as a condition of approval of individual projects. The Habitat Impact Fee shall be calculated using the In-lieu Fee amount set forth in Subsection a, below, which amount shall be updated and adjusted for inflation annually, pursuant to Subsection b, below.

a. In-lieu Fee, Baseline.

i. \$83,478 per acre for the approved building site area, driveway/access roads and turnaround areas, any required irrigated fuel modification zones, and required off-site brush clearance areas (assuming a 200-foot radius from all structures).

ii. \$20,870 per acre for non-irrigated fuel modification areas (on-site).

b. Updated In-lieu Fee: The In-lieu Fee amount shall be adjusted for inflation annually. Annual adjustments for inflation to the In-lieu Fee shall not require an amendment to the SMMNA CSD.

c. A determination of the total area of S1 Habitat and/or S2 Habitat impacted by a project and the total fee amount required (based on the fee per acre multiplied by the total area of habitat impacted) shall be included in the findings of every permit approved for development that is subject to the provisions of this policy. A condition of approval on each permit for development subject to the provisions of this

Subsection shall require the payment of the Habitat Impact Fee into the "Habitat Impact Fund – Santa Monica Mountains North Area" administered by the County for use in the Santa Monica Mountains North Area. The proceeds of the "Habitat Impact Fund – Santa Monica Mountains North Area" shall be used by the County to purchase and permanently preserve properties that contain substantial areas of S1 Habitat and/or S2 Habitat in the Santa Monica Mountains North Area.

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