



County of Los Angeles

September 10, 2024

Dawyn R. Harrison
County Counsel

ADOPTED

BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES

45 September 10, 2024

Board of Supervisors

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Supervisor, First District

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

Edward Yen
EDWARD YEN
EXECUTIVE OFFICER

**Re: Project No. 2019-000686-(3)
(09/19/23 Board Agenda; Item No. 5)**

Dear Supervisors:

Your Board previously conducted a duly-noticed public hearing regarding the above-referenced Project No. 2019-000686-(3), consisting of Minor Coastal Development Permit Nos. RPPL2019-002073-(3), RPPL2019-002474-(3), RPPL2019-002479-(3), RPPL2019-002885-(3), RPPL2019-002887-(3), RPPL2019-001222-(3), RPPL2019-003431-(3), RPPL2019-003435-(3), RPPL2019-003852-(3), RPPL2019-003854-(3), RPPL2019-004230-(3), RPPL2019-004232-(3), RPPL2019-004674-(3), RPPL2019-004677-(3), RPPL2019-004678-(3); and Variance Nos. RPPL2019-002074-(3), RPPL2019-002475-(3), RPPL2019-002480-(3), RPPL2019-002886-(3), RPPL2019-002888-(3), RPPL2019-001224-(3), RPPL2019-003432-(3), RPPL2019-003436-(3), RPPL2019-003853-(3), RPPL2019-003855-(3), RPPL2019-004231-(3), and RPPL2019-004675-(3), to authorize the construction of 15 single-family residences on 16 lots located on the 25600 and 25700 blocks of Piuma Road within the Monte Nido Rural Village in the unincorporated community of the Santa Monica Mountains Coastal Zone within the Malibu Zone District, applied for by California Pacific Homes.



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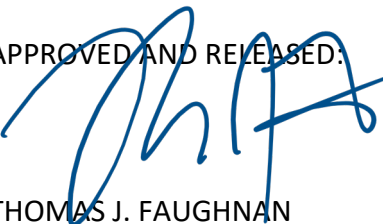
At the conclusion of the public hearing, your Board indicated its intent to deny the appeal and deny the project. Enclosed are the findings for your consideration.

Very truly yours,

DAWYN R. HARRISON
County Counsel

By 
ROLAND TRINH
Senior Deputy County Counsel

APPROVED AND RELEASED:


THOMAS J. FAUGHNAN
Senior Assistant County Counsel

RT:bh

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

**FINDINGS OF THE BOARD OF SUPERVISORS
AND ORDER
PROJECT NO. 2019-000686-(3)
MINOR COASTAL DEVELOPMENT PERMIT NO. RPPL2019-002073-(3)
VARIANCE NO. RPPL2019-002074-(3)**

1. The Los Angeles County ("County") Board of Supervisors ("Board") conducted a duly-noticed public hearing on September 19, 2023, in the matter of Project No. 2019-000686-(3), consisting of Minor Coastal Development Permit ("CDP") (No. RPPL2019-002073-(3) (the "Minor CDP") and Variance No. RPPL2019-002074-(3) ("Variance"). The Board held the public hearing in conjunction with 14 other related and similar minor CDP and variance applications to build 15 single-family residences on 16 lots that adjoin and/or are in close proximity to one another in the Monte Nido Rural Village within the Santa Monica Mountains Coastal Zone (hereinafter referred to as the "Related Projects"), comprised of minor CDP nos. RPPL2019-002474-(3), RPPL2019-002479-(3), RPPL2019-002885-(3), RPPL2019-002887-(3), RPPL2019-001222-(3), RPPL2019-003431-(3), RPPL2019-003435-(3), RPPL2019-003852-(3), RPPL2019-003854-(3), RPPL2019-004230-(3), RPPL2019-004232-(3), RPPL2019-004674-(3), RPPL2019-004677-(3), and RPPL2019-004678-(3); and variance nos. RPPL2019-002475-(3), RPPL2019-002480-(3), RPPL2019-002886-(3), RPPL2019-002888-(3), RPPL2019-001224-(3), RPPL2019-003432-(3), RPPL2019-003436-(3), RPPL2019-003853-(3), RPPL2019-003855-(3), RPPL2019-004231-(3), and RPPL2019-004675-(3). The County Regional Planning Commission ("Commission") previously conducted a duly-noticed public hearing on the Minor CDP and Variance on April 26, 2023. Prior to the Commission's hearing, a public hearing was also held before the County Department of Regional Planning ("Regional Planning") Hearing Officer ("Hearing Officer") on October 4, 2022, which was continued to November 1, 2022, and February 7, 2023.
2. The applicant, California Pacific Homes ("Applicant"), requests the Minor CDP and Variance to authorize the construction of a 5,182-square-foot single-family residence, a 386-square-foot guest house, and an on-site wastewater treatment system ("OWTS") ("Project") on a 0.92-acre property located the northwest corner of Woodbluff and Piuma Roads (Assessor's Parcel Number 4456-038-001) in the Monte Nido Rural Village of the Santa Monica Mountains Coastal Zone ("Project Site"). The guest house, which is a separate habitable accessory structure, would be located within an H1 Quiet Zone and share the OWTS with the main residence. A total of 944 cubic yards of earth (944 cubic yards cut, all exported) would be graded. The Project would result in fuel modification or brush clearance within the protected zones of four oak trees.
3. The Project requires a coastal development permit to construct a single-family residence and an OWTS in the R-C-1 (Rural Coastal—One-Acre Minimum Required Lot Area) Zone, pursuant to Los Angeles County Code ("County Code")

Section 22.44.810, and specifically a minor CDP is required for any project that requires County Environmental Review Board ("ERB") review (County Code Sections 22.44.860 and 22.44.940). The Project requires ERB review because the main residence, as proposed, would result in development less than 200 feet from H1 Habitat. Additionally, a minor CDP is also required for any project that results in the encroachment into the protected zone of any oak tree, pursuant to County Code Section 22.44.950. As proposed, the Project requires fuel modification or brush clearance to occur within the protected zones of four oak trees.

4. The Project requires a variance for construction of a habitable accessory structure (the guest house) within the H1 Habitat Buffer or H1 Quiet Zone, per County Code Section 22.44.1370.D.10. A variance is also required to permit a habitable accessory structure that shares an OWTS with the primary residence (County Code Section 22.44.1370.D.8), as the Project proposes. Finally, County Code Section 22.44.1910.I restricts the size of the building site area for new residential development to 10,000 square feet. Because the guest house is proposed within an H1 Quiet Zone and would share an OWTS with the single-family residence, and the proposed building site area is 11,900 square feet, the Project requires a variance for all deviations from the development standards of the Santa Monica Mountains Local Implementation Program ("LIP").
5. The Project Site is located within the Rural Village land use designation of the Santa Monica Mountains Local Coastal Program ("SMMLCP") Land Use Policy Map, a component of the General Plan. The Project Site is located in the Malibu Zoned District and is zoned R-C-1. Pursuant to County Code Section 22.44.1750, a single-family residence is a principal permitted use within the R-C Zone.
6. Surrounding zoning within a 500-foot radius of the Project Site includes:
 - North: R-C-1 and R-C-10,000 (Rural Coastal—10,000-Square-Foot Minimum Required Area);
 - South: R-C-20 (Rural Coastal—20 Acre Minimum Required Lot Area) and O-S-P (Open Space—Parks);
 - East: R-C-20 and O-S-P; and
 - West: R-C-1 and R-C-20.
7. Surrounding land uses within a 500-foot radius of the Project Site include:
 - North: Single-family residences and vacant land;
 - South: Vacant land and open space;
 - East: Vacant land and open space; and
 - West: Single-family residences and vacant land.
8. The Project Site is 0.92 gross acres in size and consists of one legal lot, which is irregular in shape and consists of mostly level terrain. An existing graded pad of

approximately 12,000 square feet and drainage structures are located on the northern portion of the lot. These were legally developed with CDP No. 5-83-004, which was approved with the underlying tract map in 1987 (Tract Map No. 38931). While the Project Site is mapped as H3 Habitat in the SMMLCP Land Use Plan ("LUP"), the southern and eastern portions of the Project Site are within 200 feet of H1 Habitat, which places it within the H1 Habitat Buffer (0-100 feet away) or H1 Quiet Zone (100-200 feet away). Other than the oak trees, the Project Site contains mostly native and non-native grasses.

9. The Project Site would be accessed from Woodbluff Road, a 60-foot-wide public road immediately to the west. Piuma Road, a 65-foot-wide public road and designated scenic route, is located immediately to the south of the Project Site.
10. The site plan shows the construction of a 5,182-square-foot single-family residence, a 544-square-foot attached garage, and a 386-square-foot guest house on the northern portion of the 0.92-acre Project Site. The residence would have a maximum height of 16 feet, 8 inches above grade, and would include a 1,236-square-foot basement. A total of 944 cubic yards of earth (all cut and exported) would be graded. The Project would also include an OWTS, retaining walls, and other appurtenant facilities on a total building site of 11,900 square feet within the existing graded pad. The building would be accessed by a 50-foot-long paved driveway, which would access Woodbluff Road to the west. Development from brush clearance and fuel modification would also encroach into the protected zones of four coast live oak trees. While the entirety of the Project Site is mapped as H3 Habitat within the LUP, its southern and eastern portions are within 200 feet of H1 Habitat, which places it within the H1 Habitat Buffer or H1 Quiet Zone. The residence is proposed for a location on the northern portion of the Project Site, partially within the H1 Quiet Zone. The guest house would be completely within the H1 Quiet Zone and would share an OWTS with the main residence. The Project Site has a linear street frontage of 402 feet and a linear development frontage of 160 feet.
11. The case history shows that an earlier version of the Project was submitted as a plot plan, along with plot plans for the Related Projects, prior to the County's adoption of the SMMLCP. These plot plans entailed ministerial reviews that were approved in concept, as the lack of an approved local coastal program meant that the necessary coastal development permits to develop the residences would still have to have been obtained from the California Coastal Commission ("Coastal Commission"). Taken together, the Project and the Related Projects did not qualify for an exemption under the California Environmental Quality Act (Public Resources Code section 21000 et seq.) ("CEQA"), resulting in Environmental Assessment No. 201200258 comprised of a Mitigated Negative Declaration ("MND") and Mitigation Monitoring and Reporting Program ("MMRP"). The MND and MMRP were initially approved but subsequently appealed to both the Commission and the Board, which upheld the appeal and invalidated the MND and MMRP on September 22, 2015.

12. On April 3, 2019, the Project, along with the Related Projects, was submitted to Regional Planning in its current form. Thereafter, from 2019 to 2011, Regional Planning staff ("Staff") met with the Applicant 11 times to discuss the Project, with a focus on how to resolve issues related to it as submitted by the Applicant. Staff requested that the Project be redesigned to eliminate inconsistencies with LIP standards and reasons for needing the Variance. On August 8, 2021, the ERB reviewed the Project and requested that it be returned with a more comprehensive overview of the Project in conjunction with the Related Projects, including a more detailed analysis of the oak woodlands, and generally a greater effort to be consistent with the LIP. On April 14, 2022, Staff sent a letter to the Applicant requesting several specific changes to the Project and indicated that if the changes were not made, the Project would be scheduled for public hearing with a Staff recommendation of denial. The requested changes included removing the habitable accessory structure (guest house), reducing the size and/or changing the location of several of the main residences, relocating the OWTS, and in conjunction with the Related Projects, proposing fewer residences as a whole by merging some of the lots.
13. On May 13, 2022, the Applicant responded to Staff in writing that it would not make additional changes to the Project and Related Projects. The Project thereafter proceeded to hearing before the Hearing Officer on June 7, 2022, as an item for discussion and possible action, at which time the Hearing Officer scheduled a public hearing for the Project on October 4, 2022.
14. Staff received four phone calls and nine letters in opposition over the course of the hearing process for the Project. Issues raised include destruction of sensitive habitat, light pollution, traffic, construction noise, fire hazards, proximity to wildlife, and interference of scenic views from a nearby hiking trail known as the Backbone Trail.
15. Staff consulted with various County departments about the Project and received the following recommendations:
 - A. County Department of Parks and Recreation recommended clearance to public hearing with no conditions through the County's electronic consultation system ("EPIC-LA") on September 29, 2020.
 - B. County Fire Department ("Fire Department") recommended clearance to public hearing with no conditions through EPIC-LA on September 30, 2020.
 - C. County Department of Public Works ("Public Works") recommended denial of the Project due to lack of documentation regarding road boundaries, road improvements, lines of sight, and earthmoving details in a letter dated December 27, 2021.

- D. County Department of Public Health ("Public Health") recommended denial of the Project due to the sharing of an OWTS between a single-family residence and habitable accessory structure in a letter dated May 3, 2022.
 - E. ERB took no action on the Project at a meeting held on August 16, 2021, but recommended that it return with a more comprehensive plan and biological assessment, as well as a redesign to be consistent with the LIP.
16. Because CEQA does not apply to projects which a public agency rejects or disapproves, pursuant to sections 15061 and 15270 of the State CEQA Guidelines (Title 14, Cal. Code Regs., Chapter 3, §§ 15000-15387), there has been no CEQA analysis performed on the Project.
 17. A duly-noticed public hearing was held before the Hearing Officer on October 4, 2022, which was continued to November 1, 2022, to allow the Hearing Officer to conduct a site visit and thoroughly review all documents. At the November 1, 2022, continued public hearing, Staff provided an overview and recommended denial of the Project, and the Applicant's representative spoke in favor of the Project. The Hearing Officer indicated her intent to deny the Project because it failed to meet the development standards of the LIP and because it could not meet the burden of proof required for a variance, and continued the hearing to February 7, 2023, to allow Staff to incorporate directed edits to the denial findings. At the continued hearing on February 7, 2023, the Hearing Officer found that there was nothing preventing the Applicant from redesigning the Project to comply with LIP standards and that, as proposed, the Project did not meet the goals and policies of the LUP. Additionally, as to the Variance request, the Hearing Officer found that the Applicant did not demonstrate there were unique circumstances or special characteristics of the Project Site that required a variance to preserve substantial property rights therein, nor that it was infeasible to redesign the Project to possibly eliminate the need for a variance altogether. Accordingly, the Hearing Officer closed the public hearing and denied the Project.
 18. The Hearing Officer's decision was timely appealed to the Commission by the Applicant on February 13, 2023. A duly-noticed public hearing was held before the Commission on April 26, 2023, to consider the appeal of the Hearing Officer's denial of the Project. Staff presented the Project in conjunction with the Related Projects, and recommended denial thereof for failure to comply with development standards of the LIP, conflicting with the goals and policies of the LUP, and failing to meet the burden of proof for a variance. Staff emphasized that the Project could be redesigned in a manner to comply with the LIP and LUP and explained that it had ample meetings with the Applicant on numerous occasions throughout the Project's history where that message was conveyed. Staff pointed out that the Applicant has never submitted any revised plans. The Applicant spoke at the public hearing by way of its land use attorney, Michael Shonafelt, who argued that the applicable portions of the LIP and LUP

make it impossible to build on any portion of the Project Site. The Applicant did acknowledge that there were good faith efforts between Applicant and the County and its various departments, including many well-attended meetings, to find a feasible path forward to develop the Project and Related Projects. However, the Applicant concluded that the 200-foot fuel modification radius required by the Fire Department would result in vegetation removal within H1 Habitat, which is prohibited by the LIP. The Applicant summarized its position by asserting that the Project Site is essentially unbuildable, as even building a "broom closet" would result in impacts on H1 Habitat due to the fuel modification requirement.

19. At the Commission's public hearing, there was public comment opposing the Project. A total of four constituents voiced their opposition based primarily on the Project's lack of compliance with the SMMLCP and allegations that the Applicant was trying to skirt County requirements to build "mega-mansions" in violation of the SMMLCP. The public comments urged the Commission to uphold the Hearing Officer's denial of the Project. Upon conclusion of public comment, the Commission asked Staff to clarify the categories of variances for the Project and Related Projects being requested, and the total count thereof. Staff clarified that for all 15 minor CDP requests by the Applicant across 16 lots, including the Project, there are six categories of variance requests, and a total of 12 variance requests. The Commission generally commented that such an amount of variance requests was irregular and unprecedented. It recognized the efforts of both the Applicant and Staff over the years to meet and confer to resolve the issues but indicated that the Project does not meet the standards required by the SMMLCP as proposed, and then moved to close the public hearing and denied the Project (and Related Projects).
20. The Commission's denial of the Project was timely appealed by the Applicant on April 28, 2023. The Board held its duly-noticed public hearing on the appeal of the Commission's decision on September 19, 2023, and, like the Commission, held it in conjunction with the Applicant's Related Projects for 14 other similar minor CDP and variance applications to build 15 single-family residences on 16 lots that adjoin and/or are in close proximity to one another in the Monte Nido Rural Village within the Santa Monica Mountains Coastal Zone. Regional Planning submitted a written statement to the Board indicating that the Commission's denial of the Project should be upheld because as proposed, the Project does not comply with the development standards required by the LIP, the goals and policies of the LUP, and does meet the burden of proof required for a variance under the County Code. Additionally, the Director of Regional Planning, Amy Bodek ("Director") was present and provided some additional background for the Board. She indicated that the Project has been around for a while and predates the County's adoption of the SMMLCP. She explained that since 2018, she has been involved with trying to move the Project along in a collaborative way with the Applicant, as the Project and Related Projects are being proposed on topographically challenging and environmentally sensitive lots that include H1 Habitat, H1 Buffer Zones, buffer zones for oak trees, National Parkland, and

streams, in addition to street frontage requirements. She elaborated that Regional Planning has worked closely with the Applicant to find a way for development to occur on each lot in a manner compliant with the SMMLCP and believes there is such a way to do so, which has been conveyed to the Applicant on numerous occasions and involves reducing the size of the Project's proposed single-family residence and its location on the Project Site. The Director explained that a stalemate was reached a couple of years ago, and the Applicant was and is not willing to make any additional changes to the Project. Since that time, numerous indications to the Applicant were made that Regional Planning would have to recommend denial of the Project unless changes were incorporated, but the Applicant has elected not to modify the Project, signifying that the Applicant has accepted proceeding to denial of the Project. Accordingly, the Director requested that the Board uphold the Commission's denial of the Project, and reiterated to the Board that there is economic use of the Project Site with a redesign that is consistent with SMMLCP.

21. After the Director spoke at the Board's public hearing, attorney for the Applicant, Michael Shonafelt, was given the opportunity to speak. Mr. Shonafelt, who also appeared for the Applicant at the Commission's public hearing, mostly repeated what he presented at that prior public hearing, the primary point being that due to the 200-foot radius for fuel modification required by the Fire Department and the fact that such a radius would impede into H1 Habitat, development of the Project Site and Related Projects, it is not feasible. Per Mr. Shonafelt, "you could build a broom closet ... and it is going to touch H1." In sum, it was his position that the SMMLCP effectively takes away the Applicant's properties, including the Project Site, as it is the Applicant's position that nothing can be built on the lots even though they are zoned for residential use. Mr. Shonafelt also wanted to make clear that the Applicant's team did do their "homework" and refutes any allegation that the Applicant has been uncooperative, as he and the Applicant's team have met with County Staff on numerous occasions to try and resolve the issues preventing approval. However, the Applicant indicated that they heard from the Fire Department that they would not allow modifications to the fuel modification radius for H1 Habitat, and decided it was futile to try and redesign the Project because doing so takes a lot of time and money.
22. There was ample public comment at the Board's public hearing of the Project. Of 15 total public comments, 13 were in opposition to the Project, and 2 were seemingly neutral but questioned the governmental process for approval of projects involving the SMMLCP. The comments in opposition to the Project mostly centered on how the Project and Related Projects simply ran afoul of the SMMLCP requirements, as evidenced by the number of variances being requested, and pointed out how unique the Santa Monica Mountains are and that development therein must comply with SMMLCP, which was the byproduct of a long process that involved ample community input and which is tailored to address the specific needs of the region. The opponents also emphasized that development could occur if the projects would simply reduce the size of the proposed primary residences, which should be achievable since they are "mega

mansions." Additionally, there was praise for the Staff for doing their best to work with the Applicant and for the Commission in upholding the requirements of the SMMLCP.

23. After hearing from Regional Planning, the Applicant, and the public, the Board addressed the Project and emphasized that the SMMLCP prevents development of the Project and Related Projects as proposed, and repeated that the Director has indicated that housing can be developed on the Project Site. The Board indicated that SMMLCP is intended to protect the safety of the region, especially in light of the fire tragedies in the area. In response to Applicant's claim that nothing can be built on the lots, the Board then specifically asked the Applicant if they are interested in revisiting a redesign of the Project and the Related Projects in light of the testimony to the contrary heard before the Board; to which, Mr. Shonafelt responded once again that due to fuel modification requirements, not even a "broom closet" could be built on the Project Site. He concluded that any such attempt would be futile as it would not be allowed under the SMMLCP. The Board then turned to the Director, who refuted the repeated contention that the fuel modification zone cannot be modified, as it has been modified in the Coastal Zone before, and that economic value for each of the Applicant's lots can be achieved. She reminded the Board that the proposed homes (for the Project and Related Projects) are very large, ranging from 4,500 to 6,400 square feet in size, for an average of 5,300 square feet; therefore, a reduction in their size would allow for the construction of something larger than a "broom closet" and smaller than 5,300 square feet. Finally, she assured the Board that there is an ability to modify the fuel modification zone with the Fire Department because it has been done before to allow development throughout the Santa Monica Mountains. Upon hearing the additional testimony from the Applicant and Regional Planning, the Board repeated that the SMMLCP was not adopted to prevent development of housing, but it ensures orderly development that also protects the safety of the unique region, which features very sensitive biological habitat and significant risk of wildfire. The Board recognized the efforts of Staff throughout the years, which included ample meetings with the Applicant's team, and various attempts to urge the Applicant to redesign the Project to one that is viable and respects the SMMLCP. However, the Board indicated that the Applicant here has chosen to ignore the guidance of Regional Planning, instead requesting an unprecedented number of variances to develop the Project and Related Projects without regard to the County's rules and processes and has refused yet again at the Project's public hearing to redesign the Project to meet SMMLCP requirements. The Board then closed the public hearing, denied the appeal, and voted in favor of upholding the Commission's denial of the Project.
24. The Board finds the Project is not consistent with the LUP. The Rural Village land use designation is intended for single-family residential uses on relatively small lots. Although a single-family residence is specifically listed as a principal permitted use under this designation, the Project's overall size and proposed plans, which include a building site area of 11,900 square feet, are not consistent with the policies of the LUP, as identified in the subsections hereunder. The

Project's large square footage and footprint would result in development, including a habitable accessory structure, that would extend into the H1 Quiet Zone, as well as fuel modification and brush clearance that would extend into H1 Habitat (oak woodland) and the H1 Habitat Buffer. Additionally, the Project's large footprint and square footage result in a design that is not protective of surrounding landforms by failing to preserve H1 Habitat areas in a more natural state, which is inconsistent with policies regarding the protection of Scenic Resource Areas, as well as those prioritizing protection of sensitive habitats, natural vegetation, and natural resources over development. Finally, when paired with its proximity to Piuma Road, which is a designated scenic route, the Project also results in unnecessary visual impacts to the surrounding area. The Project is not consistent with the following policies of the LUP:

A. The Conservation and Open Space Element:

- i. Policy CO-41 – New non-resource-dependent development shall be prohibited in H1 Habitat areas to protect these most sensitive environmental resource areas from disruption of habitat values. The only exception is that two uses may be approved in H1 Habitat other than wetlands in very limited circumstances, as follows: (1) Public Works projects required to repair or protect existing public roads when there is no feasible alternative, as long as impacts to H1 Habitat are avoided to the maximum extent feasible, and unavoidable impacts are minimized and mitigated; and (2) an access road to a lawfully-permitted use outside H1 Habitat when there is no other feasible alternative to provide access to public recreation areas or development on a legal parcel, as long as impacts to H1 Habitat are avoided to the maximum extent feasible, and unavoidable impacts are minimized and mitigated. Any new development approved for one of these two uses within woodland or savannah habitat shall protect native trees in accordance with Policy CO-99. The County shall not approve the development of any non-resource-dependent use other than these two uses within H1 Habitat, unless such use has first been considered in an SMMLCP amendment that is certified by the Coastal Commission. The Project's large square footage and footprint would result in fuel modification and brush clearance that would extend into H1 Habitat (oak woodland).
- ii. Policy CO-51 – Where new development is permitted in H2 Habitat pursuant to the SMMLCP, the maximum allowable building site area on parcels shall be 10,000 square feet, or 25 percent of the parcel size, whichever is less. Where new residential development is permitted in H3 Habitat, the maximum allowable residential building site area shall be 10,000 square feet, or 25 percent of the parcel size, whichever is less. The restriction of the building site area to less than the maximum may be required if the native tree

protection policies require a smaller area or if it is determined that a smaller building site area would serve to avoid impacts to H1 Habitat areas, substantially minimize grading associated with the project, reduce the need for manufactured slopes, or reduce the need for retaining features visible from scenic areas, public trails, and public lands. The allowable building site area may be increased for projects that qualify for participation in the incentive program of Policy LU-29 or for projects that comprise two adjoining legal lots, if the existing lots are merged into one lot and one consolidated building site is provided with one access road or driveway. The allowable building site area shall not exceed the total of the building site areas allowed for each individual parcel. Adverse impacts to H2 Habitat that cannot be avoided through the implementation of siting and design alternatives shall be accommodated through the Resource Conservation Program, pursuant to Policy CO-86a. The Project's overall size and proposed plans, which include a building site area of 11,900 square feet, are not consistent with this policy.

- iii. Policy CO-57 – New non-resource-dependent development shall also provide an additional 100-foot "Quiet Zone" from an H1 Habitat where feasible (measured from the outer edge of the 100-foot H1 Habitat buffer required above). New development is not permitted in the H1 Habitat Quiet Zone except resource-dependent uses, non-irrigated fuel modification required by the Fire Department for lawfully-established structures, and the following other uses in very limited circumstances: (1) Public Works projects required to protect existing public roads when there is no feasible alternative, as long as impacts to the H1 Habitat and the H1 Buffer are avoided to the maximum extent feasible, and unavoidable impacts are minimized and mitigated; (2) an access road to a lawfully-permitted use when there is no other feasible alternative to provide access to public recreation areas or development on a legal parcel, as long as impacts to the H1 Habitat and the H1 Buffer are avoided to the maximum extent feasible, and unavoidable impacts are minimized and mitigated; and (3) a development on a lawfully-created parcel that is the minimum development necessary to provide a reasonable economic use of the property and where there is no feasible alternative, as long as impacts to the H1 Habitat and the H1 Buffer are avoided to the maximum extent feasible, and unavoidable impacts are minimized and mitigated. The Project's large square footage and footprint would result in development, including a habitable accessory structure, that would extend into the H1 Quiet Zone, as well as fuel modification and brush clearance that would extend into the H1 Habitat Buffer. It has not been demonstrated that such development is necessary to provide a

reasonable economic use of this property, or that there is no feasible alternative to develop the site.

- iv. Policy CO-66 – Protection of H1 and H2 Habitats and public access shall take priority over other development standards, and where there is any conflict between general/other development standards and the biological resource and/or public access protection provisions, the standards that are most protective of H1 and H2 Habitats and public access shall have precedence. The Project's large footprint and square footage result in a design that is not protective of surrounding landforms by failing to preserve H1 and H2 Habitat in a more natural state.
- v. Policy CO-109 – Site and design new development to protect natural features and minimize removal of natural vegetation. The Project's large footprint and square footage result in a design that does not prioritize protection of sensitive habitats, natural vegetation, and natural resources over development.
- vi. Policy CO-124 – The Santa Monica Mountains contain scenic resources of regional and national importance. The scenic and visual qualities of these resources shall be protected and, where feasible, enhanced. The Project's large footprint and square footage result in a design that is not protective of surrounding landforms by failing to preserve H1 Habitat areas in a more natural state, which is inconsistent with policies regarding the protection of Scenic Resource Areas.
- vii. Policy CO-125 – Protect public views within Scenic Areas and throughout the Coastal Zone. Places on, along, within, or visible from Scenic Routes, public parklands, public trails, beaches, and State waters that offer scenic vistas of the mountains, canyons, coastline, beaches, and other unique natural features are considered Scenic Resource Areas. Scenic Resource Areas do not include areas that are largely developed, such as existing, predominantly built-out residential subdivisions. Scenic Resource Areas also include scenic resources (identified on Map 3 of the LUP) and consist of Scenic Elements, Significant Ridgelines, and Scenic Routes as well as public parkland and recreation areas (identified on Map 4 of the LUP). The Project's large footprint and square footage result in a design that is not protective of surrounding landforms by failing to preserve H1 Habitat areas in a more natural state, which is inconsistent with policies regarding the protection of Scenic Resource Areas.
- viii. Policy CO-126 – Maintain and enhance the quality of vistas along identified Scenic Routes. The Project violates this policy as the

Project's two-story primary residence would degrade the quality of vistas along Piuma Road, which is a Scenic Route.

- ix. Policy CO-131 – Site and design new development to minimize adverse impacts on scenic resources to the maximum extent feasible. If there is no feasible building site location on the proposed Project Site where development would not be visible, then the development shall be sited and designed to minimize impacts on scenic areas through measures that may include, but not be limited to, siting development in the least visible portion of the site, breaking up the mass of new structures, designing structures to blend into the natural hillside setting, restricting the building maximum size, reducing maximum height, clustering development, minimizing grading, incorporating landscape and building material screening elements, and where appropriate, berming. The Project's large footprint and square footage result in a design that is not protective of surrounding landforms by failing to preserve H1 Habitat areas in a more natural state, which is inconsistent with policies regarding the protection of Scenic Resource Areas. Development is neither sited in the least visible portion of the Project Site, nor is development clustered or building size restricted.

B. The Land Use Element:

Policy LU-33 – Require that new developments be compatible with the rural character of the area and the surrounding natural environment. The Project's large footprint and square footage result in a design that is not protective of surrounding landforms by failing to preserve H1 Habitat areas in a more natural state, which is inconsistent with policies regarding the protection of Scenic Resource Areas, as well as those prioritizing protection of sensitive habitats, natural vegetation, and natural resources over development. Finally, when paired with its proximity to Piuma Road, which is a designated scenic route, the Project also results in unnecessary visual impacts to the surrounding area.

25. The Board finds the Project is not consistent with the standards for development in sensitive habitats identified in Subsections C to E of County Code Section 22.44.1890. The Project Site is designated as H3 Habitat by the LUP. While all development would occur within H3 Habitat, impacts from the development would be located within the H1 Quiet Zone and H1 Habitat Buffer. The Project would also result in brush clearance within H1 Habitat. Pursuant to County Code Section 22.44.1890.C.2, no development, except for access driveways and resource-dependent uses, is permitted in H1 Habitat. Because the Project proposes habitable structures less than 200 feet from H1 Habitat (the oak woodland) to the east, off-site brush clearance will be required within this area by the County Agricultural Commissioner. As a result, the Project design is

not compatible with surrounding environmental resources, as it would result in development of H1 Habitat.

26. The Board finds the Project impermissibly proposes development within the H1 Habitat Buffer and H1 Quiet Zone as the LIP only allows residential development if all the criteria of County Code Section 22.44.1890.D.8 for H1 Habitat Buffer and Section 22.44.1890.E.12 for H1 Quiet Zone (which are identical) are met. As proposed, the Project is comprised of a 5,182-square-foot single-family residence and a habitable accessory structure (guest house); removing the guest house and reducing the square footage of the proposed residence would provide a greater buffer between the development and the H1 Habitat area, while still providing reasonable economic use of the property. Accordingly, the development is not the minimum development necessary to provide reasonable economic use of the Project Site, as required by County Code Sections 22.44.1890.D.8.b and 22.44.1890.E.12.b.
27. The Board finds the LIP specifically prohibits habitable accessory structures (i.e. the proposed guest house) within H1 Habitat Buffers and H1 Quiet Zone under County Code Section 22.44.1370.D.10. Habitable accessory structures are also required to have an OWTS separate from the primary residence, pursuant to County Code Section 22.44.1370.D.8. Public Health's Environmental Health Division, which is responsible for the review of OWTS, does not approve of the proposed sharing of an OWTS by both structures. It has also not been demonstrated by the Applicant in response that the placement of two separate OWTS's on the Project Site is infeasible. Because a single-family residence alone would provide a reasonable economic use of the Project Site, the Board also finds that it cannot be demonstrated that a variance for this purpose is necessary to preserve a substantial property right.
28. The Board finds there are no special characteristics of the Project Site to show that the Variance is necessary to preserve a substantial property right. A variance is required for a building site area greater than 10,000 square feet per County Code Section 22.44.1910.I. While the Project proposes a building site area of 11,900 square feet, it could simply be reduced in size to comply with the LIP, but the Applicant has not revised the Project nor shown a willingness to do so.
29. The Board finds that, as proposed, the Project would not comply with all applicable development standards for residences in the SMMLCP, which includes the LUP and LIP, specifically those standards related to habitat categories, building site area, Scenic Resource Areas, and habitable accessory structures.
30. The Board finds any development located between the nearest public road and the 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.

31. The Board finds there are no special circumstances or exceptional characteristics applicable to the property involved, such as size, shape, topography, location, or surroundings, which are not generally applicable to other properties in the same vicinity and under identical zoning classification, to warrant the issuance of the Variance. The Project's proposed habitable accessory structure is not necessary to allow for reasonable economic use of the property, and the design of the Project's primary residence could be modified to reduce the building site area. It has also not been demonstrated that the structures cannot be proposed in a location outside of the H1 Quiet Zone or designed to utilize a separate OWTS.
32. For the same reason found in the preceding finding, the Board finds the Variance is unnecessary for the preservation of a substantial property right of the Applicant such as that possessed by owners of other property in the same vicinity and zone.
33. The Board finds the granting of the Variance will be materially detrimental to the public welfare or be injurious to other properties or improvements in the same vicinity and zone since the Project's proposed large building site area and habitable accessory structure result in greater development within the H1 Quiet Zone, the H1 Habitat Buffer, and H1 Habitat, which would detrimentally affect the public welfare and other properties by degrading scenic and biological resources.
34. The Board finds the granting of the Variance will also be materially detrimental to coastal resources since the Project's proposed large building site area and habitable accessory structure result in greater development within the H1 Quiet Zone, the H1 Habitat Buffer, H1 Habitat, and adjoining a designated scenic route, which would detrimentally affect coastal resources by degrading scenic and biological resources.
35. The Board finds CEQA does not apply to the Project pursuant to sections 15061 and 15270 of the State CEQA Guidelines (Title 14, Cal. Code Regs., Chapter 3, §§ 15000-15387), because CEQA does not apply to projects that a public agency rejects or disapproves.
36. The Board finds that, pursuant to County Code Section 22.44.990, the community was properly notified of the Board's public hearing of the Project by mail, newspaper (Los Angeles Bulletin), and property posting. Additionally, the Project was noticed, and case materials were available on the Regional Planning's website. On August 17, 2023, a total of 134 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.
37. 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, Department of Regional Planning.

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

Regarding the Minor CDP:

- A. The proposed Project is not in conformity with the SMMCLP;

Regarding the Variance:

- B. There are no special circumstances or exceptional characteristics applicable to the Project Site, such as size, shape, topography, location, or surroundings, which are not generally applicable to other properties in the same vicinity and under identical zoning classification;
- C. The Variance is unnecessary for the preservation of a substantial property right of the Applicant, such as that possessed by owners of other properties in the same vicinity and zone;
- D. The granting of the Variance will be materially detrimental to the public welfare or be injurious to other properties or improvements in the same vicinity and zone; and
- E. The granting of the Variance will be materially detrimental to coastal resources.

THEREFORE, THE BOARD OF SUPERVISORS:

- 1. Finds the Project is exempt from CEQA, pursuant to State CEQA Guidelines sections 15061 and 15270 (projects which are rejected or disapproved);
- 2. Denies the appeal of the Project;
- 3. Denies Minor CDP No. RPPL2019-002073-(3); and
- 4. Denies Variance No. RPPL2019-002074-(3).

**FINDINGS OF THE BOARD OF SUPERVISORS
AND ORDER
PROJECT NO. 2019-000686-(3)
MINOR COASTAL DEVELOPMENT PERMIT NO. RPPL2019-002474-(3)
VARIANCE NO. RPPL2019-002475-(3)**

1. The Los Angeles County ("County") Board of Supervisors ("Board") conducted a duly-noticed public hearing on September 19, 2023, in the matter of Project No. 2019-000686-(3), consisting of Minor Coastal Development Permit ("CDP") RPPL2019-002474-(3) (the "Minor CDP") and Variance No. RPPL2019-002475-(3) ("Variance"). The Board held the public hearing in conjunction with 14 other related and similar minor CDP and variance applications to build 15 single-family residences on 16 lots that adjoin and/or are in close proximity to one another in the Monte Nido Rural Village within the Santa Monica Mountains Coastal Zone (hereinafter referred to as the "Related Projects"), comprised of minor CDP nos. RPPL2019-002073-(3), RPPL2019-002479-(3), RPPL2019-002885-(3), RPPL2019-002887-(3), RPPL2019-001222-(3), RPPL2019-003431-(3), RPPL2019-003435-(3), RPPL2019-003852-(3), RPPL2019-003854-(3), RPPL2019-004230-(3), RPPL2019-004232-(3), RPPL2019-004674-(3), RPPL2019-004677-(3), and RPPL2019-004678-(3); and variance nos. RPPL2019-002074-(3), RPPL2019-002480-(3), RPPL2019-002886-(3), RPPL2019-002888-(3), RPPL2019-001224-(3), RPPL2019-003432-(3), RPPL2019-003436-(3), RPPL2019-003853-(3), RPPL2019-003855-(3), RPPL2019-004231-(3), and RPPL2019-004675-(3). The County Regional Planning Commission ("Commission") previously conducted a duly-noticed public hearing on the Minor CDP and Variance on April 26, 2003. Prior to the Commission's hearing, a public hearing was also held before the County Department of Regional Planning ("Regional Planning") Hearing Officer ("Hearing Officer") on October 4, 2022, which was continued to November 1, 2022, and again to February 7, 2023.
2. The applicant, California Pacific Homes ("Applicant"), requests the Minor CDP and Variance to authorize the construction of a 5,050-square-foot single-family residence, a 519-square foot garage, a 730-square-foot guest house, and an on-site wastewater treatment system ("OWTS") ("Project") on a 1.05-acre property located the north side of Piuma Road (Assessor's Parcel Number 4456-038-002) in the Monte Nido Rural Village of the Santa Monica Mountains Coastal Zone ("Project Site"). The guest house, which is a separate habitable accessory structure, would be located within an H1 Habitat Buffer and share the OWTS with the main residence, and an OWTS seepage pit would be located less than 50 feet from an oak tree. A total of 605 cubic yards of earth (405 cubic yards cut, 200 cubic yards fill, 205 cubic yards export) would be graded. The Project would result in fuel modification or brush clearance within the protected zones of 18 oak trees.

3. The Project requires a coastal development permit to construct a single-family residence and an OWTS in the R-C-1 (Rural Coastal—One-Acre Minimum Required Lot Area) Zone, pursuant to Los Angeles County Code ("County Code") Section 22.44.810, and specifically a minor CDP is required for any project that requires County Environmental Review Board ("ERB") review (County Code Sections 22.44.860 and 22.44.940). The Project requires ERB review because the main residence as proposed would result in development less than 200 feet from H1 Habitat. Additionally, a minor CDP is also required for any project that results in the encroachment into the protected zone of any oak tree, pursuant to County Code Section 22.44.950. As proposed, the Project requires fuel modification or brush clearance to occur within the protected zones of four oak trees.

4. The Project requires a variance for construction of a habitable accessory structure (the guest house) within the H1 Habitat Buffer or H1 Quiet Zone, pursuant to County Code Section 22.44.1370.D.10. A variance is also required to permit a habitable accessory structure that shares an OWTS with the primary residence (County Code Section 22.44.1370.D.8), as well as for construction of an OWTS seepage pit or leach field within 50 feet of an oak tree, pursuant to County Code Section 22.44.1340.B.3.c, as the Project proposes. Finally, County Code Section 22.44.1910.I restricts the size of the building site area for new residential development to 10,000 square feet. Because the guest house is proposed within an H1 Habitat Buffer and would share an OWTS with the single-family residence, and an OWTS seepage pit is proposed less than 50 feet from an oak tree, the Project requires a variance for all deviations from the development standards of the Santa Monica Mountains Local Implementation Program ("LIP").

5. The Project Site is located within the Rural Village land use designation of the Santa Monica Mountains Local Coastal Program ("SMMLCP") Land Use Policy Map, a component of the General Plan. The Project Site is located in the Malibu Zoned District and is zoned R-C-1 (Rural Coastal—One Acre Minimum Required Lot Area). Pursuant to County Code Section 22.44.1750, a single-family residence is a principal permitted use within the R-C Zone.

6. Surrounding zoning within a 500-foot radius of the Project Site includes:
 - North: R-C-1 and R-C-10,000 (Rural Coastal—10,000-Square-Foot Minimum Required Area);
 - South: R-C-20 (Rural Coastal—20 Acre Minimum Required Lot Area) and O-S-P (Open Space—Parks);
 - East: R-C-20 and O-S-P; and
 - West: R-C-1 and R-C-20.

7. Surrounding land uses within a 500-foot radius of the Project Site include:
 - North: Single-family residences and vacant land;
 - South: Vacant land and open space;
 - East: Vacant land and open space; and
 - West: Single-family residences and vacant land.
8. The Project Site is 1.05 gross acres in size and consists of one legal lot, which is irregular in shape and consists of mostly level terrain, with a steep downward slope in the northernmost portion. An existing graded pad of approximately 12,000 square feet and drainage structures are located on the north-central portion of the lot. These were legally developed with CDP No. 5-83-004, which was approved with the underlying tract map in 1987 (Tract Map No. 38931). While the Project Site is mapped as H1 Habitat in the Santa Monica Mountains Local Coastal Program Land Use Plan ("LUP"), with the remainder as H3 Habitat. The majority of the Project Site is within 200 feet of H1 Quiet Zone (100-200 feet away). Other than the oak trees, the Project Site contains mostly native and non-native grasses.
9. The Project Site would be accessed from Piuma Road, a 65-foot-wide public and designated scenic route, located immediately to the south of the Project Site.
10. The site plan shows the construction of a 5,050-square-foot single-family residence, a 519-square-foot attached garage, and a 730-square-foot guest house on the northern portion of the 1.05-acre Project Site. The residence would have a maximum height of 18 feet above grade. A total of 605 cubic yards of earth (405 cubic yards cut; 200 cubic yards fill, 205 cubic yards export) would be graded. The Project would also include an OWTS, retaining walls, and other appurtenant facilities on a total building site of 8,230 square feet within the existing graded pad. The building would be accessed by a 200-foot-long paved driveway, which would access Piuma Road to the south. Development from brush clearance and fuel modification would also encroach into the protected zones of 18 coast live oak trees. While the majority of the Project Site is mapped as H3 Habitat within the LUP, its southern most portion is H1 Habitat, which places almost the entirety of the Project Site within the H1 Habitat Buffer or H1 Quiet Zone. The residence is proposed for a location on the north-central portion of the Project Site, within the H1 Habitat Buffer and H1 Quiet Zone. The guest house would be completely within the H1 Habitat Buffer and would share an OWTS with the main residence. An OWTS seepage pit would be located less than 50 feet from an oak tree. The Project Site has a linear street frontage of 104 feet and a linear development frontage of 47 feet.
11. The case history shows that an earlier version of the Project was submitted as a plot plan, along plot plans for the Related Projects, prior to the County's adoption of the SMMLCP. These plot plans entailed ministerial reviews that were approved in concept, as the lack of an approved local coastal program meant that the necessary coastal development permits to the develop the residences

would still have to have been obtained from the California Coastal Commission ("Coastal Commission"). Taken together, the Project and the Related Projects did not qualify for an exemption under the California Environmental Quality Act (Public Resources Code section 21000 et seq.) ("CEQA"), resulting in Environmental Assessment No. 201200258 comprised of a Mitigated Negative Declaration ("MND") and Mitigation Monitoring and Reporting Program ("MMRP"). The MND and MMRP were initially approved but subsequently appealed to both the Commission and the Board, which upheld the appeal and invalidated the MND and MMRP on September 22, 2015.

12. On April 24, 2019, the Project, along with the Related Projects, was submitted to Regional Planning in its current form. Thereafter, from 2019 to 2011, Regional Planning staff ("Staff") met with the Applicant 11 times to discuss the Project, with a focus on how to resolve issues related to it as submitted by Applicant. Staff requested that the Project be redesigned to eliminate inconsistencies with LIP standards and reasons for needing the Variance. On August 8, 2021, the ERB reviewed the Project and requested that it be returned with a more comprehensive overview of the Project in conjunction with the Related Projects, including a more detailed analysis of the oak woodlands, and generally a greater effort to be consistent with the LIP. On April 14, 2022, Staff sent a letter to Applicant requesting several specific changes to the Project and indicated that if the changes were not made, the Project would be scheduled for public hearing with a Staff recommendation of denial. The requested changes included removing the habitable accessory structure (guest house), reducing the size and/or changing the location of several of the main residences, relocating the OWTS, and in conjunction with the Related Projects, proposing fewer residences as a whole by merging some of the lots.
13. On May 13, 2022, the Applicant responded to Staff in writing that it would not make additional changes to the Project and Related Projects. The Project thereafter proceeded to hearing before the Hearing Officer on June 7, 2022, as an item for discussion and possible action, at which time the Hearing Officer scheduled a public hearing for the Project on October 4, 2022.
14. Staff received four phone calls and nine letters in opposition over the course of the hearing process for the Project. Issues raised include destruction of sensitive habitat, light pollution, traffic, construction noise, fire hazard, proximity to wildlife, and interference of scenic views from a nearby hiking trail known as the Backbone Trail.
15. Staff consulted with various County departments about the Project and received the following recommendations:
 - A. County Department of Parks and Recreation recommended clearance to public hearing with no conditions through the County's electronic consultation system ("EPIC-LA") on September 29, 2020.

- B. County Fire Department ("Fire Department") recommended clearance to public hearing with no conditions through EPIC-LA on September 30, 2020.
 - C. County Department of Public Works ("Public Works") recommended denial of the Project due to lack of documentation regarding road boundaries, road improvements, lines of sight, and earthmoving details in a letter dated March 8, 2021.
 - D. County Department of Public Health ("Public Health") recommended denial of the Project due to the sharing of an OWTS between a single-family residence and habitable accessory structure in a letter dated October 28, 2020.
 - E. ERB took no action on the Project at a meeting held on August 16, 2021, but recommended that it return with a more comprehensive plan and biological assessment, as well as a redesign to be consistent with the LIP.
16. Because CEQA does not apply to projects which a public agency rejects or disapproves, pursuant to sections 15061 and 15270 of the State CEQA Guidelines (Title 14, Cal. Code Regs., Chapter 3, §§ 15000-15387), there has been no CEQA analysis performed on the Project.
17. A duly-noticed public hearing was held before the Hearing Officer on October 4, 2022, which was continued to November 1, 2022, to allow the Hearing Officer to conduct a site visit and thoroughly review all documents. At the November 1, 2022, continued public hearing, Staff provided an overview and recommended denial of the Project, and the applicant's representative spoke in favor of the Project. The Hearing Officer indicated her intent to deny the Project because it failed to meet the developments standards of the LIP and because it could not meet the burden of proof required for a variance, and continued the hearing to February 7, 2023, to allow Staff to incorporate directed edits to the denial findings. At the continued hearing on February 7, 2023, the Hearing Officer found that there was nothing preventing Applicant from redesigning the Project to comply with LIP standards, and that as proposed the Project did not meet the goals and policies of the LUP. Additionally, as to the Variance request, the Hearing Officer found that the Applicant did not demonstrate that there were unique circumstances or special characteristics of the Project Site that required a variance to preserve substantial property rights therein, nor that it was infeasible to redesign the Project to possibly eliminate the need for a variance altogether. Accordingly, the Hearing Officer closed the public hearing and denied the Project.
18. The Hearing Officer's decision was timely appealed to the Commission by the Applicant on February 13, 2023. A duly-noticed public hearing was held before the Commission on April 26, 2023, to consider the appeal of the Hearing Officer's denial of the Project. Staff presented the Project in conjunction with the Related

Projects, and recommended denial thereof for failure to comply with development standards of the LIP, conflicting with the goals and policies of the LUP, and failing to meet the burden of proof for a variance. Staff emphasized that the Project could be redesigned in a manner to comply with the LIP and LUP and explained that it had ample meetings with the Applicant on numerous occasions throughout the Project's history where that message was conveyed. Staff pointed out that the Applicant has never submitted any revised plans. The Applicant spoke at the public hearing by way of its land use attorney, Michael Shonafelt, who argued that the applicable portions of the LIP and LUP make it impossible to build on any portion of the Project Site. The Applicant did acknowledge that there were good faith efforts between Applicant and the County and its various departments, including many well attended meetings, to find a feasible path forward to develop the Project and Related Projects. However, Applicant concluded that the 200-foot fuel modification radius required by the Fire Department would result in vegetation removal within H1 Habitat, which is prohibited by the LIP. The Applicant summarized its position by asserting that the Project Site is essentially unbuildable, as even building a "broom closet" would result in impacts on H1 Habitat due to the fuel modification requirement.

19. At the Commission's public hearing, there was public comment opposing the Project. A total of four constituents voiced their opposition based primarily on the Project's lack of compliance with the SMMLCP and allegations that the Applicant was trying to skirt County requirements to build "mega-mansions" in violation of the SMMLCP. The public comments urged the Commission to uphold the Hearing Officer's denial of the Project. Upon conclusion of public comment, the Commission asked Staff to clarify the categories of variances for the Project and Related Projects being requested, and the total count thereof. Staff clarified that for all 15 minor CDP requests by the Applicant across 16 lots, including the Project, there are six categories of variance requests, and a total of 12 variance requests. The Commission generally commented that such an amount of variance requests was irregular and unprecedented. It recognized the efforts of both the Applicant and Staff over the years to meet and confer to resolve the issues but indicated that that the Project does not meet the standards required by the SMMLCP as proposed, and then moved to close the public hearing and denied the Project (and Related Projects).
20. The Commission's denial of the Project was timely appealed by the Applicant on April 28, 2023. The Board held its duly-noticed public hearing on the appeal of the Commission's decision on September 19, 2023, and, like the Commission, held it in conjunction with Applicant's Related Projects for 14 other similar minor CDP and variance applications to build 15 single-family residences on 16 lots that adjoin and/or are in close proximity to one another in the Monte Nido Rural Village within the Santa Monica Mountains Coastal Zone. Regional Planning submitted a written statement to the Board indicating that the Commission's denial of the Project should be upheld because as proposed, the Project does not comply with the development standards required by the LIP, the goals and

policies of the LUP, and does meet the burden of proof required for a variance under the County Code. Additionally, the Director of Regional Planning, Amy Bodek ("Director") was present and provided some additional background for the Board. She indicated that the Project has been around for a while and predates the County's adoption of the SMMLCP. She explained that since 2018, she has been involved with trying to move the Project along in a collaborative way with the Applicant, as the Project and Related Projects are being proposed on topographically challenging and environmentally sensitive lots that include H1 Habitat, H1 Buffer Zones, buffer zones for oak trees, National Parkland, and streams, in addition to street frontage requirements. She elaborated that Regional Planning has worked closely with the Applicant to find a way for development to occur on each lot in a manner compliant with the SMMLCP and believes there is such a way to do so, which has been conveyed to the Applicant on numerous occasions and involves reducing the size of the Project's proposed single-family residence and its location on the Project Site. The Director explained that a stalemate was reached a couple of years ago, and the Applicant was and is not willing to make any additional changes to the Project. Since that time, numerous indications to the Applicant were made that Regional Planning would have to recommend denial of the Project unless changes were incorporated, but the Applicant has elected not to modify the Project, signifying that the Applicant has accepted proceeding to denial of the Project. Accordingly, the Director requested that the Board uphold the Commission's denial of the Project, and reiterated to the Board that there is economic use of the Project Site with a redesign that is consistent with SMMLCP.

21. After the Director spoke at the Board's public hearing, attorney for the Applicant, Michael Schonafelt, was given the opportunity to speak. Mr. Schonafelt, who also appeared for the Applicant at the Commission's public hearing, mostly repeated what he presented at that prior public hearing, the primary point being that due to the 200-foot radius for fuel modification required by the Fire Department and the fact that such a radius would impede into H1 Habitat, development of the Project Site and Related Projects it not feasible. Per Mr. Schonafelt, "you could build a broom closet ... and it is going to touch H1." In sum, it was his position that the SMMLCP effectively takes away the Applicant's properties, including the Project Site, as it is the Applicant's position that nothing can be built on the lots even though they are zoned for residential use. Mr. Schonafelt also wanted to make clear that the Applicant's team did do their "homework" and refutes any allegation that the Applicant has been uncooperative, as he and the Applicant team have met with County Staff on numerous occasions to try and resolve the issues preventing approval. However, Applicant indicated that they heard from Fire Department that they would not allow modifications to the fuel modification radius for H1, and decided it was futile to try and redesign the Project because doing so takes a lot of time and money.

22. There was ample public comment at the Board's public hearing of the Project. Of 15 total public comments, 13 were in opposition to the Project, and 2 were

seemingly neutral but questioned the governmental process for approval of projects involving the SMMLCP. The comments in opposition to the project mostly centered on how the Project and Related Projects simply ran afoul of the SMMLCP requirements, as evidenced by the number of variances being requested, and pointed out how unique the Santa Monica Mountains are and that development therein must comply with SMMLCP, which was the byproduct of a long process that involved ample community input and which is tailored to address the specific needs of the region. The opponents also emphasized that development could occur if the projects would simply reduce the size of the proposed primary residences, which should be achievable since they are "mega mansions." Additionally, there was praise for Staff for doing their best to work with the Applicant, and for the Commission in upholding the requirements of the SMMLCP.

23. After hearing from Regional Planning, the Applicant, and the public, the Board addressed the Project and emphasized that the SMMLCP prevents development of the Project and Related Projects as proposed, and repeated that the Director has indicated that housing can be developed on the Project Site. The Board indicated that SMMLCP is intended to protect the safety of the region, especially in light of the fire tragedies in the area. In response to the Applicant's claim that nothing can be built on the lots, the Board then specifically asked Applicant if they are interested in revisiting a redesign of the Project and the Related Projects in light of the testimony to the contrary heard before the Board; to which, Mr. Schonafelt responded once again that due to fuel modification requirements, not even a "broom closet" could be built on the Project Site. He concluded that any such attempt would be futile as it would not be allowed under the SMMLCP. The Board then turned to the Director, who refuted the repeated contention that the fuel modification zone cannot be modified, as it has been modified in the Coastal Zone before, and that economic value for each of the Applicant's lots can be achieved. She reminded the Board that the proposed homes (for the Project and Related Projects) are very large, ranging from 4,500 to 6,400 square feet in size, for an average of 5,300 square feet; therefore, a reduction in their size would allow for the construction of something larger than a "broom closet" and smaller than 5,300 square feet. Finally, she assured the Board that there is an ability to modify the fuel modification zone with the Fire Department because it has been done before to allow development throughout the Santa Monica Mountains. Upon hearing the additional testimony from the Applicant and Regional Planning, the Board repeated that the SMMLCP was not adopted to prevent development of housing, but it ensures orderly development that also protects the safety of the unique region, which features very sensitive biological habitat and significant risk of wildfire. The Board recognized the efforts of Staff throughout the years, which included ample meetings with the Applicant's team, and various attempts to urge the Applicant to redesign the Project to one that is viable and respects the SMMLCP. However, the Board indicated that the Applicant here has chosen to ignore the guidance of Regional Planning, instead requesting an unprecedented number of variances to develop the Project and Related Projects without regard to the County's rules and processes and has

refused yet again at the Project's public hearing to redesign the Project to meet SMMLCP requirements. The Board then closed the public hearing, denied the appeal, and voted in favor of upholding the Commission's denial of the Project

24. The Board finds the Project is not consistent with the LUP. The Rural Village land use designation is intended for single-family residential uses on relatively small lots. Although a single-family residence is specifically listed as a principal permitted use under this designation, the Project's overall size and proposed plans, which includes a building site area of 11,900 square feet, are not consistent with the policies of the LUP, as identified in the subsections hereunder. The Project's large square footage and footprint would result in development, including a habitable accessory structure, that would extend into the H1 Quiet Zone, as well as fuel modification and brush clearance that would extend into H1 Habitat (oak woodland) and the H1 Habitat Buffer. Additionally, the Project's large footprint and square footage result in a design that is not protective of surrounding landforms by failing to preserve H1 Habitat areas in a more natural state, which is inconsistent with policies regarding the protection of Scenic Resource Areas, as well as those prioritizing protection of sensitive habitats, natural vegetation, and natural resources over development. Finally, when paired with its proximity to Piuma Road, which is a designated scenic route, the Project also results in unnecessary visual impacts to the surrounding area. The Project is not consistent with the following policies of the LUP:

A. The Conservation and Open Space Element:

- i. Policy CO-41 – New non-resource-dependent development shall be prohibited in H1 Habitat areas to protect these most sensitive environmental resource areas from disruption of habitat values. The only exception is that two uses may be approved in H1 Habitat other than wetlands in very limited circumstances, as follows: (1) Public Works projects required to repair or protect existing public roads when there is no feasible alternative, as long as impacts to H1 Habitat are avoided to the maximum extent feasible, and unavoidable impacts are minimized and mitigated; and (2) an access road to a lawfully-permitted use outside H1 Habitat when there is no other feasible alternative to provide access to public recreation areas or development on a legal parcel, as long as impacts to H1 Habitat are avoided to the maximum extent feasible, and unavoidable impacts are minimized and mitigated. Any new development approved for one of these two uses within woodland or savannah habitat shall protect native trees in accordance with Policy CO-99. The County shall not approve the development of any non-resource-dependent use other than these two uses within H1 Habitat, unless such use has first been considered in an SMMLCP amendment that is certified by the Coastal Commission. The Project's large square footage and footprint would result in fuel

modification and brush clearance that would extend into H1 Habitat (oak woodland).

- ii. Policy CO-57 – New non-resource-dependent development shall also provide an additional 100-foot "Quiet Zone" from H1 Habitat where feasible (measured from the outer edge of the 100-foot H1 Habitat Buffer required above). New development is not permitted in the H1 Habitat Quiet Zone except resource-dependent uses, non-irrigated fuel modification required by the Fire Department for lawfully-established structures, and the following other uses in very limited circumstances: (1) Public Works projects required to protect existing public roads when there is no feasible alternative, as long as impacts to H1 Habitat and the H1 Buffer are avoided to the maximum extent feasible, and unavoidable impacts are minimized and mitigated; (2) an access road to a lawfully-permitted use when there is no other feasible alternative to provide access to public recreation areas or development on a legal parcel, as long as impacts to H1 Habitat and H1 Buffer are avoided to the maximum extent feasible, and unavoidable impacts are minimized and mitigated; and (3) a development on a lawfully-created parcel that is the minimum development necessary to provide a reasonable economic use of the property and where there is no feasible alternative, as long as impacts to H1 Habitat and H1 Buffer are avoided to the maximum extent feasible, and unavoidable impacts are minimized and mitigated. The Project's large square footage and footprint would result in development, including a habitable accessory structure, that would extend into the H1 Quiet Zone, as well as fuel modification and brush clearance that would extend into the H1 Habitat Buffer. It has not been demonstrated that such development is necessary to provide a reasonable economic use of this property, or that there is no feasible alternative to develop the site.
- iii. Policy CO-66 – Protection of H1 and H2 Habitat and public access shall take priority over other development standards, and where there is any conflict between general/other development standards and the biological resource and/or public access protection provisions, the standards that are most protective of H1 and H2 Habitat and public access shall have precedence. The Project's large footprint and square footage result in a design that is not protective of surrounding landforms by failing to preserve H1 and H2 Habitat areas in a more natural state.
- iv. Policy CO-109 – Site and design new development to protect natural features and minimize removal of natural vegetation. The Project's large footprint and square footage result in a design that

does not prioritize protection of sensitive habitats, natural vegetation, and natural resources over development.

- v. Policy CO-124 – The Santa Monica Mountains contain scenic resources of regional and national importance. The scenic and visual qualities of these resources shall be protected and, where feasible, enhanced. The Project's large footprint and square footage result in a design that is not protective of surrounding landforms by failing to preserve H1 Habitat areas in a more natural state, which is inconsistent with policies regarding the protection of Scenic Resource Areas.
- vi. Policy CO-125 – Protect public views within Scenic Areas and throughout the Coastal Zone. Places on, along, within, or visible from Scenic Routes, public parklands, public trails, beaches, and state waters that offer scenic vistas of the mountains, canyons, coastline, beaches, and other unique natural features are considered Scenic Resource Areas. Scenic Resource Areas do not include areas that are largely developed such as existing, predominantly built-out residential subdivisions. Scenic Resource Areas also include scenic resources (identified on Map 3 of the LUP) and consist of Scenic Elements, Significant Ridgelines, and Scenic Routes as well as public parkland and recreation areas (identified on Map 4 of the LUP). The Project's large footprint and square footage result in a design that is not protective of surrounding landforms by failing to preserve H1 Habitat areas in a more natural state, which is inconsistent with policies regarding the protection of Scenic Resource Areas.
- vii. Policy CO-126 – Maintain and enhance the quality of vistas along identified Scenic Routes. The Project violates this policy as the Project's two-story primary residence would degrade the quality of vistas along Piuma Road, which is a Scenic Route.
- viii. Policy CO-131 – Site and design new development to minimize adverse impacts on scenic resources to the maximum extent feasible. If there is no feasible building site location on the proposed Project Site where development would not be visible, then the development shall be sited and designed to minimize impacts on scenic areas through measures that may include, but not be limited to, siting development in the least visible portion of the site, breaking up the mass of new structures, designing structures to blend into the natural hillside setting, restricting the building maximum size, reducing maximum height, clustering development, minimizing grading, incorporating landscape and building material screening elements, and where appropriate, berming. The Project's large footprint and square footage result in

a design that is not protective of surrounding landforms by failing to preserve H1 Habitat areas in a more natural state, which is inconsistent with policies regarding the protection of Scenic Resource Areas. Development is neither sited in the least visible portion of the Project Site, nor is development clustered or building size restricted.

B. The Land Use Element:

Policy LU-33 – Require that new developments be compatible with the rural character of the area and the surrounding natural environment. The Project's large footprint and square footage result in a design that is not protective of surrounding landforms by failing to preserve H1 Habitat areas in a more natural state, which is inconsistent with policies regarding the protection of Scenic Resource Areas, as well as those prioritizing protection of sensitive habitats, natural vegetation, and natural resources over development. Finally, when paired with its proximity to Piuma Road, which is a designated scenic route, the Project also results in unnecessary visual impacts to the surrounding area.

25. The Board finds the Project is not consistent with the standards for development in sensitive habitats identified in Subsections C to E of County Code Section 22.44.1890. The Project Site is designated as H3 Habitat by the LUP. While all development would occur within H3 Habitat, impacts from the development would be located within the H1 Quiet Zone and H1 Habitat Buffer. The Project would also result in brush clearance within H1 Habitat. Pursuant to County Code Section 22.44.1890.C.2, no development, except for access driveways and resource-dependent uses, is permitted in H1 Habitat. Because the Project proposes habitable structures less than 200 feet from H1 Habitat (the oak woodland) to the south, off-site brush clearance will be required within this area by the County Agricultural Commissioner. As a result, the Project design is not compatible with surrounding environmental resources, as it would result in development of H1 Habitat.
26. The Board finds the Project impermissibly proposes development within the H1 Habitat Buffer and H1 Quiet Zone as the LIP only allows residential development if all the criteria of County Code Section 22.44.1890.D.8 for H1 Habitat Buffer and Section 22.44.1890.E.12 for H1 Quiet Zone (which are identical) are met. As proposed, the Project is comprised of a 5,050-square-foot single-family residence and a habitable accessory structure (guest house); removing the guest house and reducing the square footage of the proposed residence would provide a greater buffer between the development and the H1 Habitat Area, while still providing reasonable economic use of the property. Accordingly, the development is not the minimum development necessary to provide reasonable economic use of the Project Site as required by County Code Sections 22.44.1890.D.8.b and 22.44.1890.E.12.b.

27. The Board finds the LIP specifically prohibits habitable accessory structures (i.e. the proposed guest house) within H1 Habitat Buffers and H1 Quiet Zone under County Code Section 22.44.1370.D.10. Habitable accessory structures are also required to have an OWTS separate from the primary residence, pursuant to County Code Section 22.44.1370.D.8. Public Health's Environmental Health Division, which is responsible for the review of OWTS, does not approve of the proposed sharing of an OWTS by both structures. It has also not been demonstrated by the Applicant in response that the placement of two separate OWTSs on the Project Site is infeasible. Because a single-family residence alone would provide a reasonable economic use of the Project Site, the Board also finds that it cannot be demonstrated that a variance for this purpose is necessary to preserve a substantial property right.
28. The Board finds there are no special characteristics of the Project Site to show that the Variance is necessary to preserve a substantial property right. A variance is required for a building site area greater than 10,000 square feet per County Code Section 22.44.1910.I. While the Project proposes a building site area of 11,900 square feet, it could simply be reduced in size to comply with the LIP, but the Applicant has not revised the Project nor shown a willingness to do so.
29. The Board finds that, as proposed, the Project would not comply with all applicable development standards for residences in the SMMLCP, which includes the LUP and LIP, specifically those standards related to habitat categories, building site area, Scenic Resource Areas, and habitable accessory structures.
30. The Board finds any development located between the nearest public road and the 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.
31. The Board finds there are no special circumstances or exceptional characteristics applicable to the property involved, such as size, shape, topography, location, or surroundings, which are not generally applicable to other properties in the same vicinity and under identical zoning classification, to warrant the issuance of the Variance. The Project's proposed habitable accessory structure is not necessary to allow for reasonable economic use of the property, and the design of the Project's primary residence could be modified to reduce the building site area. It has also not been demonstrated that the structures cannot be proposed in a location outside of the H1 Quiet Zone or designed to utilize a separate OWTS.
32. For the same reason found in the preceding finding, the Board finds the Variance is unnecessary for the preservation of a substantial property right of the Applicant

such as that possessed by owners of other property in the same vicinity and zone.

33. The Board finds the granting of the Variance will be materially detrimental to the public welfare or be injurious to other properties or improvements in the same vicinity and zone since the Project's proposed large building site area and habitable accessory structure result in greater development within the H1 Quiet Zone, the H1 Habitat Buffer, and H1 Habitat, which would detrimentally affect the public welfare and other properties by degrading scenic and biological resources.
34. The Board finds the granting of the Variance will also be materially detrimental to coastal resources since the Project's proposed large building site area and habitable accessory structure result in greater development within the H1 Quiet Zone, the H1 Habitat Buffer, H1 Habitat, and adjoining a designated scenic route, which would detrimentally affect coastal resources by degrading scenic and biological resources.
35. The Board finds CEQA does not apply to the Project, pursuant to sections 15061 and 15270 of the State CEQA Guidelines (Title 14, Cal. Code Regs., Chapter 3, §§ 15000-15387), because CEQA does not apply to projects that a public agency rejects or disapproves.
36. The Board finds that, pursuant to County Code Section 22.44.990, the community was properly notified of the Board's public hearing of the Project by mail, newspaper (Los Angeles Bulletin), and property posting. Additionally, the Project was noticed, and case materials were available on the Regional Planning's website. On August 17, 2023, a total of 134 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.
37. 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, Department of Regional Planning.

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

Regarding the Minor Coastal Development Permit:

- A. The proposed Project is not in conformity with the SMMCLP;

Regarding the Variance:

- B. There are no special circumstances or exceptional characteristics applicable to the Project Site, such as size, shape, topography, location, or surroundings, which are

not generally applicable to other properties in the same vicinity and under identical zoning classification;

- C. The Variance is unnecessary for the preservation of a substantial property right of the Applicant such as that possessed by owners of other properties in the same vicinity and zone;
- D. The granting of the Variance will be materially detrimental to the public welfare or be injurious to other properties or improvements in the same vicinity and zone; and
- E. The granting of the Variance will be materially detrimental to coastal resources.

THEREFORE, THE BOARD OF SUPERVISORS:

- 1. Finds the Project is exempt from CEQA, pursuant to State CEQA Guidelines sections 15061 and 15270 (projects which are rejected or disapproved);
- 2. Denies the appeal of the Project;
- 3. Denies Minor CDP No. RPPL2019-002474-(3); and
- 4. Denies Variance No. RPPL2019-002475-(3).

**FINDINGS OF THE BOARD OF SUPERVISORS
AND ORDER
PROJECT NO. 2019-000686-(3)
MINOR COASTAL DEVELOPMENT PERMIT NO. RPPL2019-002479-(3)
VARIANCE NO. RPPL2019-002480-(3)**

1. The Los Angeles County ("County") Board of Supervisors ("Board") conducted a duly-noticed public hearing on September 19, 2023, in the matter of Project No. 2019-000686-(3), consisting of Minor Coastal Development Permit ("CDP") No. RPPL2019-002479-(3) (the "Minor CDP"), and Variance No. RPPL2019-002480-(3) ("Variance"). The Board held the public hearing in conjunction with 14 other related and similar minor CDP and variance applications to build 15 single-family residences on 16 lots that adjoin and/or are in close proximity to one another in the Monte Nido Rural Village within the Santa Monica Mountains Coastal Zone (hereinafter referred to as the "Related Projects"), comprised of minor CDP nos. RPPL2019-002073-(3), RPPL2019-002474-(3), RPPL2019-002885-(3), RPPL2019-002887-(3), RPPL2019-001222-(3), RPPL2019-003431-(3), RPPL2019-003435-(3), RPPL2019-003852-(3), RPPL2019-003854-(3), RPPL2019-004230-(3), RPPL2019-004232-(3), RPPL2019-004674-(3), RPPL2019-004677-(3), and RPPL2019-004678-(3); and variance nos. RPPL2019-002074-(3); RPPL2019-002475-(3), RPPL2019-002886-(3), RPPL2019-002888-(3), RPPL2019-001224-(3), RPPL2019-003432-(3), RPPL2019-003436-(3), RPPL2019-003853-(3), RPPL2019-003855-(3), RPPL2019-004231-(3), and RPPL2019-004675-(3). The County Regional Planning Commission ("Commission") previously conducted a duly-noticed public hearing on the Minor CDP and Variance on April 26, 2003. Prior to the Commission's hearing, a public hearing was also held before the County Department of Regional Planning ("Regional Planning") Hearing Officer ("Hearing Officer") on October 4, 2022, which was continued to November 1, 2022, and February 7, 2023.
2. The applicant, California Pacific Homes ("Applicant") requests the Minor CDP and Variance to authorize the construction of a 4,823-square-foot single-family residence, and an on-site wastewater treatment system ("OWTS") ("Project") on a 0.92-acre property located on the north side of Piuma Road (Assessor's Parcel Number 4456-038-003) in the Monte Nido Rural Village of the Santa Monica Mountains Coastal Zone ("Project Site"). An OWTS seepage pit would be located less than 50 feet from an oak tree. The residence would also occupy more than 50 percent of the linear frontage of Piuma Road—a designated scenic route. A total of 537 cubic yards of earth (482 cubic yards cut, 55 cubic yards fill, 427 cubic yards export) would be graded. The Project would result in fuel modification or brush clearance within the protected zones of 16 oak trees.
3. The Project requires a coastal development permit to construct a single-family residence and an OWTS in the R-C-1 (Rural Coastal—One-Acre Minimum Required Lot Area) Zone, pursuant to Los Angeles County Code ("County Code")

Section 22.44.810, and a minor CDP is required for any project that requires Environmental Review Board ("ERB") review (County Code Sections 22.44.860 and 22.44.940). The Project requires ERB review because the main residence, as proposed, would result in development less than 200 feet from H1 Habitat. Additionally, a minor CDP is also required for any project that results in the encroachment into the protected zone of any oak tree, pursuant to County Code Section 22.44.950. As proposed, the Project requires fuel modification or brush clearance to occur within the protected zones of 16 oak trees.

4. The Project requires a variance for construction of an OWTS seepage pit or leach field within 50 feet of an oak tree, pursuant to County Code Section 22.44.1340.B.3.c. A variance is also required for structures that occupy more than 50 percent of the linear frontage of a parcel fronting a scenic route. (County Code Section 22.44.2040.C.1.) Because an OWTS seepage pit is proposed less than 50 feet from an oak tree and the residence would occupy more than 50 percent of the parcel frontage, the Project requires a variance for both deviations from the development standards of the Santa Monica Mountains Local Implementation Program ("LIP").
5. The Project Site is located within the Rural Village land use designation of the Santa Monica Mountains Local Coastal Program ("SMMLCP") Land Use Policy Map, a component of the General Plan. The Project Site is located in the Malibu Zoned District and is zoned R-C-1. Pursuant to County Code Section 22.44.1750, a single-family residence is a principal permitted use within the R-C Zone.
6. Surrounding zoning within a 500-foot radius of the Project Site includes:
 - North: R-C-1 and R-C-10,000 (Rural Coastal—10,000-Square-Foot Minimum Required Area);
 - South: R-C-20 (Rural Coastal—20 Acre Minimum Required Lot Area) and O-S-P (Open Space—Parks);
 - East: R-C-20 and O-S-P; and
 - West: R-C-1 and R-C-20.
7. Surrounding land uses within a 500-foot radius of the Project Site include:
 - North: Single-family residences and vacant land;
 - South: Vacant land and open space;
 - East: Vacant land and open space; and
 - West: Single-family residences and vacant land.
8. The Project Site is 0.92 gross acres in size and consists of one legal lot, which is irregular in shape with level terrain on its southern portion and steep downward slopes on its central and northern portions. An existing graded pad of approximately 12,000 square feet and drainage structures are located on the southern portion of the of the lot. These were legally developed with CDP

No. 5-83-004, which was approved with the underlying tract map in 1987 (Tract Map No. 38931). A small part of the southwestern portion of the Project Site is mapped as H1 Habitat, with the remainder mapped as H3 Habitat in the Santa Monica Mountains Local Coastal Program Land Use Plan ("LUP"). The majority of the Project Site is within 200 feet of H1 Habitat, which places it within the H1 Habitat Buffer (0-100 feet away) or H1 Quiet Zone (100-200 feet away). Other than the oak trees, the Project Site contains mostly native and non-native grasses.

9. The Project Site would be accessed from Piuma Road, a 65-foot-wide public road and designated scenic route, immediately to the south of the Project Site.
10. The site plan shows the construction of a 4,823-square-foot single-family residence, including a 1,314-square-foot basement, and a 485-square-foot attached garage on the southern portion of the 0.92-acre Project Site. The residence would have a maximum height of 16 feet, seven inches above grade. A total of 537 cubic yards of earth (482 cubic yards cut, 55 cubic yards fill, 427 cubic yards export) would be graded. The Project would also include an OWTS, retaining walls, and other appurtenant facilities on a total building site of 8,680 square feet within the existing graded pad. The building would be accessed by a 100-foot-long paved driveway, which would access Piuma Road to the south. Development from brush clearance and fuel modification would also encroach into the protected zones of 16 coast live oaks. While the majority of the Project Site is mapped as H3 Habitat within the LUP, a small part of its southwestern portion is H1 Habitat, which places the entirety of the Project Site within the H1 Habitat Buffer (0-100 feet away) or H1 Quiet Zone (100-200 feet away). The residence is proposed for a location on the southern portion of the Project Site, within the H1 Habitat Buffer and H1 Quiet Zone. An OWTS seepage pit is also proposed north of the residence in a location less than 50 feet from the dripline of an oak tree. The Project Site has a linear street frontage of 108 feet and a linear development frontage of 90 feet.
11. The case history shows that an earlier version of the Project was submitted as a plot plan, along with plot plans for the Related Projects, prior to the County's adoption of the SMMLCP. These plot plans entailed ministerial reviews that were approved in concept, as the lack of an approved local coastal program meant that the necessary coastal development permits to develop the residences would still have to have been obtained from the California Coastal Commission ("Coastal Commission"). Taken together, the Project and the Related Projects did not qualify for an exemption under the California Environmental Quality Act (Public Resources Code section 21000 et seq.) ("CEQA"), resulting in Environmental Assessment No. 201200258 comprised of a Mitigated Negative Declaration ("MND") and Mitigation Monitoring and Reporting Program ("MMRP"). The MND and MMRP were initially approved but subsequently

appealed to both the Commission and the Board, which upheld the appeal and invalidated the MND and MMRP on September 22, 2015.

12. On April 24, 2019, the Project, along with the Related Projects, was submitted to Regional Planning in its current form. Thereafter, from 2019 to 2011, Regional Planning staff ("Staff") met with the Applicant 11 times to discuss the Project, with a focus on how to resolve issues related to it as submitted by the Applicant. Staff requested that the Project be redesigned to eliminate inconsistencies with LIP standards and reasons for needing the Variance. On August 8, 2021, the ERB reviewed the Project and requested that it be returned with a more comprehensive overview of the Project in conjunction with the Related Projects, including a more detailed analysis of the oak woodlands, and generally a greater effort to be consistent with the LIP. On April 14, 2022, Staff sent a letter to the Applicant requesting several specific changes to the Project and indicated that if the changes were not made, the Project would be scheduled for public hearing with a Staff recommendation of denial. The requested changes included reducing the size and/or changing the location of several of the main residences, relocating the OWTS, and in conjunction with the Related Projects, proposing fewer residences as a whole by merging some of the lots.
13. On May 13, 2022, the Applicant responded to Staff in writing that it would not make additional changes to the Project and Related Projects. The Project thereafter proceeded to hearing before the Hearing Officer on June 7, 2022, as an item for discussion and possible action, at which time the Hearing Officer scheduled a public hearing for the Project on October 4, 2022.
14. Staff received four phone calls and nine letters in opposition over the course of the hearing process for the Project. Issues raised include destruction of sensitive habitat, light pollution, traffic, construction noise, fire hazards, proximity to wildlife, and interference of scenic views from a nearby hiking trail known as the Backbone Trail.
15. Staff consulted with various County departments about the Project and received the following recommendations:
 - A. County Department of Parks and Recreation recommended clearance to public hearing with no conditions through the County's electronic consultation system ("EPIC-LA") on September 29, 2020.
 - B. County Fire Department ("Fire Department") recommended clearance to public hearing with no conditions through EPIC-LA on September 30, 2020.
 - C. County Department of Public Works ("Public Works") recommended denial of the Project due to lack of documentation regarding road boundaries,

road improvements, lines of sight, and earthmoving details in a letter dated February 2, 2021.

- D. County Department of Public Health recommended denial of the Project due to incomplete documentation regarding the OWTS and water service in a letter dated October 27, 2020.
 - E. ERB took no action regarding the Project at a meeting held on August 16, 2021, but recommended that it return with a more comprehensive plan and biological assessment, as well as a redesign to be consistent with the LIP.
16. Because CEQA does not apply to projects which a public agency rejects or disapproves, pursuant to sections 15061 and 15270 of the State CEQA Guidelines (Title 14, Cal. Code Regs., Chapter 3, §§ 15000-15387), there has been no CEQA analysis performed on the Project.
 17. A duly-noticed public hearing was held before the Hearing Officer on October 4, 2022, which was continued to November 1, 2022, to allow the Hearing Officer to conduct a site visit and thoroughly review all documents. At the November 1, 2022, continued public hearing, Staff provided an overview and recommended denial of the Project, and the Applicant's representative spoke in favor of the Project. The Hearing Officer indicated her intent to deny the Project because it failed to meet the development standards of the LIP and because it could not meet the burden of proof required for a variance, and continued the hearing to February 7, 2023, to allow Staff to incorporate directed edits to the denial findings. At the continued hearing on February 7, 2023, the Hearing Officer found that there was nothing preventing the Applicant from redesigning the Project to comply with LIP standards and that, as proposed, the Project did not meet the goals and policies of the LUP. Additionally, as to the Variance request, the Hearing Officer found that the Applicant did not demonstrate that there were unique circumstances or special characteristics of the Project Site that required a variance to preserve substantial property rights therein, nor that it was infeasible to redesign the Project to possibly eliminate the need for a variance altogether. Accordingly, the Hearing Officer closed the public hearing and denied the Project.
 18. The Hearing Officer's decision was timely appealed to the Commission by the Applicant on February 13, 2023. A duly-noticed public hearing was held before the Commission on April 26, 2023, to consider the appeal of the Hearing Officer's denial of the Project. Staff presented the Project in conjunction with the Related Projects, and recommended denial thereof for failure to comply with development standards of the LIP, conflicting with the goals and policies of the LUP, and failing to meet the burden of proof for a variance. Staff emphasized that the Project could be redesigned in a manner to comply with the LIP and LUP and explained that it had ample meetings with the Applicant on numerous occasions throughout

the Project's history where that message was conveyed. Staff pointed out that Applicant has never submitted any revised plans. The Applicant spoke at the public hearing by way of its land use attorney, Michael Shonafelt, who argued that the applicable portions of the LIP and LUP make it impossible to build on any portion of the Project Site. The Applicant did acknowledge that there were good faith efforts between the Applicant and the County and its various departments, including many well-attended meetings, to find a feasible path forward to develop the Project and Related Projects. However, the Applicant concluded that the 200-foot fuel modification radius required by the Fire Department would result in vegetation removal within H1 Habitat, which is prohibited by the LIP. The Applicant summarized its position by asserting that the Project Site is essentially unbuildable, as even building a "broom closet" would result in impacts on H1 Habitat due to the fuel modification requirement.

19. At the Commission's public hearing, there was public comment opposing the Project. A total of four constituents voiced their opposition based primarily on the Project's lack of compliance with the SMMLCP and allegations that the Applicant was trying to skirt County requirements to build "mega-mansions" in violation of the SMMLCP. The public comments urged the Commission to uphold the Hearing Officer's denial of the Project. Upon conclusion of public comment, the Commission asked Staff to clarify the categories of variances for the Project and Related Projects being requested, and the total count thereof. Staff clarified that for all 15 minor CDP requests by the Applicant across 16 lots, including the Project, there are six categories of variance requests, and a total of 12 variance requests. The Commission generally commented that such an amount of variance requests was irregular and unprecedented. It recognized the efforts of both the Applicant and Staff over the year to meet and confer to resolve the issues, but indicated that the Project does not meet the standards required by the SMMLCP as proposed, and then moved to close the public hearing and denied the Project (and Related Projects).
20. The Commission's denial of the Project was timely appealed by the Applicant on April 28, 2023. The Board held its duly-noticed public hearing on the appeal of the Commission's decision on September 19, 2023, and, like the Commission, held it in conjunction with the Applicant's Related Projects for 14 other similar minor CDP and variance applications to build 15 single-family residences on 16 lots that adjoin and/or are in close proximity to one another in the Monte Nido Rural Village within the Santa Monica Mountains Coastal Zone. Regional Planning submitted a written statement to the Board indicating that the Commission's denial of the Project should be upheld because as proposed, the Project does not comply with the development standards required by the LIP, the goals and policies of the LUP, and does not meet the burden of proof required for a variance under the County Code. Additionally, the Director of Regional Planning, Amy Bodek ("Director") was present and provided some additional background

for the Board. She indicated that the Project has been around for a while and predates the County's adoption of the SMMLCP. She explained that since 2018, she has been involved with trying to move the Project along in a collaborative way with the Applicant, as the Project and Related Projects are being proposed on topographically challenging and environmentally sensitive lots that include H1 Habitat, H1 Buffer Zones, buffer zones for oak trees, National Parkland, and streams, in addition to street frontage requirements. She elaborated that Regional Planning has worked closely with the Applicant to find a way for development to occur on each lot in a manner compliant with the SMMLCP and believes there is such a way to do so, which has been conveyed to the Applicant on numerous occasions and involves reducing the size of the Project's proposed single-family residence and its location on the Project Site. The Director explained that a stalemate was reached a couple of years ago, and the Applicant was and is not willing to make any additional changes to the Project. Since that time, numerous indications to the Applicant were made that Regional Planning would have to recommend denial of the Project unless changes were incorporated, but the Applicant has elected not to modify the Project, signifying that the Applicant has accepted proceeding to denial of the Project. Accordingly, the Director requested that the Board uphold the Commission's denial of the Project, and reiterated to the Board that there is economic use of the Project Site with a redesign that is consistent with SMMLCP.

21. After the Director spoke at the Board's public hearing, attorney for the Applicant, Michael Shonafelt, was given the opportunity to speak. Mr. Shonafelt, who also appeared for the Applicant at the Commission's public hearing, mostly repeated what he presented at that prior public hearing, the primary point being that due to the 200-foot radius for fuel modification required by the Fire Department and the fact that such a radius would impede into H1 Habitat, development of the Project Site and Related Projects, it is not feasible. Per Mr. Shonafelt, "you could build a broom closet... and it is going to touch H1." In sum, it was his position that the SMMLCP effectively takes away the Applicant's properties, including the Project Site, as it is the Applicant's position that nothing can be built on the lots even though they are zoned for residential use. Mr. Shonafelt also wanted to make clear that the Applicant's team did do their "homework" and refutes any allegation that the Applicant has been uncooperative, as he and the Applicant team have met with County Staff on numerous occasions to try and resolve the issues preventing approval. However, the Applicant indicated that they heard from the Fire Department that they would not allow modifications to the fuel modification radius for H1, and decided it was futile to try and redesign the Project because doing so takes a lot of time and money.
22. There was ample public comment at the Board's public hearing of the Project. Of 15 total public comments, 13 were in opposition to the Project, and 2 were

seemingly neutral but questioned the governmental process for approval of projects involving the SMMLCP. The comments in opposition to the Project mostly centered on how the Project and Related Projects simply ran afoul of the SMMLCP requirements, as evidenced by the number of variances being requested, and pointed out how unique the Santa Monica Mountains are and that development therein must comply with SMMLCP, which was the byproduct of a long process that involved ample community input and which is tailored to address the specific needs of the region. The opponents also emphasized that development could occur if the projects would simply reduce the size of the proposed primary residences, which should be achievable since they are "mega mansions." Additionally, there was praise for the Staff for doing their best to work with the Applicant, and for the Commission in upholding the requirements of the SMMLCP.

23. After hearing from Regional Planning, the Applicant, and the public, the Board addressed the Project and emphasized that the SMMLCP prevents development of the Project and Related Projects as proposed, and repeated that the Director has indicated that housing can be developed on the Project Site. The Board indicated that SMMLCP is intended to protect the safety of the region, especially in light of the fire tragedies in the area. In response to the Applicant's claim that nothing can be built on the lots, the Board then specifically asked the Applicant if they are interested in revisiting a redesign of the Project and the Related Projects in light of the testimony to the contrary heard before the Board; to which, Mr. Shonafelt responded once again that due to fuel modification requirements, not even a "broom closet" could be built on the Project Site. He concluded that any such attempt would be futile as it would not be allowed under the SMMLCP. The Board then turned to the Director, who refuted the repeated contention that the fuel modification zone cannot be modified, as it has been modified in the Coastal Zone before, and that economic value for each of the Applicant's lots can be achieved. She reminded the Board that the proposed homes (for the Project and Related Projects) are very large, ranging from 4,500 to 6,400 square feet in size, for an average of 5,300 square feet; therefore, a reduction in their size would allow for the construction of something larger than a "broom closet" and smaller than 5,300 square feet. Finally, she assured the Board that there is an ability to modify the fuel modification zone with the Fire Department because it has been done before to allow development throughout the Santa Monica Mountains. Upon hearing the additional testimony from the Applicant and Regional Planning, the Board repeated that the SMMLCP was not adopted to prevent development of housing, but it ensures orderly development that also protects the safety of the unique region, which features very sensitive biological habitat and significant risk of wildfire. The Board recognized the efforts of the Staff throughout the years, which included ample meetings with the Applicant's team, and various attempts to urge the Applicant to redesign the Project to one

that is viable and respects the SMMLCP. However, the Board indicated that the Applicant here has chosen to ignore the guidance of Regional Planning, instead requesting an unprecedented number of variances to develop the Project and Related Projects without regard to the County's rules and processes and has refused yet again at the Project's public hearing to redesign the Project to meet SMMLCP requirements. The Board then closed the public hearing, denied the appeal, and voted in favor of upholding the Commission's denial of the Project.

24. The Board finds the Project is not consistent with the LUP. The Rural Village land use designation is intended for single-family residential uses on relatively small lots. Although a single-family residence is specifically listed as a principal permitted use under this designation, the Project's overall size and proposed plans, which include a building site area of 8,680 square feet, are not consistent with the policies of the LUP, as identified in the subsections hereunder. The Project's large square footage and footprint would result in development that would extend into the H1 Quiet Zone, as well as fuel modification and brush clearance that would extend into H1 Habitat (oak woodland) and the H1 Habitat Buffer. Additionally, the Project's large footprint and square footage result in a design that is not protective of surrounding landforms by failing to preserve H1 Habitat areas in a more natural state, which is inconsistent with policies regarding the protection of Scenic Resource Areas, as well as those prioritizing protection of sensitive habitats, natural vegetation, and natural resources over development. Finally, when paired with its proximity to Piuma Road, which is a designated scenic route, the Project also results in unnecessary visual impacts to the surrounding area. The Project is not consistent with the following policies of the LUP:

A. Conservation and Open Space Element:

- i. Policy CO-41 – New non-resource-dependent development shall be prohibited in H1 Habitat areas to protect these most sensitive environmental resource areas from disruption of habitat values. The only exception is that two uses may be approved in H1 Habitat other than wetlands in very limited circumstances, as follows: (1) Public Works projects required to repair or protect existing public roads when there is no feasible alternative, as long as impacts to H1 Habitat are avoided to the maximum extent feasible, and unavoidable impacts are minimized and mitigated; and (2) an access road to a lawfully-permitted use outside H1 Habitat when there is no other feasible alternative to provide access to public recreation areas or development on a legal parcel, as long as impacts to H1 Habitat are avoided to the maximum extent feasible, and unavoidable impacts are minimized and mitigated. Any new development approved for one of these two uses within woodland

or savannah habitat shall protect native trees in accordance with Policy CO-99. The County shall not approve the development of any non-resource-dependent use other than these two uses within H1 Habitat, unless such use has first been considered in an SMMLCP amendment that is certified by the Coastal Commission. The Project's large square footage and footprint would result in fuel modification and brush clearance that would extend into H1 Habitat (oak woodland).

- ii. Policy CO-57 – New non-resource-dependent development shall also provide an additional 100-foot "Quiet Zone" from H1 Habitat where feasible (measured from the outer edge of the 100-foot H1 Habitat Buffer required above). New development is not permitted in the H1 Habitat Quiet Zone except resource-dependent uses, non-irrigated fuel modification required by the Fire Department for lawfully-established structures, and the following other uses in very limited circumstances: (1) Public Works projects required to protect existing public roads when there is no feasible alternative, as long as impacts to H1 Habitat and the H1 Buffer are avoided to the maximum extent feasible, and unavoidable impacts are minimized and mitigated; (2) an access road to a lawfully-permitted use when there is no other feasible alternative to provide access to public recreation areas or development on a legal parcel, as long as impacts to H1 Habitat and H1 Buffer are avoided to the maximum extent feasible, and unavoidable impacts are minimized and mitigated; and (3) a development on a lawfully-created parcel that is the minimum development necessary to provide a reasonable economic use of the property and where there is no feasible alternative, as long as impacts to H1 Habitat and H1 Buffer are avoided to the maximum extent feasible, and unavoidable impacts are minimized and mitigated. The Project's large square footage and footprint would result in development that would extend into the H1 Quiet Zone, as well as fuel modification and brush clearance that would extend into the H1 Habitat Buffer. It has not been demonstrated that such development is necessary to provide a reasonable economic use of this property, or that there is no feasible alternative to develop the site.
- iii. Policy CO-66 – Protection of H1 and H2 Habitats and public access shall take priority over other development standards, and where there is any conflict between general/other development standards and the biological resource and/or public access protection provisions, the standards that are most protective of H1 and H2 Habitats and public access shall have precedence. The

Project's large footprint and square footage result in a design that is not protective of surrounding landforms by failing to preserve H1 and H2 Habitat areas in a more natural state.

- iv. Policy CO-109 – Site and design new development to protect natural features, and minimize removal of natural vegetation. The Project's large footprint and square footage result in a design that does not prioritize protection of sensitive habitats, natural vegetation, and natural resources over development.
- v. Policy CO-124 – The Santa Monica Mountains contain scenic resources of regional and national importance. The scenic and visual qualities of these resources shall be protected and, where feasible, enhanced. The Project's large footprint and square footage result in a design that is not protective of surrounding landforms by failing to preserve H1 Habitat areas in a more natural state, which is inconsistent with policies regarding the protection of Scenic Resource Areas.
- vi. Policy CO-125 – Protect public views within Scenic Areas and throughout the Coastal Zone. Places on, along, within, or visible from Scenic Routes, public parklands, public trails, beaches, and state waters that offer scenic vistas of the mountains, canyons, coastline, beaches, and other unique natural features are considered Scenic Resource Areas. Scenic Resource Areas do not include areas that are largely developed such as existing, predominantly built-out residential subdivisions. Scenic Resource Areas also include scenic resources (identified on Map 3 of the LUP) and consist of Scenic Elements, Significant Ridgelines, and Scenic Routes as well as public parkland and recreation areas (identified on Map 4 of the LUP). The Project's large footprint and square footage result in a design that is not protective of surrounding landforms by failing to preserve H1 Habitat areas in a more natural state, which is inconsistent with policies regarding the protection of Scenic Resource Areas.
- vii. Policy CO-126 – Maintain and enhance the quality of vistas along identified Scenic Routes. The Project violates this policy as the Project's two-story primary residence would degrade the quality of vistas along Piuma Road, which is a Scenic Route.
- viii. Policy CO-131 – Site and design new development to minimize adverse impacts on scenic resources to the maximum extent feasible. If there is no feasible building site location on the proposed Project Site where development would not be visible,

then the development shall be sited and designed to minimize impacts on scenic areas through measures that may include, but not be limited to, siting development in the least visible portion of the site, breaking up the mass of new structures, designing structures to blend into the natural hillside setting, restricting the building maximum size, reducing maximum height, clustering development, minimizing grading, incorporating landscape and building material screening elements, and where appropriate, berming. The Project's large footprint and square footage result in a design that is not protective of surrounding landforms by failing to preserve H1 Habitat areas in a more natural state, which is inconsistent with policies regarding the protection of Scenic Resource Areas. Development is neither sited in the least visible portion of the Project Site, nor is development clustered or building size restricted.

B. Land Use Element:

Policy LU-33 – Require that new developments be compatible with the rural character of the area and the surrounding natural environment. The Project's large square footage and footprint would result in development that would extend into the H1 Habitat Buffer and H1 Quiet Zone, as well as fuel modification and brush clearance that would extend into H1 Habitat (oak woodland). The Project's large footprint and square footage, as well as an OWTS within 50 feet of an oak tree, result in a design that is not protective of surrounding landforms by failing to preserve H1 Habitat areas in a more natural state. This would also not be consistent with policies regarding the protection of Scenic Resource Areas. The Project's design, when paired with its proximity to Piuma Road, a designated scenic route, would result in unnecessary visual impacts to the surrounding area.

25. The Board finds the Project is not consistent with the standards for development in sensitive habitats identified in Subsections C to E of County Code Section 22.44.1890. The Project Site is designated as H1 Habitat and H3 Habitat by the LUP. While all construction would occur within H3 Habitat, impacts from the development would be located within the H1 Quiet Zone and H1 Habitat Buffer. The Project would also result in required fuel modification within H1 Habitat. Per the requirements of the LIP, no development, except for access driveways and resource-dependent uses, is permitted in H1 Habitat (County Code Section 22.44.1890.C). Because habitable structures are proposed less than 200 feet from H1 Habitat (oak woodland) to the west, fuel modification is required within this area by the approved fuel modification plan. Therefore, the Project design is not compatible with surrounding environmental resources, as it would result in development of H1 Habitat.

26. The Board finds the Project impermissibly proposes development within the H1 Habitat Buffer and H1 Quiet Zone as the LIP only allows residential development if all the criteria of County Code Section 22.44.1890.D.8 for H1 Habitat Buffer and County Code Section 22.44.1890.E.12 for H1 Quiet Zone (which are identical) are met. As proposed, the Project is comprised of a 4,283-square-foot single-family residence reducing the square footage of the proposed residence would provide a greater buffer between the development and the H1 Habitat area, while still providing reasonable economic use of the property. Accordingly, the development is not the minimum development necessary to provide reasonable economic use of the Project Site as required by County Code Sections 22.44.1890.D.8.b and 22.44.1890.E.12.b.
27. The Board finds the LIP specifically prohibits OWTS seepage pits or leach fields to be placed within 50 feet of the dripline of an oak tree. (County Code Section 22.44.1340.B.3.c.) There are several locations on the Project Site located more than 50 feet from oaks or other native trees, and the applicant has not provided documentation that these alternative locations are unsuitable for OWTS seepage pits. Thus, it has not been demonstrated that the Variance is necessary due to special characteristics of the lot or to preserve a substantial property right.
28. The Board finds the proposed development is not in conformity with the certified local coastal program. As proposed, the Project would not comply with all applicable development standards for residences in the SMMLCP, which includes the LUP and LIP, specifically those standards related to habitat categories, Scenic Resource Areas, and OWTS standards.
29. The Board finds any development located between the nearest public road and the 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.
30. The Board finds there are no special circumstances or exceptional characteristics applicable to the property involved, such as size, shape, topography, location, or surroundings, which are not generally applicable to other properties in the same vicinity and under identical zoning classification. It has not been demonstrated that OWTS seepage pits cannot be placed in a location more than 50 feet from the dripline of an oak tree.
31. The Board finds the Variance is unnecessary for the preservation of a substantial property right of the Applicant such as that possessed by owners of other properties in the same vicinity and zone. It has not been demonstrated that OWTS seepage pits cannot be placed in a location more than 50 feet from the dripline of an oak tree.

32. The Board finds the granting of the Variance will be materially detrimental to the public welfare or be injurious to other property or improvements in the same vicinity and zone. The proposed OWTS location results in greater development near oak trees, which would detrimentally affect the public welfare and other properties by degrading scenic and biological resources.
33. The Board finds the granting of the Variance will be materially detrimental to coastal resources. The proposed OWTS location results in greater development near oak trees, which would detrimentally affect coastal resources by degrading scenic and biological resources.
34. The Board finds CEQA does not apply to the Project, pursuant to sections 15061 and 15270 of the State CEQA Guidelines (Title 14, Cal. Code Regs., Chapter 3, §§ 15000-15387), because CEQA does not apply to projects that a public agency rejects or disapproves.
35. The Board finds, pursuant to County Code Section 22.44.990, the community was properly notified of the Board's public hearing of the Project by mail, newspaper (Los Angeles Bulletin), and property posting. Additionally, the Project was noticed, and case materials were available on the Regional Planning's website. On August 17, 2023, a total of 134 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.
36. 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 the 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, Department of Regional Planning.

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

Regarding the Minor CDP:

- A. The proposed Project is not in conformity with the SMMCLP;

Regarding the Variance:

- B. There are no special circumstances or exceptional characteristics applicable to Project Site, such as size, shape, topography, location, or surroundings, which are not generally applicable to other properties in the same vicinity and under identical zoning classification;
- C. The Variance is unnecessary for the preservation of a substantial property right of the Applicant such as that possessed by owners of other properties in the same vicinity and zone;

- D. The granting of the Variance will be materially detrimental to the public welfare or be injurious to other property or improvements in the same vicinity and zone; and
- E. The granting of the Variance will be materially detrimental to coastal resources.

THEREFORE, THE BOARD OF SUPERVISORS:

1. Finds the Project is exempt from CEQA, pursuant to State CEQA Guidelines sections 15061 and 15270 (projects which are rejected or disapproved);
2. Denies the appeal of the Project;
3. Denies Minor CDP No. RPPL2019-002479-(3); and
4. Denies Variance No. RPPL2019-002480-(3).

**FINDINGS OF THE BOARD OF SUPERVISORS
AND ORDER
PROJECT NO. 2019-000686-(3)
MINOR COASTAL DEVELOPMENT PERMIT NO. RPPL2019-002885-(3)
VARIANCE NO. RPPL2019-002886-(3)**

1. The Los Angeles County ("County") Board of Supervisors ("Board") conducted a duly-noticed public hearing on September 19, 2023, in the matter of Project No. 2019-000686-(3), consisting of Minor Coastal Development Permit ("CDP") No. RPPL2019-002885-(3) (the "Minor CDP"), and Variance No. RPPL2019-002886-(3) ("Variance"). The Board held public hearing in conjunction with 14 other related and similar minor CDP and variance applications to build 15 single-family residences on 16 lots that adjoin and/or are in close proximity to one another in the Monte Nido Rural Village within the Santa Monica Mountains Coastal Zone (hereinafter referred to as the "Related Projects"), comprised of minor CDP nos. RPPL2019-002073-(3), RPPL2019-002474-(3), RPPL2019-002479-(3), RPPL2019-002887-(3), RPPL2019-001222-(3), RPPL2019-003431-(3), RPPL2019-003435-(3), RPPL2019-003852-(3), RPPL2019-003854-(3), RPPL2019-004230-(3), RPPL2019-004232-(3), RPPL2019-004674-(3), RPPL2019-004677-(3), and RPPL2019-004678-(3); and variance nos. RPPL2019-002074-(3), RPPL2019-002475-(3), RPPL2019-002480-(3), RPPL2019-002888-(3), RPPL2019-001224-(3), RPPL2019-003432-(3), RPPL2019-003436-(3), RPPL2019-003853-(3), RPPL2019-003855-(3), RPPL2019-004231-(3), and RPPL2019-004675-(3)). The County Regional Planning Commission ("Commission") previously conducted a duly-noticed public hearing on the Minor CDP and Variance on April 26, 2023. Prior to the Commission's hearing, a public hearing was also held before the County Department of Regional Planning ("Regional Planning") Hearing Officer ("Hearing Officer") on October 4, 2022, which was continued to November 1, 2022, and February 7, 2023.
2. The applicant, California Pacific Homes ("Applicant"), requests the Minor CDP and Variance to authorize the construction of a 4,100-square-foot single-family residence, a 525-square-foot guest house, and an on-site wastewater treatment system ("OWTS") ("Project") on a 0.93-acre property located on the north side of Piuma Road (Assessor's Parcel Number 4456-038-004) in the Monte Nido Rural Village of the Santa Monica Mountains Coastal Zone ("Project Site"). The guest house would share the OWTS with the main residence, and an OWTS seepage pit would be located less than 50 feet from an oak tree. The residence would also occupy more than 50 percent of the linear frontage of Piuma Road—a designated scenic route. A total of 459 cubic yards of earth (459 cubic yards cut, all exported) would be graded. The Project would result in new fuel modification or brush clearance within the protected zones of 10 oak trees.

3. The Project requires coastal development permit to construct a single-family residence and an OWTS in the R-C-1 (Rural Coastal—One-Acre Minimum Required Lot Area) Zone, pursuant to Los Angeles County Code ("County Code") Section 22.44.810, and a minor CDP is required for any project that requires Environmental Review Board ("ERB") review (County Code Sections 22.44.860 and 22.44.940). The residence would result in development less than 200 feet from H1 Habitat and thus requires ERB review. A minor CDP is also required for any project that results in the encroachment into the protected zone of any oak tree (County Code Section 22.44.950). As currently proposed, new fuel modification or brush clearance to occur within the protected zones of 10 oak trees.

4. The Project requires a variance for construction of an OWTS seepage pit or leach field within 50 feet of an oak tree, pursuant to County Code Section 22.44.1340.B.3.c. A variance is also required to permit a habitable accessory structure that shares an OWTS with the primary residence (County Code Section 22.44.1370.D.8) and to permit a structure that occupies more than 50 percent of the linear frontage of a parcel fronting a scenic route. (County Code Section 22.44.2040.C.1.) Finally, County Code Section 22.44.1910.I restricts the building site area for new residential development to 10,000 square feet. Because the guest house would share an OWTS with the primary residence, an OWTS seepage pit is proposed less than 50 feet from an oak tree, the residence would occupy more than 50 percent of the parcel frontage, and the building site area is greater than 10,000 square feet, the Project requires a variance for all deviations from the Santa Monica Mountains Local Implementation Program ("LIP").

5. The Project Site is located within the Rural Village land use designation of the Santa Monica Mountains Local Coastal Program ("SMMLCP") Land Use Policy Map, a component of the General Plan. The Project Site is located in the Malibu Zoned District and is zoned R-C-1. Pursuant to County Code Section 22.44.1750, a single-family residence is a principal permitted use within the R-C Zone.

6. Surrounding zoning within a 500-foot radius of the Project Site includes:

North:	R-C-1 and, R-C-10,000 (Rural Coastal—10,000-Square-Foot Minimum Required Area);
South:	R-C-20 (Rural Coastal—20 Acre Minimum Required Lot Area) and O-S-P (Open Space—Parks);
East:	R-C-20 and O-S-P; and
West:	R-C-1 and R-C-20.

7. Surrounding land uses within a 500-foot radius of the Project Site include:
 - North: Single-family residences and vacant land;
 - South: Vacant land and open space;
 - East: Vacant land and open space; and
 - West: Single-family residences and vacant land.
8. The Project Site is 0.93 gross acres in size and consists of one legal lot, which is generally rectangular in shape with level terrain on its southern portion and steep downward slopes on its central and northern portions. An existing graded pad of approximately 12,000 square feet and drainage structures are located on the southern portion of the of the lot. These were legally developed with CDP No. 5-83-004, which was approved with the underlying tract map in 1987 (Tract Map No. 38931). While the Project Site is mapped as H3 Habitat in the Santa Monica Mountains Local Coastal Program Land Use Plan ("LUP"), most of the Project Site is within 200 feet of H1 Habitat to the west within the H1 Quiet Zone (100-200 feet away). Other than the oak trees, the Project Site contains mostly native and non-native grasses.
9. The Project Site would be accessed from Piuma Road, a 65-foot-wide public road and designated scenic route, immediately to the south of the Project Site.
10. The site plan shows the construction of a 4,100-square-foot single-family residence, a 769-square-foot attached garage, and a 525-square-foot guest house on the southern portion of the 0.93-acre Project Site. The residence would have a maximum height of 16 feet, five inches above grade. A total of 459 cubic yards of earth (459 cubic yards cut, all exported) would be graded. The Project would also include one OWTS, retaining walls, and other appurtenant facilities on a total building site of 11,550 square feet within the existing graded pad. The building would be accessed by a 45-foot-long paved driveway, which would access Piuma Road to the south. Development from new brush clearance and fuel modification would also encroach into the protected zones of 10 coast live oaks. While the entirety of the Project Site is mapped as H3 Habitat within the LUP, a majority of the Project Site is within the H1 Quiet Zone (100-200 feet away). The residence is proposed for a location on the southern portion of the Project Site within the H1 Quiet Zone, although the guest house, located to the southwest of the residence, is not. An OWTS seepage pit is also proposed north of the residence in a location less than 50 feet from the dripline of an oak tree. The Project Site has a linear street frontage of 104 feet and a linear development frontage of 83 feet.
11. The case history shows that an earlier version of the Project was submitted as a plot plan, along with plot plans for the Related Projects, prior to the County's adoption of the SMMLCP. These plot plans entailed ministerial reviews that were approved in concept, as the lack of an approved local coastal program meant

that the necessary coastal development permits to develop the residences would still have to have been obtained from the California Coastal Commission ("Coastal Commission"). Taken together, the Project and the Related Projects did not qualify for an exemption under the California Environmental Quality Act (Public Resources Code section 21000 et seq.) ("CEQA"), resulting in Environmental Assessment No. 201200258 comprised of a Mitigated Negative Declaration ("MND") and Mitigation Monitoring and Reporting Program ("MMRP"). The MND and MMRP were initially approved but subsequently appealed to both the Commission and the Board, which upheld the appeal and invalidated the MND and MMRP on September 22, 2015.

12. On May 15, 2019, the Project, along with the Related Projects, was submitted to Regional Planning in its current form. Thereafter, from 2019 to 2011, Regional Planning staff ("Staff") met with the Applicant 11 times to discuss the Project, with a focus on how to resolve issues related to it as submitted by the Applicant. Staff requested that the Project be redesigned to eliminate inconsistencies with LIP standards and reasons for needing the Variance. On August 8, 2021, the ERB reviewed the Project and requested that it be returned with a more comprehensive overview of the Project in conjunction with the Related Projects, including a more detailed analysis of the oak woodlands, and generally a greater effort to be consistent with the LIP. On April 14, 2022, Staff sent a letter to the Applicant requesting several specific changes to the Project and indicated that if the changes were not made, the Project would be scheduled for public hearing with a Staff recommendation of denial. The requested changes included removing the habitable accessory structure (guest house), reducing the size and/or changing the location of several of the main residences, relocating the OWTS, and in conjunction with the Related Projects, proposing fewer residences as a whole by merging some of the lots.
13. On May 13, 2022, the Applicant responded to Staff in writing that it would not make additional changes to the Project and Related Projects. The Project thereafter proceeded to hearing before the Hearing Officer on June 7, 2022, as an item for discussion and possible action, at which time the Hearing Officer scheduled a public hearing for the Project on October 4, 2022.
14. Staff received four phone calls and nine letters of opposition over the course of the hearing process for the Project. Issues raised include destruction of sensitive habitat, light pollution, traffic, construction noise, fire hazard, proximity to wildlife, and interference of scenic views from the Backbone Trail.
15. Staff consulted with various County departments about the Project and received the following recommendations:

- A. County Department of Parks and Recreation recommended clearance to public hearing with no conditions through the County's electronic consultation system ("EPIC-LA") on September 29, 2020.
 - B. County Fire Department ("Fire Department") recommended clearance to public hearing with no conditions through EPIC-LA on September 30, 2020.
 - C. County Department of Public Works ("Public Work") recommended denial of the Project due to lack of documentation regarding road boundaries, road improvements, lines of sight, and earthmoving details in a letter dated February 3, 2021.
 - D. County Department of Public Health ("Public Health") recommended denial of the Project due to the sharing of an OWTS between a single-family residence and habitable accessory structure in a letter dated October 27, 2020.
 - E. ERB took no action regarding the Project at a meeting held on August 16, 2021, but recommended that it return with a more comprehensive plan and biological assessment, as well as a redesign to be consistent with the LIP.
16. Because CEQA does not apply to projects which a public agency rejects or disapproves, pursuant to sections 15061 and 15270 of the State CEQA Guidelines (Title 14, Cal. Code Regs., Chapter 3, §§ 15000-15387), there has been no CEQA analysis performed on the Project.
17. A duly-noticed public hearing was held before the Hearing Officer on October 4, 2022, which was continued to November 1, 2022, to allow the Hearing Officer to conduct a site visit and thoroughly review all documents. At the November 1, 2022, continued public hearing, Staff provided an overview and recommended denial of the Project, and the Applicant's representative spoke in favor of the Project. The Hearing Officer indicated her intent to deny the Project because it failed to meet the development standards of the LIP and because it could not meet the burden of proof required for a variance, and continued the hearing to February 7, 2023, to allow Staff to incorporate directed edits to the denial findings. At the continued hearing on February 7, 2023, the Hearing Officer found that there was nothing preventing the Applicant from redesigning the Project to comply with LIP standards and that, as proposed, the Project did not meet the goals and policies of the LUP. Additionally, as to the Variance request, the Hearing Officer found that the Applicant did not demonstrate that there were unique circumstances or special characteristics of the Project Site that required a variance to preserve substantial property rights therein, nor that it was infeasible to redesign the Project to possibly eliminate the need for a variance altogether. Accordingly, the Hearing Officer closed the public hearing and denied the Project.

18. The Hearing Officer's decision was timely appealed to the Commission by the Applicant on February 13, 2023. A duly-noticed public hearing was held before the Commission on April 26, 2023, to consider the appeal of the Hearing Officer's denial of the Project. Staff presented the Project in conjunction with the Related Projects, and recommended denial thereof for failure to comply with development standards of the LIP, conflicting with the goals and policies of the LUP, and failing to meet the burden of proof for a variance. Staff emphasized that the Project could be redesigned in a manner to comply with the LIP and LUP and explained that it had ample meetings with the Applicant on numerous occasions throughout the Project's history where that message was conveyed. Staff pointed out that the Applicant has never submitted any revised plans. The Applicant spoke at the public hearing by way of its land use attorney, Michael Shonafelt, who argued that the applicable portions of the LIP and LUP make it impossible to build on any portion of the Project Site. The Applicant did acknowledge that there were good faith efforts between the Applicant and the County and its various departments, including many well-attended meetings, to find a feasible path forward to develop the Project and Related Projects. However, the Applicant concluded that the 200-foot fuel modification radius required by the Fire Department would result in vegetation removal within H1 Habitat, which is prohibited by the LIP. The Applicant summarized its position by asserting that the Project Site is essentially unbuildable, as even building a "broom closet" would result in impacts on H1 Habitat due to the fuel modification requirement.
19. At the Commission's public hearing, there was public comment opposing the Project. A total of four constituents voiced their opposition based primarily on the Project's lack of compliance with the SMMLCP and allegations that the Applicant was trying to skirt County requirements to build "mega-mansions" in violation of the SMMLCP. The public comments urged the Commission to uphold the Hearing Officer's denial of the Project. Upon conclusion of public comment, the Commission asked Staff to clarify the categories of variances for the Project and Related Projects being requested, and the total count thereof. Staff clarified that for all 15 minor CDP requests by the Applicant across 16 lots, including the Project, there are six categories of variance requests, and a total of 12 variance requests. The Commission generally commented that such an amount of variance requests was irregular and unprecedented. It recognized the efforts of both the Applicant and Staff over the year to meet and confer to resolve the issues but indicated that the Project does not meet the standards required by the SMMLCP as proposed, and then moved to close the public hearing and denied the Project (and Related Projects).
20. The Commission's denial of the Project was timely appealed by the Applicant on April 28, 2023. The Board held its duly-noticed public hearing on the appeal of the Commission's decision on September 19, 2023, and, like the Commission, held it in conjunction with the Applicant's Related Projects for 14 other similar

minor CDP and variance applications to build 15 single-family residences on 16 lots that adjoin and/or are in close proximity to one another in the Monte Nido Rural Village within the Santa Monica Mountains Coastal Zone. Regional Planning submitted a written statement to the Board indicating that the Commission's denial of the Project should be upheld because as proposed, the Project does not comply with the development standards required by the LIP, the goals and policies of the LUP, and does meet the burden of proof required for a variance under the County Code. Additionally, the Director of Regional Planning, Amy Bodek ("Director") was present and provided some additional background for the Board. She indicated that the Project has been around for a while and predates the County's adoption of the SMMLCP. She explained that since 2018, she has been involved with trying to move the Project along in a collaborative way with the Applicant, as the Project and Related Projects are being proposed on topographically challenging and environmentally sensitive lots that include H1 Habitat, H1 Buffer Zones, buffer zones for oak trees, National Parkland, and streams, in addition to street frontage requirements. She elaborated that Regional Planning has worked closely with the Applicant to find a way for development to occur on each lot in a manner compliant with the SMMLCP and believes there is such a way to do so, which has been conveyed to the Applicant on numerous occasions and involves reducing the size of the Project's proposed single-family residence and its location on the site. The Director explained that a stalemate was reached a couple of years ago, and the Applicant was and is not willing to make any additional changes to the Project. Since that time, numerous indications to the Applicant were made that Regional Planning would have to recommend denial of the Project unless changes were incorporated, but the Applicant has elected not to modify the Project, signifying that the Applicant has accepted proceeding to denial of the Project. Accordingly, the Director requested that the Board uphold the Commission's denial of the Project, and reiterated to the Board that there is economic use of the Project Site with a redesign that is consistent with SMMLCP.

21. After the Director spoke at the Board's public hearing, Attorney for the Applicant, Michael Shonafelt, was given the opportunity to speak. Mr. Shonafelt, who also appeared for the Applicant at the Commission's public hearing, mostly repeated what he presented at that prior public hearing, the primary point being that due to the 200-foot radius for fuel modification required by the Fire Department and the fact that such a radius would impede into H1 Habitat, development of the Project Site and Related Projects, it is not feasible. Per Mr. Shonafelt, "you could build a broom closet... and it is going to touch H1." In sum, it was his position that the SMMLCP effectively takes away the Applicant's properties, including the Project Site, as it is the Applicant's position that nothing can be built on the lots even though they are zoned for residential use. Mr. Shonafelt also wanted to make clear that the Applicant's team did do their "homework" and refutes any allegation

that the Applicant has been uncooperative, as he and the Applicant team have met with County Staff on numerous occasions to try and resolve the issues preventing approval. However, the Applicant indicated that they heard from the Fire Department that they would not allow modifications to the fuel modification radius for H1, and decided it was futile to try and redesign the project because doing so takes a lot of time and money.

22. There was ample public comment at the Board's public hearing of the Project. Of 15 total public comments, 13 were in opposition to the Project, and two were seemingly neutral but questioned the governmental process for approval of projects involving the SMMLCP. The comments in opposition to the Project mostly centered on how the Project and Related Projects simply ran afoul of the SMMLCP requirements, as evidenced by the number of variances being requested, and pointed out how unique the Santa Monica Mountains are and that development therein must comply with SMMLCP, which was the byproduct of a long process that involved ample community input and which is tailored to address the specific needs of the region. The opponents also emphasized that development could occur if the projects would simply reduce the size of the proposed primary residences, which should be achievable since they are "mega mansions." Additionally, there was praise for the Staff for doing their best to work with the Applicant, and for the Commission in upholding the requirements of the SMMLCP.

23. After hearing from Regional Planning, the Applicant, and the public, the Board addressed the Project and emphasized that the SMMLCP prevents development of the Project and Related Projects as proposed, and repeated that the Director has indicated that housing can be developed on the Project Site. The Board indicated that SMMLCP is intended to protect the safety of the region, especially in light of the fire tragedies in the area. In response to the Applicant's claim that nothing can be built on the lots, the Board then specifically asked the Applicant if they are interested in revisiting a redesign of the Project and the Related Projects in light of the testimony to the contrary heard before the Board; to which, Mr. Shonafelt responded once again that due to fuel modification requirements, not even a "broom closet" could be built on the Project Site. He concluded that any such attempt would be futile as it would not be allowed under the SMMLCP. The Board then turned to the Director, who refuted the repeated contention that the fuel modification zone cannot be modified, as it has been modified in the Coastal Zone before, and that economic value for each of the Applicant's lots can be achieved. She reminded the Board that the proposed homes (for the Project and Related Projects) are very large, ranging from 4,500 to 6,400 square feet in size, for an average of 5,300 square feet; therefore, a reduction in their size would allow for the construction of something larger than a "broom closet" and smaller than 5,300 square feet. Finally, she assured the Board that there is an

ability to modify the fuel modification zone with the Fire Department because it has been done before to allow development throughout the Santa Monica Mountains. Upon hearing the additional testimony from the Applicant and Regional Planning, the Board repeated that the SMMLCP was not adopted to prevent development of housing, but it ensures orderly development that also protects the safety of the unique region, which features very sensitive biological habitat and significant risk of wildfire. The Board recognized the efforts of the Staff throughout the years, which included ample meetings with the Applicant's team, and various attempts to urge the Applicant to redesign the Project to one that is viable and respects the SMMLCP. However, the Board indicated the Applicant here has chosen to ignore the guidance of Regional Planning, instead requesting an unprecedented number of variances to develop the Project and Related Projects without regard to the County's rules and processes and has refused yet again at the Project's public hearing to redesign the Project to meet SMMLCP requirements. The Board then closed the public hearing, denied the appeal, and voted in favor of upholding the Commission's denial of the Project.

24. The Board finds the Project is not consistent with the LUP. The Rural Village land use designation is intended for single-family residential uses on relatively small lots. Although a single-family residence is specifically listed as a principal permitted use under this designation, the Project's overall size and proposed plans, which include a building site area of 11,550 square feet, are not consistent with the policies of the LUP, as identified in the subsections hereunder. The Project's large square footage and footprint would result in development, including a habitable accessory structure, that would extend into the H1 Quiet Zone, as well as fuel modification and brush clearance that would extend into H1 Habitat (oak woodland) and the H1 Habitat Buffer. Additionally, the Project's large footprint and square footage result in a design that is not protective of surrounding landforms by failing to preserve H1 Habitat areas in a more natural state, which is inconsistent with policies regarding the protection of Scenic Resource Areas, as well as those prioritizing protection of sensitive habitats, natural vegetation, and natural resources over development. Finally, when paired with its proximity to Piuma Road, which is a designated scenic route, the Project also results in unnecessary visual impacts to the surrounding area. The Project is not consistent with the following policies of the LUP:

A. Conservation and Open Space Element:

- i. Policy CO-41 – New non-resource-dependent development shall be prohibited in H1 Habitat areas to protect these most sensitive environmental resource areas from disruption of habitat values. The only exception is that two uses may be approved in H1 Habitat other than wetlands in very limited circumstances, as follows:
(1) Public Works projects required to repair or protect existing

public roads when there is no feasible alternative, as long as impacts to H1 Habitat are avoided to the maximum extent feasible, and unavoidable impacts are minimized and mitigated; and (2) an access road to a lawfully-permitted use outside H1 Habitat when there is no other feasible alternative to provide access to public recreation areas or development on a legal parcel, as long as impacts to H1 Habitat are avoided to the maximum extent feasible, and unavoidable impacts are minimized and mitigated. Any new development approved for one of these two uses within woodland or savannah habitat shall protect native trees in accordance with Policy CO-99. The County shall not approve the development of any non-resource dependent use other than these two uses within H1 Habitat, unless such use has first been considered in an SMMLCP amendment that is certified by the Coastal Commission. The Project's large square footage and footprint would result in fuel modification and brush clearance that would extend into H1 Habitat (oak woodland).

- ii. Policy CO-51 – Where new development is permitted in H2 Habitat pursuant to this SMMLCP, the maximum allowable building site area on parcels shall be 10,000 square feet, or 25 percent of the parcel size, whichever is less. Where new residential development is permitted in H3 Habitat, the maximum allowable residential building site area shall be 10,000 square feet, or 25 percent of the parcel size, whichever is less. The restriction of the building site area to less than the maximum may be required if the native tree protection policies require a smaller area or if it is determined that a smaller building site area would serve to avoid impacts to H1 Habitat areas, substantially minimize grading associated with the project, reduce the need for manufactured slopes, or reduce the need for retaining features visible from scenic areas, public trails, and public lands. The allowable building site area may be increased for projects that qualify for participation in the incentive program of Policy LU-29 or for projects that comprise two adjoining legal lots, if the existing lots are merged into one lot and one consolidated building site is provided with one access road or driveway. The allowable building site area shall not exceed the total of the building site areas allowed for each individual parcel. Adverse impacts to H2 Habitat that cannot be avoided through the implementation of siting and design alternatives shall be accommodated through the Resource Conservation Program pursuant to Policy CO-86a. The Project's overall size and proposed plans, which include a building site area of 11,550 square feet, are not consistent with this policy.

- iii. Policy CO-57 – New non-resource-dependent development shall also provide an additional 100-foot "Quiet Zone" from H1 Habitat where feasible (measured from the outer edge of the 100-foot H1 Habitat buffer required above). New development is not permitted in the H1 Habitat Quiet Zone except resource-dependent uses, non-irrigated fuel modification required by the Fire Department for lawfully-established structures, and the following other uses in very limited circumstances: (1) Public Works projects required to protect existing public roads when there is no feasible alternative, as long as impacts to H1 Habitat and the H1 Buffer are avoided to the maximum extent feasible, and unavoidable impacts are minimized and mitigated; (2) an access road to a lawfully-permitted use when there is no other feasible alternative to provide access to public recreation areas or development on a legal parcel, as long as impacts to H1 Habitat and H1 Buffer are avoided to the maximum extent feasible, and unavoidable impacts are minimized and mitigated; and (3) a development on a lawfully-created parcel that is the minimum development necessary to provide a reasonable economic use of the property and where there is no feasible alternative, as long as impacts to H1 Habitat and H1 Buffer are avoided to the maximum extent feasible, and unavoidable impacts are minimized and mitigated. The Project's large square footage and footprint would result in development, including a habitable accessory structure, that would extend into the H1 Quiet Zone, as well as fuel modification and brush clearance that would extend into the H1 Habitat Buffer. It has not been demonstrated that such development is necessary to provide a reasonable economic use of this property, or that there is no feasible alternative to develop the site.
- iv. Policy CO-66 – Protection of H1 and H2 Habitats and public access shall take priority over other development standards, and where there is any conflict between general/other development standards and the biological resource and/or public access protection provisions, the standards that are most protective of H1 and H2 Habitats and public access shall have precedence. The Project's large footprint and square footage result in a design that is not protective of surrounding landforms by failing to preserve H1 and H2 Habitat areas in a more natural state.
- v. Policy CO-109 – Site and design new development to protect natural features, and minimize removal of natural vegetation. The Project's large footprint and square footage result in a design that

does not prioritize protection of sensitive habitats, natural vegetation, and natural resources over development.

- vi. Policy CO-124 – The Santa Monica Mountains contain scenic resources of regional and national importance. The scenic and visual qualities of these resources shall be protected and, where feasible, enhanced. The Project's large footprint and square footage result in a design that is not protective of surrounding landforms by failing to preserve H1 Habitat areas in a more natural state, which is inconsistent with policies regarding the protection of Scenic Resource Areas.
- vii. Policy CO-125 – Protect public views within Scenic Areas and throughout the Coastal Zone. Places on, along, within, or visible from Scenic Routes, public parklands, public trails, beaches, and state waters that offer scenic vistas of the mountains, canyons, coastline, beaches, and other unique natural features are considered Scenic Resource Areas. Scenic Resource Areas do not include areas that are largely developed such as existing, predominantly built-out residential subdivisions. Scenic Resource Areas also include scenic resources [identified on Map 3 of the LUP] and consist of Scenic Elements, Significant Ridgelines, and Scenic Routes as well as public parkland and recreation areas [identified on Map 4 of the LUP]. The Project's large footprint and square footage result in a design that is not protective of surrounding landforms by failing to preserve H1 Habitat areas in a more natural state, which is inconsistent with policies regarding the protection of Scenic Resource Areas.
- viii. Policy CO-126 – Maintain and enhance the quality of vistas along identified Scenic Routes. The Project violates this policy as the Project's two-story primary residence would degrade the quality of vistas along Piuma Road, which is a Scenic Route.
- ix. Policy CO-131 – Site and design new development to minimize adverse impacts on scenic resources to the maximum extent feasible. If there is no feasible building site location on the proposed project site where development would not be visible, then the development shall be sited and designed to minimize impacts on scenic areas through measures that may include, but not be limited to, siting development in the least visible portion of the site, breaking up the mass of new structures, designing structures to blend into the natural hillside setting, restricting the building maximum size, reducing maximum height, clustering development, minimizing grading, incorporating landscape and building material

screening elements, and where appropriate, berming. The Project's large footprint and square footage result in a design that is not protective of surrounding landforms by failing to preserve H1 Habitat areas in a more natural state, which is inconsistent with policies regarding the protection of Scenic Resource Areas. Development is not sited in the least visible portion of the site, nor is development clustered or building size restricted.

B. Land Use Element:

Policy LU-33 – Require that new developments be compatible with the rural character of the area and the surrounding natural environment. The Project's large footprint and square footage result in a design that is not protective of surrounding landforms by failing to preserve H1 Habitat areas in a more natural state, which is inconsistent with policies regarding the protection of Scenic Resource Areas, as well as those prioritizing protection of sensitive habitats, natural vegetation, and natural resources over development. Finally, when paired with its proximity to Piuma Road, which is a designated scenic route, the Project also results in unnecessary visual impacts to the surrounding area.

25. The Board finds the Project's design is not compatible with surrounding environmental resources, as it would result in development of H1 Habitat. Per the requirements of the LIP, no development, except for access driveways and resource-dependent uses, is permitted in H1 Habitat (County Code Section 22.44.1890.C). Because habitable structures are proposed less than 200 feet from H1 Habitat (oak woodland) to the west, brush clearance will be required within H1 Habitat by the County Agricultural Commissioner.
26. The Board finds the Project impermissibly proposes development within H1 Habitat Buffer and the H1 Quiet Zone. The Project is not consistent with the standards for development in sensitive habitats identified in Subsections C to E of County Code Section 22.44.1890. The Project Site is designated as H3 Habitat by the LUP. While all construction would occur within H3 Habitat, impacts from the development would be located within the H1 Quiet Zone. The Project would also result in required brush clearance within H1 Habitat and H1 Habitat Buffer. The Project proposes a 4,100-square-foot single-family residence and a habitable accessory structure (guest house). Reducing the square footage of the proposed residence would provide a greater buffer between development and the H1 Habitat area. Thus, the development is not the minimum necessary development for the site, as required within an H1 Quiet Zone or H1 Habitat Buffer by the LIP. Therefore, the findings in County Code Sections 22.44.1890.D.8.b and 22.44.1890.E.12.b cannot be met.

27. The Board finds habitable accessory structures are required to have an OWTS separate from the main residence (County Code Section 22.44.1370.D.8). The Public Health's Environmental Health Division, which is responsible for the review of OWTS, has not approved any arrangements for the sharing of an OWTS by both structures. It has also not been demonstrated that the placement of two separate OWTS on the Project Site is infeasible, nor would it be necessary to allow reasonable economic use of the property. Because a single-family residence alone would provide a reasonable economic use, it cannot be demonstrated that a variance for the habitable accessory structure is necessary to preserve a substantial property right.
28. The Board finds the LIP specifically prohibits OWTS seepage pits or leach fields to be placed within 50 feet of the dripline of an oak tree (County Code Section 22.44.1340.B.3.c). There are several locations on the Project Site located more than 50 feet from oaks or other native trees, and the applicant has not provided documentation that these alternative locations are unsuitable for OWTS seepage pits. Thus, it has not been demonstrated that the Variance is necessary due to special characteristics of the lot or to preserve a substantial property right.
29. The Board finds the Variance is required for a building site area greater than 10,000 square feet, per County Code Section 22.44.1910.I. The Project proposes a building site area of 11,550 square feet. There are no special characteristics of the Project Site requiring this, and the building site area could be reduced in size to comply with these sections of the LIP. Thus, it has not been demonstrated that the Variance is necessary due to special characteristics of the lots or to preserve a substantial property right.
30. The Board finds the proposed development is not in conformity with the certified local coastal program. As proposed, the Project would not comply with all applicable development standards for residences in the SMMLCP, which includes the LUP and LIP, specifically those standards related to habitat categories, habitable accessory structures, building site area, Scenic Resource Areas, and OWTS standards.
31. The Board finds any development located between the nearest public road and the 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.
32. The Board finds there are no special circumstances or exceptional characteristics applicable to the property involved, such as size, shape, topography, location, or surroundings, which are not generally applicable to other properties in the same

vicinity and under identical zoning classification. It has not been demonstrated that OWTS seepage pits cannot be placed in a location more than 50 feet from the dripline of an oak tree, and the design of the residence could be modified to reduce the building site area. Also, the proposed habitable accessory structure is not necessary to allow for a reasonable economic use of the property.

33. The Board finds such Variance is unnecessary for the preservation of a substantial property right of the Applicant such as that possessed by owners of other property in the same vicinity and zone. The proposed habitable accessory structure is not necessary to allow for a reasonable economic use of the property. The design of the residence could be modified to reduce the building site area. It has also not been demonstrated that OWTS seepage pits cannot be placed in a location more than 50 feet from the dripline of an oak tree.
34. The Board finds the granting of the Variance will be materially detrimental to the public welfare or be injurious to other property or improvements in the same vicinity and zone. The proposed habitable accessory structure, large building site area, and the OWTS location result in greater development near oak trees, which would detrimentally affect the public welfare and other properties by degrading scenic and biological resources.
35. The Board finds the granting of the Variance will be materially detrimental to coastal resources. The proposed habitable accessory structure, large building site area, and the OWTS location results in greater development near oak trees, which would detrimentally affect coastal resources by degrading scenic and biological resources.
36. The Board finds pursuant to County Code Section 22.44.990, the community was properly notified of the Board's public hearing of the Project by mail, newspaper (Los Angeles Bulletin), and property posting. Additionally, the Project was noticed, and case materials were available on the Regional Planning's website. On August 17, 2023, a total of 134 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.
37. 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 the 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, Department of Regional Planning.

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

Regarding the Minor CDP:

A. The proposed Project is not in conformity with the SMMCLP;

Regarding the Variance:

B. There are no special circumstances or exceptional characteristics applicable to Project Site, such as size, shape, topography, location, or surroundings, which are not generally applicable to other properties in the same vicinity and under identical zoning classification;

C. The Variance is unnecessary for the preservation of a substantial property right of the Applicant such as that possessed by owners of other property in the same vicinity and zone;

D. The granting of the Variance will be materially detrimental to the public welfare or be injurious to other property or improvements in the same vicinity and zone; and

E. The granting of the Variance will be materially detrimental to coastal resources.

THEREFORE, THE BOARD OF SUPERVISORS:

1. Finds the Project is exempt from CEQA, pursuant to State CEQA Guidelines sections 15061 and 15270 (projects which are rejected or disapproved);

2. Denies the appeal of the Project;

3. Denies Minor CDP No. RPPL2019-002885-(3); and

4. Denies Variance No. RPPL2019-002886-(3).

**FINDINGS OF THE BOARD OF SUPERVISORS
AND ORDER
PROJECT NO. 2019-000686-(3)
MINOR COASTAL DEVELOPMENT PERMIT NO. RPPL20190-02887-(3)
VARIANCE NO. RPPL2019-002888-(3)**

1. The Los Angeles County ("County") Board of Supervisors ("Board") conducted a duly-noticed public hearing on September 19, 2023, in the matter of Project No. 2019-000686-(3), consisting of Minor Coastal Development Permit ("CDP") RPPL2019-002887-(3) (the "Minor CDP") and Variance No. RPPL2019-002888-(3) ("Variance"). The Board held the public hearing in conjunction with 14 other related and similar minor CDP and variance applications to build 15 single-family residences on 16 lots that adjoin and/or are in close proximity to one another in the Monte Nido Rural Village within the Santa Monica Mountains Coastal Zone (hereinafter referred to as the "Related projects"), comprised of minor CDP nos. RPPL2019-002073-(3), RPPL2019-002474-(3), RPPL2019-002479-(3), RPPL2019-002885-(3), RPPL2019-001222-(3), RPPL2019-003431-(3), RPPL2019-003435-(3), RPPL2019-003852-(3), RPPL2019-003854-(3), RPPL2019-004230-(3), RPPL2019-004232-(3), RPPL2019-004674-(3), RPPL2019-004677-(3), and RPPL2019-004678-(3); and variance nos. RPPL2019-002074-(3), RPPL2019-002475-(3), RPPL2019-002480-(3), RPPL2019-00288-(3), RPPL2019-001224-(3), RPPL2019-003432-(3), RPPL2019-003436-(3), RPPL2019-003853-(3), RPPL2019-003855-(3), RPPL2019-004231-(3), and RPPL2019-004675-(3). The County Regional Planning Commission ("Commission") previously conducted a duly-noticed public hearing on the Minor CDP and Variance on April 26, 2023. Prior to the Commission's hearing, a public hearing was also held before the County Department of Regional Planning ("Regional Planning") Hearing Officer ("Hearing Officer") on October 4, 2022, which was continued to November 1, 2022, and February 7, 2023.
2. The applicant, California Pacific Homes ("Applicant"), requests the Minor CDP and Variance to authorize the construction of a 5,205-square-foot single-family residence, and an on-site wastewater treatment system ("OWTS") ("Project") on a 0.92-acre property located the north corner of Piuma Roads (Assessor's Parcel Number 4456-038-006) in the Monte Nido Rural Village of the Santa Monica Mountains Coastal Zone ("Project Site"). An OWTS seepage pit would be located less than 50 feet from an oak tree. A total of 899 cubic yards of earth (899 cubic yards cut, all exported) would be graded. The Project would result in fuel modification or brush clearance within the protected zones of five oak trees.
3. The Project requires a coastal development permit to construct a single-family residence and an OWTS in the R-C-1 (Rural Coastal—One-Acre Minimum Required Lot Area) Zone, pursuant to Los Angeles County Code ("County Code") Section 22.44.810, and specifically a minor CDP is required for any project that requires County Environmental Review Board ("ERB") review (County Code Sections 22.44.860 and 22.44.940). The Project requires ERB review because

the main residence, as proposed, would result in development less than 200 feet from H1 Habitat. Additionally, a minor CDP is also required for any project that results in the encroachment into the protected zone of any oak tree, pursuant to County Code Section 22.44.950. As proposed, the Project requires fuel modification or brush clearance to occur within the protected zones of five oak trees.

4. The Project requires a variance for construction of an OWTS seepage pit or leach field within 50 feet of an oak tree, per County Code Section 22.44.1340.D.3.c, as the Project proposes. Finally, County Code Section 22.44.1910.I restricts the size of the building site area for new residential development to 10,000 square feet. Because an OWTS seepage pit is proposed less than 50 feet from an oak tree and the proposed building site area is 11,520 square feet, the Project requires a variance for all deviations from the development standards of the Santa Monica Mountains Local Implementation Program ("LIP").
5. The Project Site is located within the Rural Village land use designation of the Santa Monica Mountains Local Coastal Program ("SMMLCP") Land Use Policy Map, a component of the General Plan. The Project Site is located in the Malibu Zoned District and is zoned R-C-1. Pursuant to County Code Section 22.44.1750, a single-family residence is a principal permitted use within the R-C Zone.
6. Surrounding zoning within a 500-foot radius of the Project Site includes:

North:	R-C-1 and R-C-10,000 (Rural Coastal—10,000-Square-Foot Minimum Required Area);
South:	R-C-20 (Rural Coastal—20 Acre Minimum Required Lot Area) and O-S-P (Open Space—Parks);
East:	R-C-20 and O-S-P; and
West:	R-C-1 and R-C-20.
7. Surrounding land uses within a 500-foot radius of the Project Site include:

North:	Single-family residences and vacant land;
South:	Vacant land and open space;
East:	Vacant land and open space; and
West:	Single-family residences and vacant land.
8. The Project Site is 0.98 gross acres in size and consists of one legal lot, which is generally rectangular in shape and consists of level terrain on the southern portion of the lot, with steep downward slopes on the central and northern portions. An existing graded pad of approximately 12,000 square feet and drainage structures are located on the southern portion of the lot. These were legally developed with CDP No. 5-83-004, which was approved with the underlying tract map in 1987 (Tract Map No. 38931). A small part of the

northeastern portion of the Project Site is mapped as H1 Habitat, with the remainder mapped as H3 Habitat in the SMMLCP Land Use Plan ("LUP"). The majority of the Project Site is within 200 feet of H1 Habitat, which places it within the H1 Habitat Buffer (0-100 feet away) or H1 Quiet Zone (100-200 feet away). Other than the oaks, the Project Site contains mostly native and non-native grasses.

9. The Project Site would be accessed from Piuma Road, a 65-foot-wide public road and designated scenic route, immediately to the south of the Project Site.
10. The site plan shows the construction of a 5,200-square-foot single-family residence and a 656-square-foot attached garage, on the southern portion of the 0.98-acre Project Site. The residence would have a maximum height of 15 feet, an inch above grade. A total of 899 cubic yards of earth (all cut and export) would be graded. The Project would also include an OWTS, retaining walls, and other appurtenant facilities on a total building site of 11,520 square feet within the existing graded pad. The building would be accessed by a 52-foot-long paved driveway, which would access Piuma Road to the south. Development from brush clearance and fuel modification would also encroach into the protected zones of five coast live oak trees. While the majority of the Project Site is mapped as H3 Habitat within the LUP, a small part of the northeastern portion is H1 Habitat, which places almost the entirety of the Project Site within the H1 Habitat Buffer or H1 Quiet Zone. The residence is proposed for a location on the southern portion of the Project Site, within the H1 Habitat Buffer and H1 Quiet Zone. The OWTS seepage pit is proposed south of the residence, less than 50 feet from the dripline of an oak tree. The Project Site has a linear street frontage of 110 feet and a linear development frontage of 55 feet.
11. The case history shows that an earlier version of the Project was submitted as a plot plan, along with plot plans for the Related Projects, prior to the County's adoption of the SMMLCP. These plot plans entailed ministerial reviews that were approved in concept, as the lack of an approved local coastal program meant that the necessary coastal development permits to develop the residences would still have to have been obtained from the California Coastal Commission ("Coastal Commission"). Taken together, the Project and the Related Projects did not qualify for an exemption under the California Environmental Quality Act (Public Resources Code section 21000 et seq.) ("CEQA"), resulting in Environmental Assessment No. 201200258 comprised of a Mitigated Negative Declaration ("MND") and Mitigation Monitoring and Reporting Program ("MMRP"). The MND and MMRP were initially approved but subsequently appealed to both the Commission and the Board, which upheld the appeal and invalidated the MND and MMRP on September 22, 2015.
12. On May 15, 2019, the Project, along with the Related Projects, was submitted to Regional Planning in its current form. Thereafter, from 2019 to 2011, Regional Planning staff ("Staff") met with the Applicant 11 times to discuss the Project, with a focus on how to resolve issues related to it as submitted by the Applicant.

Staff requested that the Project be redesigned to eliminate inconsistencies with LIP standards and reasons for needing the Variance. On August 8, 2021, the ERB reviewed the Project and requested that it be returned with a more comprehensive overview of the Project in conjunction with the Related Projects, including a more detailed analysis of the oak woodlands, and generally a greater effort to be consistent with the LIP. On April 14, 2022, Staff sent a letter to the Applicant requesting several specific changes to the Project and indicated that if the changes were not made, the Project would be scheduled for public hearing with a Staff recommendation of denial. The requested changes included removing the habitable accessory structure (guest house), reducing the size and/or changing the location of several of the main residences, relocating the OWTS, and in conjunction with the Related Projects, proposing fewer residences as a whole by merging some of the lots.

13. On May 13, 2022, the Applicant responded to Staff in writing that it would not make additional changes to the Project and Related projects. The Project thereafter proceeded to hearing before the Hearing Officer on June 7, 2022, as an item for discussion and possible action, at which time the Hearing Officer scheduled a public hearing for the Project on October 4, 2022.
14. Staff received four phone calls and nine letters in opposition over the course of the hearing process for the Project. Issues raised include destruction of sensitive habitat, light pollution, traffic, construction noise, fire hazard, proximity to wildlife, and interference of scenic views from a nearby hiking trail known as the Backbone Trail.
15. Staff consulted with various County departments about the Project and received the following recommendations:
 - A. County Department of Parks and Recreation recommended clearance to public hearing with no conditions through the County's electronic consultation system ("EPIC-LA") on September 29, 2020.
 - B. County Fire Department ("Fire Department") recommended clearance to public hearing with no conditions through EPIC-LA on September 30, 2020.
 - C. County Department of Public Works ("Public Works") recommended denial of the Project due to lack of documentation regarding road boundaries, road improvements, lines of sight, and earthmoving details in a letter dated February 3, 2021.
 - D. County Department of Public Health recommended denial of the Project due to lack of information regarding the proposed OWTS and water service in a letter dated October 27, 2020.

- E. ERB took no action on the Project at a meeting held on August 16, 2021, but recommended that it return with a more comprehensive plan and biological assessment, as well as a redesign to be consistent with the LIP.
16. Because CEQA does not apply to projects which a public agency rejects or disapproves, pursuant to sections 15061 and 15270 of the State CEQA Guidelines (Title 14, Cal. Code Regs., Chapter 3, §§ 15000-15387), there has been no CEQA analysis performed on the Project.
17. A duly-noticed public hearing was held before the Hearing Officer on October 4, 2022, which was continued to November 1, 2022, to allow the Hearing Officer to conduct a site visit and thoroughly review all documents. At the November 1, 2022, continued public hearing, Staff provided an overview and recommended denial of the Project, and the Applicant's representative spoke in favor of the Project. The Hearing Officer indicated her intent to deny the Project because it failed to meet the developments standards of the LIP and because it could not meet the burden of proof required for a variance, and continued the hearing to February 7, 2023, to allow Staff to incorporate directed edits to the denial findings. At the continued hearing on February 7, 2023, the Hearing Officer found that there was nothing preventing the Applicant from redesigning the Project to comply with LIP standards, and that as proposed the Project did not meet the goals and policies of the LUP. Additionally, as to the Variance request, the Hearing Officer found that the Applicant did not demonstrate that there were unique circumstances or special characteristics of the Project Site that required a variance to preserve substantial property rights therein, nor that it was infeasible to redesign the Project to possibly eliminate the need for a variance altogether. Accordingly, the Hearing Officer closed the public hearing and denied the Project.
18. The Hearing Officer's decision was timely appealed to the Commission by the Applicant on February 13, 2023. A duly-noticed public hearing was held before the Commission on April 26, 2023, to consider the appeal of the Hearing Officer's denial of the Project. Staff presented the Project in conjunction with the Related Projects, and recommended denial thereof for failure to comply with development standards of the LIP, conflicting with the goals and policies of the LUP, and failing to meet the burden of proof for a variance. Staff emphasized that the Project could be redesigned in a manner to comply with the LIP and LUP and explained that it had ample meetings with the Applicant on numerous occasions throughout the Project's history where that message was conveyed. The Applicant spoke at the public hearing by way of its land use attorney, Michael Shonafelt, who argued that the applicable portions of the LIP and LUP make it impossible to build on any portion of the Project Site. The Applicant did acknowledge that there were good faith efforts between the Applicant and the County and its various departments, including many well-attended meetings, to find a feasible path forward to develop the Project and Related Projects. However, the Applicant concluded that the 200-foot fuel modification radius required by the Fire Department would result in vegetation removal within

H1 Habitat, which is prohibited by the LIP. The Applicant summarized its position by asserting that the Project Site is essentially unbuildable, as even building a "broom closet" would result in impacts on H1 Habitat due to the fuel modification requirement.

19. At the Commission's public hearing, there was public comment opposing the Project. A total of four constituents voiced their opposition based primarily on the Project's lack of compliance with the SMMLCP and allegations that the Applicant was trying to skirt County requirements to build "mega-mansions" in violation of the SMMLCP. The public comments urged the Commission to uphold the Hearing Officer's denial of the Project. Upon conclusion of public comment, the Commission asked Staff to clarify the categories of variances for the Project and Related Projects being requested, and the total count thereof. Staff clarified that for all 15 minor CDP requests by the Applicant across 16 lots, including the Project, there are six categories of variance requests, and a total of 12 variance requests. The Commission generally commented that such an amount of variance requests was irregular and unprecedented. It recognized the efforts of both the Applicant and Staff over the years to meet and confer to resolve the issues but indicated that the Project does not meet the standards required by the SMMLCP as proposed, and then moved to close the public hearing and denied the Project (and Related Projects).

20. The Commission's denial of the Project was timely appealed by the Applicant on April 28, 2023. The Board held its duly-noticed public hearing on the appeal of the Commission's decision on September 19, 2023, and, like the Commission, held it in conjunction with the Applicant's Related Projects for 14 other similar minor CDP and variance applications to build 15 single-family residences on 16 lots that adjoin and/or are in close proximity to one another in the Monte Nido Rural Village within the Santa Monica Mountains Coastal Zone. Regional Planning submitted a written statement to the Board indicating that the Commission's denial of the Project should be upheld because as proposed, the Project does not comply with the development standards required by the LIP, the goals and policies of the LUP, and does meet the burden of proof required for a variance under the County Code. Additionally, the Director of Regional Planning, Amy Bodek ("Director") was present and provided some additional background for the Board. She indicated that the Project has been around for a while and predates the County's adoption of the SMMLCP. She explained that since 2018, she has been involved with trying to move the Project along in a collaborative way with the Applicant, as the Project and Related Projects are being proposed on topographically challenging and environmentally sensitive lots that include H1 Habitat, H1 Buffer Zones, buffer zones for oak trees, National Parkland, and streams, in addition to street frontage requirements. She elaborated that Regional Planning has worked closely with the Applicant to find a way for development to occur on each lot in a manner compliant with the SMMLCP and believes there is such a way to do so, which has been conveyed to the Applicant on numerous occasions and involves reducing the size of the Project's proposed single-family residence and its location on the Project Site. The Director

explained that a stalemate was reached a couple of years ago, and the Applicant was and is not willing to make any additional changes to the Project. Since that time, numerous indications to the Applicant were made that Regional Planning would have to recommend denial of the Project unless changes were incorporated, but the Applicant has elected not to modify the Project, signifying that the Applicant has accepted proceeding to denial of the Project. Accordingly, the Director requested that the Board uphold the Commission's denial of the Project, and reiterated to the Board that there is economic use of the Project Site with a redesign that is consistent with SMMLCP.

21. After the Director spoke at the Board's public hearing, attorney for the Applicant, Michael Shonafelt, was given the opportunity to speak. Mr. Shonafelt, who also appeared for the Applicant at the Commission's public hearing, mostly repeated what he presented at the Project's prior public hearing, the primary point being that due to the 200-foot radius for fuel modification required by the Fire Department and the fact that such a radius would impede into H1 Habitat, development of the Project Site and Related projects it not feasible. Per Mr. Shonafelt, "you could build a broom closet... and it is going to touch H1." In sum, it was his position that the SMMLCP effectively takes away the Applicant's properties, including the Project Site, as it is the Applicant's position that nothing can be built on the lots even though they are zoned for residential use. Mr. Shonafelt also wanted to make clear that the Applicant's team did do their "homework" and refutes any allegation that the Applicant has been uncooperative, as he and the Applicant's team have met with County Staff on numerous occasions to try and resolve the issues preventing approval. However, the Applicant indicated that they heard from the Fire Department that they would not allow modifications to the fuel modification radius for H1 Habitat, and decided it was futile to try and redesign the Project because doing so takes a lot of time and money.
22. There was ample public comment at the Board's public hearing of the Project. Of 15 total public comments, 13 were in opposition to the Project, and 2 were seemingly neutral but questioned the governmental process for approval of projects involving the SMMLCP. The comments in opposition to the project mostly centered on how the Project and Related Projects simply ran afoul of the SMMLCP requirements, as evidenced by the number of variances being requested, and pointed out how unique the Santa Monica Mountains are and that development therein must comply with SMMLCP, which was the byproduct of a long process that involved ample community input and which is tailored to address the specific needs of the region. The opponents also emphasized that development could occur if the projects would simply reduce the size of the proposed primary residences, which should be achievable since they are "mega mansions." Additionally, there was praise for the Staff for doing their best to work with the Applicant, and for the Commission in upholding the requirements of the SMMLCP.

23. After hearing from Regional Planning, the Applicant, and the public, the Board addressed the Project and emphasized that the SMMLCP prevents development of the Project and Related Projects as proposed, and repeated that the Director has indicated that housing can be developed on the Project Site. The Board indicated that SMMLCP is intended to protect the safety of region especially in light of the fire tragedies in the area. In response to the Applicant's claim that nothing can be built on the lots, the Board then specifically asked the Applicant if they are interested in revisiting a redesign of the Project and the Related Projects in light of the testimony to the contrary heard before the Board; to which, Mr. Shonafelt responded once again that due to fuel modification requirements, not even a "broom closet" could be built on the Project Site. He concluded that any such attempt would be futile as it would not be allowed under the SMMLCP. The Board then turned to the Director, who refuted the repeated contention that the fuel modification zone cannot be modified, as it has been modified in the Coastal Zone before, and that economic value for each of the Applicant's lots can be achieved. She reminded the Board that the proposed homes (for the Project and Related Projects) are very large, ranging from 4,500 to 6,400 square feet in size, for an average of 5,300 square feet; therefore, a reduction in their size would allow for the construction of something larger than a "broom closet" and smaller than 5,300 square feet. Finally, she assured the Board that there is an ability to modify the fuel modification zone with the Fire Department because it has been done before to allow development throughout the Santa Monica Mountains. Upon hearing the additional testimony from the Applicant and Regional Planning, the Board repeated that the SMMLCP was not adopted to prevent development of housing, but it ensures orderly development that also protects the safety of the unique region which features very sensitive biological habitat and significant risk of wildfire. The Board recognized the efforts of Staff throughout the years, which included ample meetings with the Applicant's team, and various attempts to urge the the Applicant to redesign the Project to one that is viable and respects the SMMLCP. However, the Board indicated that the Applicant here has chosen to ignore the guidance of Regional Planning, instead requesting an unprecedented number of variances to develop the Project and Related Projects without regard to the County's rules and processes and has refused yet again at the Project's public hearing to redesign the Project to meet SMMLCP requirements. The Board then closed the public hearing, denied the appeal, and voted in favor of upholding the Commission's denial of the Project.
24. The Board finds the Project is not consistent with the LUP. The Rural Village land use designation is intended for single-family residential uses on relatively small lots. Although a single-family residence is specifically listed as a principal permitted use under this designation, the Project's overall size and proposed plans, which includes a building site area of 11,520 square feet, are not consistent with the policies of the LUP, as identified in the subsections hereunder. The Project's large square footage and footprint would result in development, including a habitable accessory structure, that would extend into the H1 Quiet Zone, as well as fuel modification and brush clearance that would extend into H1 Habitat (oak woodland) and the H1 Habitat Buffer. Additionally,

the Project's large footprint and square footage result in a design that is not protective of surrounding landforms by failing to preserve H1 Habitat areas in a more natural state, which is inconsistent with policies regarding the protection of Scenic Resource Areas, as well as those prioritizing protection of sensitive habitats, natural vegetation, and natural resources over development. Finally, when paired with its proximity to Piuma Road, which is a designated scenic route, the Project also results in unnecessary visual impacts to the surrounding area. The Project is not consistent with the following policies of the LUP:

A. The Conservation and Open Space Element:

- i. Policy CO-41 – New non-resource-dependent development shall be prohibited in H1 Habitat areas to protect these most sensitive environmental resource areas from disruption of habitat values. The only exception is that two uses may be approved in H1 Habitat other than wetlands in very limited circumstances, as follows: (1) Public Works projects required to repair or protect existing public roads when there is no feasible alternative, as long as impacts to H1 Habitat are avoided to the maximum extent feasible, and unavoidable impacts are minimized and mitigated; and (2) an access road to a lawfully-permitted use outside H1 Habitat when there is no other feasible alternative to provide access to public recreation areas or development on a legal parcel, as long as impacts to H1 Habitat are avoided to the maximum extent feasible, and unavoidable impacts are minimized and mitigated. Any new development approved for one of these two uses within woodland or savannah habitat shall protect native trees in accordance with Policy CO-99. The County shall not approve the development of any non-resource dependent use other than these two uses within H1 Habitat, unless such use has first been considered in an SMMLCP amendment that is certified by the Coastal Commission. The Project's large square footage and footprint would result in fuel modification and brush clearance that would extend into H1 Habitat (oak woodland).
- ii. Policy CO-51 – Where new development is permitted in H2 Habitat pursuant to the SMMLCP, the maximum allowable building site area on parcels shall be 10,000 square feet, or 25 percent of the parcel size, whichever is less. Where new residential development is permitted in H3 Habitat, the maximum allowable residential building site area shall be 10,000 square feet, or 25 percent of the parcel size, whichever is less. The restriction of the building site area to less than the maximum may be required if the native tree protection policies require a smaller area or if it is determined that a smaller building site area would serve to avoid impacts to H1 Habitat areas, substantially minimize grading associated with the project, reduce the need for manufactured slopes, or reduce the

need for retaining features visible from scenic areas, public trails, and public lands. The allowable building site area may be increased for projects that qualify for participation in the incentive program of Policy LU-29 or for projects that comprise two adjoining legal lots, if the existing lots are merged into one lot and one consolidated building site is provided with one access road or driveway. The allowable building site area shall not exceed the total of the building site areas allowed for each individual parcel. Adverse impacts to H2 Habitat that cannot be avoided through the implementation of siting and design alternatives shall be accommodated through the Resource Conservation Program, pursuant to Policy CO-86a. The Project's overall size and proposed plans, which includes a building site area of 11,520 square feet, are not consistent with this policy.

- iii. Policy CO-57 – New non-resource-dependent development shall also provide an additional 100-foot "Quiet Zone" from H1 Habitat where feasible (measured from the outer edge of the 100-foot H1 Habitat Buffer required above). New development is not permitted in the H1 Habitat Quiet Zone except resource-dependent uses, non-irrigated fuel modification required by the Fire Department for lawfully-established structures, and the following other uses in very limited circumstances: (1) Public Works projects required to protect existing public roads when there is no feasible alternative, as long as impacts to H1 Habitat and the H1 Buffer are avoided to the maximum extent feasible, and unavoidable impacts are minimized and mitigated; (2) an access road to a lawfully-permitted use when there is no other feasible alternative to provide access to public recreation areas or development on a legal parcel, as long as impacts to H1 Habitat and H1 Buffer are avoided to the maximum extent feasible, and unavoidable impacts are minimized and mitigated; and (3) a development on a lawfully-created parcel that is the minimum development necessary to provide a reasonable economic use of the property and where there is no feasible alternative, as long as impacts to H1 Habitat and H1 Buffer are avoided to the maximum extent feasible, and unavoidable impacts are minimized and mitigated. The Project's large square footage and footprint would result in development, including a habitable accessory structure, that would extend into the H1 Quiet Zone, as well as fuel modification and brush clearance that would extend into the H1 Habitat Buffer. It has not been demonstrated that such development is necessary to provide a reasonable economic use of this property, or that there is no feasible alternative to develop the site.
- iv. Policy CO-66 – Protection of H1 and H2 Habitats and public access shall take priority over other development standards, and where

there is any conflict between general/other development standards and the biological resource and/or public access protection provisions, the standards that are most protective of H1 and H2 Habitats and public access shall have precedence. The Project's large footprint and square footage result in a design that is not protective of surrounding landforms by failing to preserve H1 and H2 Habitat areas in a more natural state.

- v. Policy CO-109 – Site and design new development to protect natural features and minimize removal of natural vegetation. The Project's large footprint and square footage result in a design that does not prioritize protection of sensitive habitats, natural vegetation, and natural resources over development.
- vi. Policy CO-124 – The Santa Monica Mountains contain scenic resources of regional and national importance. The scenic and visual qualities of these resources shall be protected and, where feasible, enhanced. The Project's large footprint and square footage result in a design that is not protective of surrounding landforms by failing to preserve H1 Habitat areas in a more natural state, which is inconsistent with policies regarding the protection of Scenic Resource Areas.
- vii. Policy CO-125 – Protect public views within Scenic Areas and throughout the Coastal Zone. Places on, along, within, or visible from Scenic Routes, public parklands, public trails, beaches, and state waters that offer scenic vistas of the mountains, canyons, coastline, beaches, and other unique natural features are considered Scenic Resource Areas. Scenic Resource Areas do not include areas that are largely developed such as existing, predominantly built-out residential subdivisions. Scenic Resource Areas also include scenic resources (identified on Map 3 of the LUP) and consist of Scenic Elements, Significant Ridgelines, and Scenic Routes as well as public parkland and recreation areas (identified on Map 4 of the LUP). The Project's large footprint and square footage result in a design that is not protective of surrounding landforms by failing to preserve H1 Habitat areas in a more natural state, which is inconsistent with policies regarding the protection of Scenic Resource Areas.
- viii. Policy CO-126 – Maintain and enhance the quality of vistas along identified Scenic Routes. The Project violates this policy as the Project's two-story primary residence would degrade the quality of vistas along Piuma Road, which is a Scenic Route.
- ix. Policy CO-131 – Site and design new development to minimize adverse impacts on scenic resources to the maximum extent

feasible. If there is no feasible building site location on the proposed project site where development would not be visible, then the development shall be sited and designed to minimize impacts on scenic areas through measures that may include, but not be limited to, siting development in the least visible portion of the site, breaking up the mass of new structures, designing structures to blend into the natural hillside setting, restricting the building maximum size, reducing maximum height, clustering development, minimizing grading, incorporating landscape and building material screening elements, and where appropriate, berming. The Project's large footprint and square footage result in a design that is not protective of surrounding landforms by failing to preserve H1 Habitat areas in a more natural state, which is inconsistent with policies regarding the protection of Scenic Resource Areas. Development is neither sited in the least visible portion of the Project Site, nor is development clustered or building size restricted.

B. The Land Use Element:

Policy LU-33 – Require that new developments be compatible with the rural character of the area and the surrounding natural environment. The Project's large footprint and square footage result in a design that is not protective of surrounding landforms by failing to preserve H1 Habitat areas in a more natural state, which is inconsistent with policies regarding the protection of Scenic Resource Areas, as well as those prioritizing protection of sensitive habitats, natural vegetation, and natural resources over development. Finally, when paired with its proximity to Piuma Road, which is a designated scenic route, the Project also results in unnecessary visual impacts to the surrounding area.

25. The Board finds the Project is not consistent with the standards for development in sensitive habitats identified in County Code Section 22.44.1890. The Project Site is designated as H1 Habitat and H3 Habitat by the LUP. While all development would occur within H3 Habitat, impacts from the development would be located within the H1 Quiet Zone and H1 Habitat Buffer. The Project would also result in fuel modification and brush clearance within H1 Habitat. Pursuant to County Code Section 22.44.1890.C.2, no development, except for access driveways and resource-dependent uses, is permitted in H1 Habitat. Because the Project proposes habitable structures less than 200 feet from H1 Habitat (riparian zone) to the northeast, fuel modification will be required within this area by the County Agricultural Commissioner. As a result, the Project design is not compatible with surrounding environmental resources, as it would result in development of H1 Habitat.
26. The Board finds the Project impermissibly proposes development within the H1 Habitat Buffer and H1 Quiet Zone as the LIP only allows residential

development if all the criteria of County Code Section 22.44.1890.D.8 for H1 Habitat Buffer and Section 22.44.1890.E.12 for H1 Quiet Zone (which are identical) are met. As proposed, the Project is comprised of a 5,205-square-foot single-family residence. Reducing the square footage of the proposed residence would provide a greater buffer between the development and the H1 Habitat area, while still providing reasonable economic use of the property. Accordingly, the development is not the minimum development necessary to provide reasonable economic use of the Project Site as required by County Code Sections 22.44.1890.D.8.b and 22.44.1890.E.12.b.

27. The Board finds the LIP specifically prohibits OWTS seepage pits or leach fields to be placed within 50 feet of the dripline of an oak tree under Section 22.44.1340.B.3.c. There are several locations on the Project Site located more than 50 feet from oaks or other native trees, and the Applicant has not provided documentation that these alternative locations are unsuitable for OWTS seepage pits. The Board also finds that it cannot be demonstrated that a variance is necessary due to special characteristics of the lot or to preserve a substantial property right.
28. The Board finds there are no special characteristics of the Project Site to show that the Variance is necessary to preserve a substantial property right. A variance is required for a building site area greater than 10,000 square feet, pursuant to County Code Section 22.44.1910.I. While the Project proposes a building site area of 11,520 square feet, it could simply be reduced in size to comply with the LIP, but the Applicant has not revised the Project nor shown a willingness to.
29. The Board finds that, as proposed, the Project would not comply with all applicable development standards for residences in the SMMLCP, which includes the LUP and LIP, specifically those standards related to habitat categories, building site area, Scenic Resource Areas, and habitable accessory structures.
30. The Board finds any development located between the nearest public road and the 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.
31. The Board finds there are no special circumstances or exceptional characteristics applicable to the property involved, such as size, shape, topography, location, or surroundings, which are not generally applicable to other properties in the same vicinity and under identical zoning classification, to warrant the issuance of the Variance. The Project's proposed habitable accessory structure is not necessary to allow for reasonable economic use of the property, and the design of the Project's primary residence could be modified to reduce the building site area. It

has also not been demonstrated that the structures cannot be proposed in a location outside of the H1 Quiet Zone or designed to utilize a separate OWTS.

32. For the same reason found in the preceding finding, the Board finds the Variance is unnecessary for the preservation of a substantial property right of the Applicant such as that possessed by owners of other property in the same vicinity and zone.
33. The Board finds the granting of the Variance will be materially detrimental to the public welfare or be injurious to other properties or improvements in the same vicinity and zone since the Project's proposed large building site area and habitable accessory structure result in greater development within the H1 Quiet Zone, the H1 Habitat Buffer, and H1 Habitat, which would detrimentally affect the public welfare and other properties by degrading scenic and biological resources.
34. The Board finds the granting of the Variance will also be materially detrimental to coastal resources since the Project's proposed large building site area and habitable accessory structure result in greater development within the H1 Quiet Zone, the H1 Habitat Buffer, H1 Habitat, and adjoining a designated scenic route, which would detrimentally affect coastal resources by degrading scenic and biological resources.
35. The Board finds CEQA does not apply to the Project, pursuant to sections 15061 and 15270 of the State CEQA Guidelines (Title 14, Cal. Code Regs., Chapter 3, §§ 15000-15387), because CEQA does not apply to projects that a public agency rejects or disapproves.
36. The Board finds that, pursuant to County Code Section 22.44.990, the community was properly notified of the Board's public hearing of the Project by mail, newspaper (Los Angeles Bulletin), and property posting. Additionally, the Project was noticed, and case materials were available on the Regional Planning's website. On August 17, 2023, a total of 134 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.
37. 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 the 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, Department of Regional Planning.

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

Regarding the Minor Coastal Development Permit:

- A. The proposed Project is not in conformity with the SMMCLP;

Regarding the Variance:

- B. There are no special circumstances or exceptional characteristics applicable to the Project Site, such as size, shape, topography, location, or surroundings, which are not generally applicable to other properties in the same vicinity and under identical zoning classification;
- C. The Variance is unnecessary for the preservation of a substantial property right of the Applicant such as that possessed by owners of other properties in the same vicinity and zone;
- D. The granting of the Variance will be materially detrimental to the public welfare or be injurious to other properties or improvements in the same vicinity and zone; and
- E. The granting of the Variance will be materially detrimental to coastal resources.

THEREFORE, THE BOARD OF SUPERVISORS:

- 1. Finds the Project is exempt from CEQA, pursuant to State CEQA Guidelines sections 15061 and 15270 (projects which are rejected or disapproved);
- 2. Denies the appeal of the Project;
- 3. Denies Minor CDP No. RPPL2019-002887-(3); and
- 4. Denies Variance No. RPPL2019-002888-(3).

**FINDINGS OF THE BOARD OF SUPERVISORS
AND ORDER
PROJECT NO. 2019-000686-(3)
MINOR COASTAL DEVELOPMENT PERMIT NO. RPPL2019-001222-(3)
VARIANCE NO. RPPL2019-001224-(3)**

1. The Los Angeles County ("County") Board of Supervisors ("Board") conducted a duly-noticed public hearing on September 19, 2023, in the matter of Project No. 2019-000686-(3), Minor Coastal Development Permit ("CDP") No. RPPL2019-001222-(3) (the "Minor CDP"), and Variance No. RPPL2019-001224-(3) ("Variance"). The Board held the public hearing in conjunction with Applicant's 14 other related and similar minor CDP and variance applications to build 15 single-family residences on 16 lots that adjoin and/or are in close proximity to one another in the Monte Nido Rural Village within the Santa Monica Mountains Coastal Zone (hereinafter referred to as the "Related Projects" comprised of minor CDP nos. RPPL2019-002073-(3), RPPL2019-002474-(3), RPPL2019-002479-(3), RPPL2019-002885-(3), RPPL2019-002887-(3), RPPL2019-003431-(3), RPPL2019-003435-(3), RPPL2019-003852-(3), RPPL2019-003854-(3), RPPL2019-004230-(3), RPPL2019-004232-(3), RPPL2019-004674-(3), RPPL2019-004677-(3), and RPPL2019-004678-(3); and variance nos. RPPL2019-002074-(3), RPPL2019-002475-(3), RPPL2019-002480-(3), RPPL2019-002886-(3), RPPL2019-002888-(3), RPPL2019-003432-(3), RPPL2019-003436-(3), RPPL2019-003853-(3), RPPL2019-003855-(3), RPPL2019-004231-(3), and RPPL2019-004675-(3)). The County Regional Planning Commission ("Commission") previously conducted a duly-noticed public hearing on the Minor CDP and Variance on April 26, 2003. Prior to the Commission's hearing, a public hearing was also held before the County Department of Regional Planning ("Regional Planning") Hearing Officer ("Hearing Officer") on October 4, 2022, which was continued to November 1, 2022, and again to February 7, 2023.
2. The applicant, California Pacific Homes ("Applicant"), requests the Minor CDP and Variance to authorize the construction of a 5,429-square-foot single-family residence, and an onsite wastewater treatment system ("OWTS") ("Project") on a 2.77-acre property located on the north side of Piuma Road (Assessor's Parcel Number 4456-038-007) in the Monte Nido Rural Village of the Santa Monica Mountains Coastal Zone ("Project Site"). An OWTS seepage pit would be located less than 50 feet from an oak tree and less than 150 feet from riparian canopy. A total of 994 cubic yards of earth (994 cubic yards cut, all exported) would be graded. The Project would result in construction within an H1 Habitat Buffer zone and fuel modification or brush clearance within the protected zones of 27 oak trees.

3. The Project requires a coastal development permit to construct a single-family residence and an OWTS in the R-C-1 (Rural Coastal—One-Acre Minimum Required Lot Area) Zone, pursuant to Los Angeles County Code ("County Code") Section 22.44.810, and a minor CDP is required for any project that requires Environmental Review Board ("ERB") review (County Code Sections 22.44.860 and 22.44.940). The residence would result in development less than 200 feet from H1 Habitat and thus requires ERB review. A minor CDP is also required for any project that results in the encroachment into the protected zone of any oak tree (County Code Section 22.44.950). As currently proposed, fuel modification or brush clearance would occur within the protected zones of 27 oak trees.
4. The Project requires a variance for construction of an OWTS seepage pit or leach field within 50 feet of an oak tree or within 150 feet of riparian canopy, per County Code Section 22.44.1340.B.3.c. County Code Section 22.44.1910.I also restricts building site area for new residential development to 10,000 square feet. Because an OWTS seepage pit is proposed less than 50 feet from an oak tree and less than 150 feet from riparian canopy, and the Project proposes a building site area of 11,900 square feet, the Project requires a variance for all deviations from the development standards of the Santa Monica Mountains Local Implementation Program ("LIP").
5. The Project Site is located within the Rural Village land use designation of the Santa Monica Mountains Local Coastal Program ("SMMLCP") Land Use Policy Map, a component of the General Plan. The Project Site is located in the Malibu Zoned District and is zoned R-C-1. Pursuant to County Code Section 22.44.1750, a single-family residence is a principal permitted use within the R-C Zone.
6. Surrounding zoning within a 500-foot radius of the Project Site includes:
 - North: R-C-1, R-C-10,000 (Rural Coastal—10,000-square-foot Minimum Required Area);
 - South: R-C-20 (Rural Coastal—20 Acre Minimum Required Lot Area), O-S-P (Open Space—Parks);
 - East: R-C-20, O-S-P; and
 - West: R-C-1 and R-C-20.
7. Surrounding land uses within a 500-foot radius of the Project Site include:
 - North: Single-family residences, vacant land;
 - South: Vacant land, open space;
 - East: Vacant land, open space; and
 - West: Single-family residences and vacant land.
8. The Project Site is 2.77 gross acres in size and consists of one legal lot, which is irregular in shape and consists of level terrain on the southern portion of the lot, with steep slopes and a drainage flowing from southeast to northwest on the

central and northern portions. An existing graded pad of approximately 12,000 square feet and drainage structures are located on the southern portion of the lot. These were legally developed with CDP No. 5-83-004, which was approved with the underlying tract map in 1987 (Tract Map No. 38931). The central portion of the lot, corresponding to riparian vegetation in the drainage, is mapped as H1 Habitat, with a small portion of H2 Habitat on the northeastern portion of the lot, and the remainder mapped as H3 Habitat in the Santa Monica Mountains Local Coastal Program Land Use Plan ("LUP"). The majority of the Project Site is within 200 feet of H1 Habitat, which places it within the H1 Habitat Buffer (0-100 feet away) or H1 Quiet Zone (100-200 feet away). Other than the oak trees, the Project Site contains riparian vegetation, native trees, and native and non-native grasses.

9. The Project Site would be accessed from Woodbluff Road, a 60-foot-wide public road immediately to the west. Piuma Road, a 65-foot-wide public road and designated scenic route, is located immediately to the south of the Project Site.
10. The site plan shows the construction of a 5,429-square-foot single-family residence, including a 1,645-square-foot basement, a 503-square-foot attached garage, and an 800-square-foot covered terrace on the southern portion of the 2.77-acre Project Site. The residence would have a maximum height of 16 feet, 10 inches above grade. A total of 994 cubic yards of earth (994 cubic yards cut, all exported) would be graded. The Project would also include an OWTS, retaining walls, and other appurtenant facilities on a total building site of 11,900 square feet—including non-exempt driveway areas—within the existing graded pad. The building would be accessed by a 52-foot-long paved driveway, which would access Piuma Road to the south. Development from brush clearance and fuel modification would also encroach into the protected zones of 27 coast live oaks. The central portion of the Project Site is mapped as H1 Habitat, which places almost the entirety of the site within the H1 Habitat Buffer (0-100 feet away) or H1 Quiet Zone (100-200 feet away). The residence is proposed for a location on the southern portion of the Project Site, within the H1 Habitat Buffer and H1 Quiet Zone. An OWTS seepage pit is proposed south of the residence within the H1 Quiet Zone and less than 50 feet from the dripline of an oak tree. It is also less than 150 feet from riparian canopy to the northeast. The Project Site has a linear street frontage of 247 feet and a linear development frontage of 75 feet.
11. The case history shows that an earlier version of the Project was submitted as a plot plan, along with plot plans for the Related Projects, prior to the County's adoption of the SMMLCP. These plot plans entailed ministerial reviews that were approved in concept, as the lack of an approved local coastal program meant that the necessary coastal development permits to develop the residences would still have to have been obtained from the California Coastal Commission

("Coastal Commission"). Taken together, the Project and the Related Projects did not qualify for an exemption under the California Environmental Quality Act (Public Resources Code section 21000 et seq.) ("CEQA"), resulting in Environmental Assessment No. 201200258 comprised of a Mitigated Negative Declaration ("MND") and Mitigation Monitoring and Reporting Program ("MMRP"). The MND and MMRP were initially approved but subsequently appealed to both the Commission and the Board, which upheld the appeal and invalidated the MND and MMRP on September 22, 2015.

12. On March 4, 2019, the Project, along with the Related Projects, was submitted to Regional Planning in its current form. Thereafter, from 2019 to 2011, Regional Planning staff ("Staff") met with the Applicant 11 times to discuss the Project, with a focus on how to resolve issues related to it as submitted by Applicant. Staff requested that the Project be redesigned to eliminate inconsistencies with LIP standards and reasons for needing the Variance. On August 8, 2021, the ERB reviewed the Project and requested that it be returned with a more comprehensive overview of the Project in conjunction with the Related Projects, including a more detailed analysis of the oak woodlands, and generally a greater effort to be consistent with the LIP. On April 14, 2022, Staff sent a letter to Applicant requesting several specific changes to the Project and indicated that if the changes were not made, the Project would be scheduled for public hearing with a Staff recommendation of denial. The requested changes included reducing the size and/or changing the location of several of the main residences, relocating the OWTS, and in conjunction with the Related Projects, proposing fewer residences as a whole by merging some of the lots.
13. On May 13, 2022, Applicant responded to Staff in writing that it would not make additional changes to the Project and Related Projects. The Project thereafter proceeded to hearing before the Hearing Officer on June 7, 2022, as an item for discussion and possible action, at which time the Hearing Officer scheduled a public hearing for the Project on October 4, 2022.
14. Staff received four phone calls and nine letters of opposition have been received over the course of the hearing process for the Project. Issues raised include destruction of sensitive habitat, light pollution, traffic, construction noise, fire hazard, proximity to wildlife, and interference of scenic views from the Backbone Trail.
15. Staff consulted with various County departments about the Project and received the following recommendations:
 - A. County Department of Parks and Recreation recommended clearance to public hearing with no conditions through the County's electronic consultation system ("EPIC-LA") on September 29, 2020.

- B. County Fire Department ("Fire Department") recommended clearance to public hearing with no conditions through EPIC-LA on September 30, 2020.
 - C. County Department of Public Works ("Public Works") recommended denial of the Project due to lack of documentation regarding road boundaries, road improvements, lines of sight, and earthmoving details in a letter dated November 5, 2020.
 - D. County Department of Public Health recommended denial of the Project due to lack of information regarding the proposed OWTS and water service in a letter dated October 27, 2020.
 - E. ERB took no action regarding the Project at a meeting held on August 16, 2021, but recommended that it return with a more comprehensive plan and biological assessment, as well as a redesign to be consistent with the LIP.
16. Because CEQA does not apply to projects which a public agency rejects or disapproves, pursuant to sections 15061 and 15270 of the State CEQA Guidelines (Title 14, Cal. Code Regs., Chapter 3, §§ 15000-15387), there has been no CEQA analysis performed on the Project.
17. A duly-noticed public hearing was held before the Hearing Officer on October 4, 2022, which was continued to November 1, 2022, to allow the Hearing Officer to conduct site visit and thoroughly review all documents. At the November 1, 2022 continued public hearing, Staff provided an overview and recommended denial of the Project. Applicant's representative spoke in favor of the Project. The Hearing Officer indicated her intent to deny the Project because it failed to meet the development standards of the LIP and because it could not meet the burden of proof required for a variance, and continued the hearing to February 7, 2023, the Hearing Officer found that there was nothing preventing Applicant from redesigning the Project to comply with LIP standards and that, as proposed, the Project did not meet the goals and policies of the LUP. Additionally, as to the Variance request, the Hearing Officer found that that Applicant did not demonstrate that there were unique circumstances or special characteristics of the Project Site that required a variance to preserve substantial property rights therein, nor that it was infeasible to redesign the Project to possibly eliminate the need for a variance altogether. Accordingly, the Hearing Officer closed the public hearing and denied the Project.
18. The Hearing Officer's decision was timely appealed to the Commission by the Applicant on February 13, 2023. A duly-noticed public hearing was held before the Commission on April 26, 2023, to consider the appeal of the Hearing Officer's denial of the Project. Staff presented the Project in conjunction with the Related Projects, and recommended denial thereof for failure to comply with development

standards of the LIP, conflicting with the goals and policies of the LUP, and failing to meet the burden of proof for a variance. Staff emphasized that the Project could be redesigned in a manner to comply with the LIP and LUP, and explained that it had ample meetings with Applicant on numerous occasions throughout the Project's history where that message was conveyed. Staff pointed out that Applicant has never submitted any revised plans. Applicant spoke at the public hearing by way of its land use attorney, Michael Shonafelt, who argued that the applicable portions of the LIP and LUP make it impossible to build on any portion of the Project Site. Applicant did acknowledge that there were good faith efforts between Applicant and the County and its various departments, including many well-attended meetings, to find a feasible path forward to develop the Project and Related Projects. However, Applicant concluded that the 200-foot fuel modification radius required by the Fire Department would result in vegetation removal within H1 Habitat, which is prohibited by the LIP. Applicant summarized its position by asserting that the Project Site is essentially unbuildable, as even building a "broom closet" would result in impacts on H1 Habitat due to the fuel modification requirement.

19. At the Commission's public hearing, there was public comment opposing the Project. A total of four constituents voiced their opposition based primarily on the Project's lack of compliance with the SMMLCP and allegations that Applicant was trying to skirt County requirements to build "mega-mansions" in violation of the SMMLCP. The public comments urged the Commission to uphold the Hearing Officer's denial of the Project. Upon conclusion of public comment, the Commission asked Staff to clarify the categories of variances for the Project and Related Projects being requested, and the total count thereof. Staff clarified that for all 15 minor CDP requests by Applicant across 16 lots, including the Project, there are six categories of variance requests, and a total of 12 variance requests. The Commission generally commented that such an amount of variance requests was irregular and unprecedented. It recognized the efforts of both the Applicant and Staff over the year to meet and confer to resolve the issues, but indicated that the Project does not meet the standards required by the SMMLCP as proposed, and then moved to close the public hearing and denied the Project (and Related Projects).
20. The Commission's denial of the Project was timely appealed by Applicant on April 28, 2023. The Board held its duly-noticed public hearing on the appeal of the Commission's decision on September 19, 2023, and, like the Commission, held it in conjunction with Applicant's Related Projects for 14 other similar minor CDP and variance applications to build 15 single-family residences on 16 lots that adjoin and/or are in close proximity to one another in the Monte Nido Rural Village within the Santa Monica Mountains Coastal Zone. Regional Planning submitted a written statement to the Board indicating that the Commission's denial of the Project should be upheld because as proposed, the Project does

not comply with the development standards required by the LIP, the goals and policies of the LUP, and does meet the burden of proof required for a variance under the County Code. Additionally, the Director of Regional Planning, Amy Bodek ("Director") was present and provided some additional background for the Board. She indicated that the Project has been around for a while and predates the County's adoption of the SMMLCP. She explained that since 2018, she has been involved with trying to move the Project along in a collaborative way with the Applicant, as the Project and Related Projects are being proposed on topographically challenging and environmentally sensitive lots that include H1 Habitat, H1 Buffer Zones, buffer zones for oak trees, National Parkland, and streams, in addition to street frontage requirements. She elaborated that Regional Planning has worked closely with Applicant to find a way for development to occur on each lot in a manner compliant with the SMMLCP and believes there is such a way to do so, which has been conveyed to the Applicant on numerous occasions and involves reducing the size of the Project's proposed single-family residence and its location on the site. The Director explained that a stalemate was reached a couple of years ago, and Applicant was and is not willing to make any additional changes to the Project. Since that time, numerous indications to Applicant were made that Regional Planning would have to recommend denial of the Project unless changes were incorporated, but Applicant has elected not to modify the Project, signifying that Applicant has accepted proceeding to denial of the Project. Accordingly, the Director requested that the Board uphold the Commission's denial of the Project, and reiterated to the Board that there is economic use of the Project Site with a redesign that is consistent with SMMLCP.

21. After the Director spoke at the Board's public hearing, Attorney for Applicant, Michael Shonafelt, was given the opportunity to speak. Mr. Shonafelt, who also appeared for Applicant at the Commission's public hearing, mostly repeated what he presented at that prior public hearing, the primary point being that due to the 200-foot radius for fuel modification required by the Fire Department and the fact that such a radius would impede into H1 Habitat, development of the Project Site and Related Projects, it is not feasible. Per Mr. Shonafelt, "you could build a broom closet... and it is going to touch H1." In sum, it was his position that the SMMLCP effectively takes away the Applicant's properties, including the Project Site, as it is Applicant's position that nothing can be built on the lots even though they are zoned for residential use. Mr. Shonafelt also wanted to make clear that Applicant's team did do their "homework" and refutes any allegation that Applicant has been uncooperative, as he and the Applicant team have met with County Staff on numerous occasions to try and resolve the issues preventing approval. However, Applicant indicated that they heard from the Fire Department that they would not allow modifications to the fuel modification radius for H1, and decided it was futile to try and redesign the project because doing so takes a lot of time and money.

22. There was ample public comment at the Board's public hearing of the Project. Of 15 total public comments, 13 were in opposition to the Project, and two were seemingly neutral but questioned the governmental process for approval of projects involving the SMMLCP. The comments in opposition to the Project mostly centered on how the Project and Related Projects simply fun afoul of the SMMLCP requirements, as evidenced by the number of variances being requested, and pointed out how unique the Santa Monica Mountains are and that development therein must comply with SMMLCP, which was the byproduct of a long process that involved ample community input and which is tailored to address the specific needs of the region. The opponents also emphasized that development could occur if the projects would simply reduce the size of the proposed primary residences, which should be achievable since they are "mega mansions." Additionally, there was praise for the Staff for doing their best to work with Applicant, and for the Commission in upholding the requirements of the SMMLCP.
23. After hearing from Regional Planning, Applicant, and the public, the Board addressed the Project and emphasized that the SMMLCP prevents development of the Project and Related Projects as proposed, and repeated that the Director has indicated that housing can be developed on the Project Site. The Board indicated that SMMLCP is intended to protect the safety of the region, especially in light of the fire tragedies in the area. In response to Applicant's claim that nothing can be built on the lots, the Board then specifically asked Applicant if they are interested in revisiting a redesign of the Project and the Related Projects in light of the testimony to the contrary heard before the Board; to which, Mr. Shonafelt responded once again that due to fuel modification requirements, not even a "broom closet" could be built on the Project Site. He concluded that any such attempt would be futile as it would not be allowed under the SMMLCP. The Board then turned to the Director, who refuted the repeated contention that the fuel modification zone cannot be modified, as it has been modified in the Coastal Zone before, and that economic value for each of Applicant's lots can be achieved. She reminded the Board that the proposed homes (for the Project and Related Projects) are very large, ranging from 4,500 to 6,400 square feet in size, for an average of 5,300 square feet; therefore, a reduction in their size would allow for the construction of something larger than a "broom closet" and smaller than 5,300 square feet. Finally, she assured the Board that there is an ability to modify the fuel modification zone with the Fire Department because it has been done before to allow development throughout the Santa Monica Mountains. Upon hearing the additional testimony from Applicant and Regional Planning, the Board repeated that the SMMLCP was not adopted to prevent development of housing, but it ensures orderly development that also protects the safety of the unique region, which features very sensitive biological habitat and significant risk of wildfire. The Board recognized the efforts of the Staff throughout the years, which included ample meetings with Applicant's team, and various attempts to

urge Applicant to redesign the Project to one that is viable and respects the SMMLCP. However, the Board indicated that Applicant here has chosen to ignore the guidance of Regional Planning, instead requesting an unprecedented number of variances to develop the Project and Related Projects without regard to the County's rules and processes, and has refused yet again at the Project's public hearing to redesign the Project to meet SMMLCP requirements. The Board then closed the public hearing, denied the appeal, and voted in favor of upholding the Commission's denial of the Project.

24. The Board finds that the Project is not consistent with the LUP. The Rural Village land use designation is intended for single-family residential uses, as well as other resource-dependent uses, on relatively small lots. Although a single-family residence is specifically listed as a principal permitted use under this designation, the Project's overall size and proposed plans, which include a building site area of 11,900 square feet, are not consistent with the policies of the LUP, as identified in the subsections hereunder. The Project's large square footage and footprint would result in development that would extend into the H1 Quiet Zone, as well as fuel modification and brush clearance that would extend into H1 Habitat (oak woodland) and the H1 Habitat Buffer. Additionally, the Project's large footprint and square footage result in a design that is not protective of surrounding landforms by failing to preserve H1 Habitat areas in a more natural state, which is inconsistent with policies regarding the protection of Scenic Resource Areas, as well as those prioritizing protection of sensitive habitats, natural vegetation, and natural resources over development. Finally, when paired with its proximity to Piuma Road, which is a designated scenic route, the Project also results in unnecessary visual impacts to the surrounding area. The Project is not consistent with the following policies of the LUP:

A. Conservation and Open Space Element:

- i. Policy CO-41 – New non-resource-dependent development shall be prohibited in H1 Habitat areas to protect these most sensitive environmental resource areas from disruption of habitat values. The only exception is that two uses may be approved in H1 Habitat other than wetlands in very limited circumstances, as follows: (1) Public Works projects required to repair or protect existing public roads when there is no feasible alternative, as long as impacts to H1 Habitat are avoided to the maximum extent feasible, and unavoidable impacts are minimized and mitigated; and (2) an access road to a lawfully-permitted use outside H1 Habitat when there is no other feasible alternative to provide access to public recreation areas or development on a legal parcel, as long as impacts to H1 Habitat are avoided to the maximum extent feasible, and unavoidable impacts are minimized and mitigated. Any new

development approved for one of these two uses within woodland or savannah habitat shall protect native trees in accordance with Policy CO-99. The County shall not approve the development of any non-resource dependent use other than these two uses within H1 Habitat, unless such use has first been considered in an SMMLCP amendment that is certified by the Coastal Commission. The Project's large square footage and footprint would result in fuel modification and brush clearance that would extend into H1 Habitat (oak woodland).

- ii. Policy CO-51 – Where new development is permitted in H2 Habitat pursuant to this SMMLCP, the maximum allowable building site area on parcels shall be 10,000 square feet, or 25 percent of the parcel size, whichever is less. Where new residential development is permitted in H3 Habitat, the maximum allowable residential building site area shall be 10,000 square feet, or 25 percent of the parcel size, whichever is less. The restriction of the building site area to less than the maximum may be required if the native tree protection policies require a smaller area or if it is determined that a smaller building site area would serve to avoid impacts to H1 Habitat areas, substantially minimize grading associated with the project, reduce the need for manufactured slopes, or reduce the need for retaining features visible from scenic areas, public trails, and public lands. The allowable building site area may be increased for projects that qualify for participation in the incentive program of Policy LU-29 or for projects that comprise two adjoining legal lots, if the existing lots are merged into one lot and one consolidated building site is provided with one access road or driveway. The allowable building site area shall not exceed the total of the building site areas allowed for each individual parcel. Adverse impacts to H2 Habitat that cannot be avoided through the implementation of siting and design alternatives shall be accommodated through the Resource Conservation Program, pursuant to Policy CO-86a. The Project's overall size and proposed plans, which include a building site area of 11,900 square feet, are not consistent with this policy.
- iii. Policy CO-57 – New non-resource-dependent development shall also provide an additional 100-foot "Quiet Zone" from H1 Habitat where feasible (measured from the outer edge of the 100-foot H1 Habitat buffer required above). New development is not permitted in the H1 Habitat Quiet Zone except resource-dependent uses, non-irrigated fuel modification required by the Fire Department for lawfully-established structures, and the following

other uses in very limited circumstances: (1) Public Works projects required to protect existing public roads when there is no feasible alternative, as long as impacts to H1 Habitat and the H1 Buffer are avoided to the maximum extent feasible, and unavoidable impacts are minimized and mitigated; (2) an access road to a lawfully-permitted use when there is no other feasible alternative to provide access to public recreation areas or development on a legal parcel, as long as impacts to H1 Habitat and H1 Buffer are avoided to the maximum extent feasible, and unavoidable impacts are minimized and mitigated; and (3) a development on a lawfully-created parcel that is the minimum development necessary to provide a reasonable economic use of the property and where there is no feasible alternative, as long as impacts to H1 Habitat and H1 Buffer are avoided to the maximum extent feasible, and unavoidable impacts are minimized and mitigated. The Project's large square footage and footprint would result in development that would extend into the H1 Quiet Zone, as well as fuel modification and brush clearance that would extend into the H1 Habitat Buffer. It has not been demonstrated that such development is necessary to provide a reasonable economic use of this property, or that there is no feasible alternative to develop the site.

- iv. Policy CO-66 – Protection of H1 and H2 Habitats and public access shall take priority over other development standards, and where there is any conflict between general/other development standards and the biological resource and/or public access protection provisions, the standards that are most protective of H1 and H2 Habitats and public access shall have precedence. The Project's large footprint and square footage result in a design that is not protective of surrounding landforms by failing to preserve H1 and H2 Habitat areas in a more natural state.
- v. Policy CO-109 – Site and design new development to protect natural features, and minimize removal of natural vegetation. The Project's large footprint and square footage result in a design that does not prioritize protection of sensitive habitats, natural vegetation, and natural resources over development.
- vi. Policy CO-124 – The Santa Monica Mountains contain scenic resources of regional and national importance. The scenic and visual qualities of these resources shall be protected and, where feasible, enhanced. The Project's large footprint and square footage result in a design that is not protective of surrounding landforms by failing to preserve H1 Habitat areas in a more natural

state, which is inconsistent with policies regarding the protection of Scenic Resource Areas.

- vii. Policy CO-125 – Protect public views within Scenic Areas and throughout the Coastal Zone. Places on, along, within, or visible from Scenic Routes, public parklands, public trails, beaches, and state waters that offer scenic vistas of the mountains, canyons, coastline, beaches, and other unique natural features are considered Scenic Resource Areas. Scenic Resource Areas do not include areas that are largely developed such as existing, predominantly built-out residential subdivisions. Scenic Resource Areas also include scenic resources [identified on Map 3 of the LUP] and consist of Scenic Elements, Significant Ridgelines, and Scenic Routes as well as public parkland and recreation areas [identified on Map 4 of the LUP]. The Project's large footprint and square footage result in a design that is not protective of surrounding landforms by failing to preserve H1 Habitat areas in a more natural state, which is inconsistent with policies regarding the protection of Scenic Resource Areas.
- viii. Policy CO-126 – Maintain and enhance the quality of vistas along identified Scenic Routes. The Project violates this policy as the Project's two-story primary residence would degrade the quality of vistas along Piuma Road, which is a Scenic Route.
- ix. Policy CO-131 – Site and design new development to minimize adverse impacts on scenic resources to the maximum extent feasible. If there is no feasible building site location on the proposed project site where development would not be visible, then the development shall be sited and designed to minimize impacts on scenic areas through measures that may include, but not be limited to, siting development in the least visible portion of the site, breaking up the mass of new structures, designing structures to blend into the natural hillside setting, restricting the building maximum size, reducing maximum height, clustering development, minimizing grading, incorporating landscape and building material screening elements, and where appropriate, berming. The Project's large footprint and square footage result in a design that is not protective of surrounding landforms by failing to preserve H1 Habitat areas in a more natural state, which is inconsistent with policies regarding the protection of Scenic Resource Areas. Development is not sited in the least visible portion of the site, nor is development clustered or building size restricted.

B. Land Use Element:

Policy LU-33 – Require that new developments be compatible with the rural character of the area and the surrounding natural environment. The Project's large footprint and square footage result in a design that is not protective of surrounding landforms by failing to preserve H1 Habitat areas in a more natural state, which is inconsistent with policies regarding the protection of Scenic Resource Areas, as well as those prioritizing protection of sensitive habitats, natural vegetation, and natural resources over development. Finally, when paired with its proximity to Piuma Road, which is a designated scenic route, the Project also results in unnecessary visual impacts to the surrounding area.

25. The Board finds that the Project's design is not compatible with surrounding environmental resources, as it would result in development of H1 Habitat. Per the requirements of the LIP, no development, except for access driveways and resource-dependent uses, is permitted in H1 Habitat (County Code Section 22.44.1890 C). Because habitable structures are proposed less than 100 feet from H1 Habitat (riparian zone) to the northeast, fuel modification is required within this area by the approved fuel modification plan.
26. The Board finds that development is proposed within the H1 Habitat Buffer and H1 Quiet Zone. The Project is not consistent with the standards for development in sensitive habitats identified in Subsections C to E of County Code Section 22.44.1890. The Project Site is designated as H3 Habitat by the LUP. While all construction would occur within H3 Habitat, impacts from the development would be located within the H1 Quiet Zone. The Project would also result in required brush clearance within H1 Habitat and H1 Habitat Buffer. The Project proposes a 5,429-square-foot single-family residence. Reducing the square footage of the proposed residence would provide a greater buffer between development and the H1 Habitat area. Thus, the development is not the minimum necessary development for the site, as required within an H1 Quiet Zone or H1 Habitat Buffer by the LIP. Therefore, the findings in County Code Sections 22.44.1890.D.8.b and 22.44.1890.E.12.b cannot be met.
27. The Board finds that the LIP specifically prohibits OWTS seepage pits or leach fields to be placed within 50 feet of the dripline of an oak tree or within 150 feet of riparian canopy (County Code Section 22.44.1340.B.3.c). There are locations on the Project Site more than 50 feet from oaks or other native trees as well as locations more than 150 feet from riparian canopy, and the applicant has not provided documentation that these alternative locations are unsuitable for OWTS seepage pits. Thus, it has not been demonstrated that the Variance is necessary due to special characteristics of the lot or to preserve a substantial property right.
28. The Board finds that the Variance is required for a building site area greater than 10,000 square feet, per County Code Section 22.44.1910.I. The Project proposes a building site area of 11,900 square feet. There are no special

characteristics of the Project Site requiring this, and the building site area could be reduced in size to comply with these sections of the LIP. Thus, it has not been demonstrated that the Variance is necessary due to special characteristics of the lots or to preserve a substantial property right.

29. The Board finds that the proposed development is not in conformity with the certified local coastal program. As proposed, the Project would not comply with all applicable development standards for residences in the SMMLCP, which includes the LUP and LIP, specifically those standards related to habitat categories, building site area, and OWTS standards.
30. The Board finds that any development located between the nearest public road and the 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.
31. The Board finds that there are no special circumstances or exceptional characteristics applicable to the property involved, such as size, shape, topography, location, or surroundings, which are not generally applicable to other properties in the same vicinity and under identical zoning classification. The design of the Project could easily be modified to reduce the building site area. It has not been demonstrated that OWTS seepage pits cannot be placed in a location more than 50 feet from the dripline of an oak tree and/or more than 150 feet from riparian canopy, or that the proposed location is the least impactful to biological resources. Thus, the property has not been shown to have special circumstances or exceptional characteristics.
32. The Board finds that such Variance is unnecessary for the preservation of a substantial property right of the Applicant such as that possessed by owners of other property in the same vicinity and zone. The design of the Project could easily be modified to reduce the building site area. It has not been demonstrated that OWTS seepage pits cannot be placed in a location more than 50 feet from the dripline of an oak tree or that that the proposed location is the least impactful to biological resources. Thus, the Variance is unnecessary to preserve a substantial property right.
33. The Board finds that the granting of the Variance will be materially detrimental to the public welfare or be injurious to other property or improvements in the same vicinity and zone. The proposed OWTS location and large building site area would result in greater development near to oak trees and riparian canopy, which would detrimentally affect the public welfare and other properties by degrading scenic and biological resources.

34. The Board finds that the granting of the Variance will be materially detrimental to coastal resources. The proposed OWTS location and building site area would result in greater development near to oak trees and riparian canopy, which would detrimentally affect coastal resources by degrading scenic and biological resources.
35. The Board finds that pursuant to County Code Section 22.44.990, the community was properly notified of the Board's public hearing of the Project by mail, newspaper (Los Angeles Bulletin), and property posting. Additionally, the Project was noticed, and case materials were available on the Regional Planning's website. On August 17, 2023, a total of 134 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.
36. The location of the documents and other materials constituting the record of proceedings upon which the Hearing Officer's decision is based in this matter is at the 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:

Regarding the Minor CDP:

- A. The proposed Project is not in conformity with the SMMLCP;

Regarding the Variance:

- B. There are no special circumstances or exceptional characteristics applicable to Project Site, such as size, shape, topography, location, or surroundings, which are not generally applicable to other properties in the same vicinity and under identical zoning classification;
- C. The Variance is unnecessary for the preservation of a substantial property right of the Applicant such as that possessed by owners of other property in the same vicinity and zone;
- D. The granting of the Variance will be materially detrimental to the public welfare or be injurious to other property or improvements in the same vicinity and zone; and
- E. The granting of the Variance will be materially detrimental to coastal resources.

THEREFORE, THE BOARD OF SUPERVISORS:

1. Finds that the Project is exempt from CEQA, pursuant to State CEQA Guidelines sections 15061 and 15270 (projects which are rejected or disapproved);

2. Denies the appeal of the Project;
3. Denies Minor CDP No. RPPL2019-001222-(3); and
4. Denies Variance No. RPPL2019-001224-(3).

**FINDINGS OF THE BOARD OF SUPERVISORS
AND ORDER
PROJECT NO. 2019-000686-(3)
MINOR COASTAL DEVELOPMENT PERMIT NO. RPPL2019-003431-(3)
VARIANCE NO. RPPL2019-003432-(3)**

1. The Los Angeles County ("County") Board of Supervisors ("Board") conducted a duly-noticed public hearing on September 19, 2023, in the matter of Project No. 2019-000686-(3), Minor Coastal Development Permit ("CDP") No. RPPL2019-003431-(3) (the "Minor CDP"), and Variance No. RPPL2019-003432-(3) ("Variance"). The Board held the public hearing in conjunction with Applicant's 14 other related and similar minor CDP and variance applications to build 15 single-family residences on 16 lots that adjoin and/or are in close proximity to one another in the Monte Nido Rural Village within the Santa Monica Mountains Coastal Zone (hereinafter referred to as the "Related Projects" comprised of minor CDP nos. RPPL2019-001222-(3), RPPL2019-002073-(3), RPPL2019-002474-(3), RPPL2019-002479-(3), RPPL2019-002885-(3), RPPL2019-002887(3), RPPL2019-003435-(3), RPPL2019-003852-(3), RPPL2019-003854-(3), RPPL2019-004230-(3), RPPL2019-004232-(3), RPPL2019-004674-(3), RPPL2019-004677-(3), and RPPL2019-004678-(3); and variance nos. RPPL2019-001224-(3), RPPL2019-002074-(3), RPPL2019-002475-(3), RPPL2019-002480-(3), RPPL2019-002886-(3), RPPL2019-002888-(3), RPPL2019-003436-(3), RPPL2019-003853-(3), RPPL2019-003855-(3), RPPL2019-004231-(3), and RPPL2019-004675-(3)). The County Regional Planning Commission ("Commission") previously conducted a duly-noticed public hearing on the Minor CDP and Variance on April 26, 2003. Prior to the Commission's hearing, a public hearing was also held before the County Department of Regional Planning ("Regional Planning") Hearing Officer ("Hearing Officer") on October 4, 2022, which was continued to November 1, 2022, and again to February 7, 2023.
2. The applicant, California Pacific Homes ("Applicant"), requests the Minor CDP and Variance to authorize the construction of a 4,270-square-foot single-family residence with a height of 26 feet, three inches above grade, and an onsite wastewater treatment system ("OWTS") ("Project") on a 0.92-acre property located on the south side of Piuma Road (Assessor's Parcel Number 4456-038-013) in the Santa Monica Mountains Coastal Zone ("Project Site"). An OWTS seepage pit would be located less than 50 feet from an oak tree. A total of 730 cubic yards of earth (730 cubic yards cut, all exported) would be graded. The Project would result in construction within an H1 Habitat Buffer and fuel modification or brush clearance within the protected zones of 13 oak trees.
3. The Project requires a coastal development permit to construct a single-family residence and an OWTS in the R-C-20 (Rural Coastal—20-Acre Minimum

Required Lot Area) Zone, pursuant to Los Angeles County Code ("County Code") Section 22.44.810, and a minor CDP is required for any project that requires Environmental Review Board ("ERB") review (County Code Sections 22.44.860 and 22.44.940). The residence would result in development less than 200 feet from H1 Habitat and thus requires ERB review. A minor CDP is also required for any project that results in the encroachment into the protected zone of any oak tree (County Code Section 22.44.950). As currently proposed, fuel modification or brush clearance would occur within the protected zone of 13 oak trees.

4. The Project requires a variance for new structures less than 100 feet from parklands, per County Code Section 22.44.1900.C, and for construction of an OWTS seepage pit or leach field within 50 feet of an oak tree, per County Code Section 22.44.1340.B.3.c. An OWTS seepage pit is proposed less than 50 feet from an oak tree and a portion of the residence is located less than 100 feet from parkland to the south and east. In addition, because the Project is located within a Scenic Resource Area, structures are allowed a maximum height of 18 feet above grade (County Code Section 22.44.1250.C). As proposed, the Project would have a maximum height of 26 feet, three inches above grade. Finally, County Code Section 22.44.1910.I restricts the building site area for new residential development to 10,000 square feet, while the proposed building site area is 10,940 square feet the Variance is required for all these deviations from the standards of the Santa Monica Mountains Local Implementation Program ("LIP").
5. The Project Site is located within the RL20 (Rural Land—One dwelling unit/20 acres maximum) land use designation of the Santa Monica Mountains Local Coastal Program ("SMMLCP") Land Use Policy Map, a component of the General Plan. The Project Site is located in the Malibu Zoned District and is zoned R-C-20. Pursuant to County Code Section 22.44.1750, a single-family residence is a principal permitted use within the R-C Zone.
6. Surrounding zoning within a 500-foot radius of the Project Site includes:
 - North: R-C-20, R-C-1 (Rural Coastal—One Acre Minimum Required Lot Area), R-C-10,000 (Rural Coastal—10,000-square-foot Minimum Required Area);
 - South: O-S-P (Open Space—Parks);
 - East: R-C-20, O-S-P; and
 - West: R-C-1 and R-C-20.
7. Surrounding land uses within a 500-foot radius of the Project Site include:
 - North: Single-family residences, vacant land;
 - South: Open space;
 - East: Vacant land, open space; and

West: Single-family residences and vacant land.

8. The Project Site is 0.92 gross acres in size and consists of one legal lot, which is irregular in shape and consists of generally level terrain. An existing graded pad of approximately 12,000 square feet and drainage structures are located on the northern portion of the of the lot. These were legally developed with CDP No. 5-83-004, which was approved with the underlying tract map in 1987 (Tract Map No. 38931). The central portion of the lot, corresponding to oak woodland, is mapped as H1 Habitat, with the remainder mapped as H3 Habitat in the Santa Monica Mountains Local Coastal Program Land Use Plan ("LUP"). The entirety of the Project Site is within 200 feet of H1 Habitat, which places it within the H1 Habitat Buffer (0-100 feet away) or H1 Quiet Zone (100-200 feet away). Other than the oak trees, the Project Site contains mostly native and non-native grasses. There is also State Park land adjacent to the eastern and southern portion of the property.
9. The Project Site would be accessed from Woodbluff Road, a 60-foot-wide public road immediately to the west. Piuma Road, a 65-foot-wide public road and designated scenic route, is located immediately to the north of the Project Site.
10. The Site Plan for the Project shows the construction of a 4,270-square-foot single-family residence, including a 558-square-foot basement, and a 547-square-foot attached garage on the northern portion of the 0.92-acre Project Site. The residence would have a maximum height of 26 feet, three inches above grade. A total of 730 cubic yards of earth (730 cubic yards cut, all exported) would be graded. The Project would also include an OWTS, retaining walls, and other appurtenant facilities on a total building site of 10,940 square feet within the existing graded pad. The building would be accessed by a 30-foot-long paved driveway, which would access Piuma Road to the north. Development from brush clearance and fuel modification would also encroach into the protected zones of 13 coast live oaks. The southern portion of the Project Site is mapped as H1 Habitat, which places the entirety of the site within the H1 Habitat Buffer (0-100 feet away) or H1 Quiet Zone (100-200 feet away). The residence is proposed for a location on the northern portion of the Project Site, within the H1 Habitat Buffer and H1 Quiet Zone. An OWTS seepage pit is proposed south of the residence within the H1 Habitat Buffer and less than 50 feet from the dripline of an oak tree. The Project Site has a linear street frontage of 185 feet and a linear development frontage of 80 feet.
11. The case history shows that an earlier version of the Project was submitted as a plot plan, along with plot plans for the Related Projects, prior to the County's adoption of the SMMLCP. These plot plans entailed ministerial reviews that were approved in concept, as the lack of an approved local coastal program meant that the necessary coastal development permits to develop the residences would still have to have been obtained from the California Coastal Commission

("Coastal Commission"). Taken together, the Project and the Related Projects did not qualify for an exemption under the California Environmental Quality Act (Public Resources Code section 21000 et seq.) ("CEQA"), resulting in Environmental Assessment No. 201200258 comprised of a Mitigated Negative Declaration ("MND") and Mitigation Monitoring and Reporting Program ("MMRP"). The MND and MMRP were initially approved but subsequently appealed to both the Commission and the Board, which upheld the appeal and invalidated the MND and MMRP on September 22, 2015.

12. On June 6, 2019, the Project, along with the Related Projects, was submitted to Regional Planning in its current form. Thereafter, from 2019 to 2011, Regional Planning staff ("Staff") met with the Applicant 11 times to discuss the Project, with a focus on how to resolve issues related to it as submitted by Applicant. Staff requested that the Project be redesigned to eliminate inconsistencies with LIP standards and reasons for needing the Variance. On August 8, 2021, the ERB reviewed the Project and requested that it be returned with a more comprehensive overview of the Project in conjunction with the Related Projects, including a more detailed analysis of the oak woodlands, and generally a greater effort to be consistent with the LIP. On April 14, 2022, Staff sent a letter to Applicant requesting several specific changes to the Project and indicated that if the changes were not made, the Project would be scheduled for public hearing with a Staff recommendation of denial. The requested changes included reducing the size and/or changing the location of several of the main residences, relocating the OWTS, and in conjunction with the Related Projects, proposing fewer residences as a whole by merging some of the lots.
13. On May 13, 2022, Applicant responded to Staff in writing that it would not make additional changes to the Project and Related Projects. The Project thereafter proceeded to hearing before the Hearing Officer on June 7, 2022, as an item for discussion and possible action, at which time the Hearing Officer scheduled a public hearing for the Project on October 4, 2022.
14. Staff received four phone calls and nine letters of opposition have been received over the course of the hearing process for the Project. Issues raised include destruction of sensitive habitat, light pollution, traffic, construction noise, fire hazard, proximity to wildlife, and interference of scenic views from the Backbone Trail.
15. Staff consulted with various County departments about the Project and received the following recommendations:
 - A. County Department of Parks and Recreation recommended clearance to public hearing with no conditions through the County's electronic consultation system ("EPIC-LA") on September 29, 2020.

- B. County Fire Department ("Fire Department") recommended clearance to public hearing with no conditions through EPIC-LA on September 30, 2020.
 - C. County Department of Public Works ("Public Works") recommended denial of the Project due to lack of documentation regarding road boundaries, road improvements, lines of sight, and earthmoving details in a letter dated November 5, 2020.
 - D. County Department of Public Health recommended denial of the Project due to lack of information regarding the proposed OWTS and water service in a letter dated October 27, 2020.
 - E. ERB took no action regarding the Project at a meeting held on August 16, 2021, but recommended that it return with a more comprehensive plan and biological assessment, as well as a redesign to be consistent with the LIP.
16. Because CEQA does not apply to projects which a public agency rejects or disapproves, pursuant to sections 15061 and 15270 of the State CEQA Guidelines (Title 14, Cal. Code Regs., Chapter 3, §§ 15000-15387), there has been no CEQA analysis performed on the Project.
17. A duly-noticed public hearing was held before the Hearing Officer on October 4, 2022, which was continued to November 1, 2022, to allow the Hearing Officer to conduct site visit and thoroughly review all documents. At the November 1, 2022 continued public hearing, Staff provided an overview and recommended denial of the Project. Applicant's representative spoke in favor of the Project. The Hearing Officer indicated her intent to deny the Project because it failed to meet the development standards of the LIP and because it could not meet the burden of proof required for a variance, and continued the hearing to February 7, 2023, to allow additions and edits to the required denial findings. At the continued hearing on February 7, 2023, the Hearing Officer found that there was nothing preventing Applicant from redesigning the Project to comply with LIP standards and that, as proposed, the Project did not meet the goals and policies of the LUP. Additionally, as to the Variance request, the Hearing Officer found that that Applicant did not demonstrate that there were unique circumstances or special characteristics of the Project Site that required a variance to preserve substantial property rights therein, nor that it was infeasible to redesign the Project to possibly eliminate the need for a variance altogether. The Hearing Officer closed the public hearing and denied the Project.
18. The Hearing Officer's decision was timely appealed to the Commission by the Applicant on February 13, 2023. A duly-noticed public hearing was held before the Commission on April 26, 2023, to consider the appeal of the Hearing Officer's denial of the Project. Staff presented the Project in conjunction with the Related

Projects, and recommended denial thereof for failure to comply with development standards of the LIP, conflicting with the goals and policies of the LUP, and failing to meet the burden of proof for a variance. Staff emphasized that the Project could be redesigned in a manner to comply with the LIP and LUP, and explained that it had ample meetings with Applicant on numerous occasions throughout the Project's history where that message was conveyed. Staff pointed out that Applicant has never submitted any revised plans. Applicant spoke at the public hearing by way of its land use attorney, Michael Shonafelt, who argued that the applicable portions of the LIP and LUP make it impossible to build on any portion of the Project Site. Applicant did acknowledge that there were good faith efforts between Applicant and the County and its various departments, including many well-attended meetings, to find a feasible path forward to develop the Project and Related Projects. However, Applicant concluded that the 200-foot fuel modification radius required by the Fire Department would result in vegetation removal within H1 Habitat, which is prohibited by the LIP. Applicant summarized its position by asserting that the Project Site is essentially unbuildable, as even building a "broom closet" would result in impacts on H1 Habitat due to the fuel modification requirement.

19. At the Commission's public hearing, there was public comment opposing the Project. A total of four constituents voiced their opposition based primarily on the Project's lack of compliance with the SMMLCP and allegations that Applicant was trying to skirt County requirements to build "mega-mansions" in violation of the SMMLCP. The public comments urged the Commission to uphold the Hearing Officer's denial of the Project. Upon conclusion of public comment, the Commission asked Staff to clarify the categories of variances for the Project and Related Projects being requested, and the total count thereof. Staff clarified that for all 15 minor CDP requests by Applicant across 16 lots, including the Project, there are six categories of variance requests, and a total of 12 variance requests. The Commission generally commented that such an amount of variance requests was irregular and unprecedented. It recognized the efforts of both the Applicant and Staff over the year to meet and confer to resolve the issues, but indicated that the Project does not meet the standards required by the SMMLCP as proposed, and then moved to close the public hearing and denied the Project (and Related Projects).
20. The Commission's denial of the Project was timely appealed by Applicant on April 28, 2023. The Board held its duly-noticed public hearing on the appeal of the Commission's decision on September 19, 2023, and, like the Commission, held it in conjunction with Applicant's Related Projects for 14 other similar minor CDP and variance applications to build 15 single-family residences on 16 lots that adjoin and/or are in close proximity to one another in the Monte Nido Rural Village within the Santa Monica Mountains Coastal Zone. Regional Planning submitted a written statement to the Board indicating that the Commission's

denial of the Project should be upheld because as proposed, the Project does not comply with the development standards required by the LIP, the goals and policies of the LUP, and does meet the burden of proof required for a variance under the County Code. Additionally, the Director of Regional Planning, Amy Bodek ("Director") was present and provided some additional background for the Board. She indicated that the Project has been around for a while and predates the County's adoption of the SMMLCP. She explained that since 2018, she has been involved with trying to move the Project along in a collaborative way with the Applicant, as the Project and Related Projects are being proposed on topographically challenging and environmentally sensitive lots that include H1 Habitat, H1 Buffer Zones, buffer zones for oak trees, National Parkland, and streams, in addition to street frontage requirements. She elaborated that Regional Planning has worked closely with Applicant to find a way for development to occur on each lot in a manner compliant with the SMMLCP and believes there is such a way to do so, which has been conveyed to the Applicant on numerous occasions and involves reducing the size of the Project's proposed single-family residence and its location on the site. The Director explained that a stalemate was reached a couple of years ago, and the Applicant was and is not willing to make any additional changes to the Project. Since that time, numerous indications to Applicant were made that Regional Planning would have to recommend denial of the Project unless changes were incorporated, but Applicant has elected not to modify the Project, signifying that Applicant has accepted proceeding to denial of the Project. Accordingly, the Director requested that the Board uphold the Commission's denial of the Project, and reiterated to the Board that there is economic use of the Project Site with a redesign that is consistent with SMMLCP.

21. After the Director spoke at the Board's public hearing, Attorney for Applicant, Michael Shonafelt, was given the opportunity to speak. Mr. Shonafelt, who also appeared for Applicant at the Commission's public hearing, mostly repeated what he presented at that prior public hearing, the primary point being that due to the 200-foot radius for fuel modification required by the Fire Department and the fact that such a radius would impede into H1 Habitat, development of the Project Site and Related Projects it not feasible. Per Mr. Shonafelt, "you could build a broom closet... and it is going to touch H1." In sum, it was his position that the SMMLCP effectively takes away the Applicant's properties, including the Project Site, as it is Applicant's position that nothing can be built on the lots even though they are zoned for residential use. Mr. Shonafelt also wanted to make clear that Applicant's team did do their "homework" and refutes any allegation that Applicant has been uncooperative, as he and the Applicant team have met with County Staff on numerous occasions to try and resolve the issues preventing approval. However, Applicant indicated that they heard from the Fire Department that they would not allow modifications to the fuel modification radius for H1, and

decided it was futile to try and redesign the project as doing so takes a lot of time and money.

22. There was ample public comment at the Board's public hearing of the Project. Of 15 total public comments, 13 were in opposition to the Project, and two were seemingly neutral but questioned the governmental process for approval of projects involving the SMMLCP. The comments in opposition to the Project mostly centered on how the Project and Related Projects simply fun afoul of the SMMLCP requirements, as evidenced by the number of variances being requested, and pointed out how unique the Santa Monica Mountains are and that development therein must comply with SMMLCP, which was the byproduct of a long process that involved ample community input and which is tailored to address the specific needs of the region. The opponents also emphasized that development could occur if the projects would simply reduce the size of the proposed primary residences, which should be achievable since they are "mega mansions." Additionally, there was praise for the Staff for doing their best to work with Applicant, and for the Commission in upholding the requirements of the SMMLCP.
23. After hearing from Regional Planning, Applicant, and the public, the Board addressed the Project and emphasized that the SMMLCP prevents development of the Project and Related Projects as proposed, and repeated that the Director has indicated that housing can be developed on the Project Site. The Board indicated that SMMLCP is intended to protect the safety of the region, especially in light of the fire tragedies in the area. In response to Applicant's claim that nothing can be built on the lots, the Board then specifically asked Applicant if they are interested in revisiting a redesign of the Project and the Related Projects in light of the testimony to the contrary heard before the Board; to which, Mr. Shonafelt responded once again that due to fuel modification requirements, not even a "broom closet" could be built on the Project Site. He concluded that any such attempt would be futile as it would not be allowed under the SMMLCP. The Board then turned to the Director, who refuted the repeated contention that the fuel modification zone cannot be modified, as it has been modified in the Coastal Zone before, and that economic value for each of Applicant's lots can be achieved. She reminded the Board that the proposed homes (for the Project and Related Projects) are very large, ranging from 4,500 to 6,400 square feet in size, for an average of 5,300 square feet; therefore, a reduction in their size would allow for the construction of something larger than a "broom closet" and smaller than 5,300 square feet. Finally, she assured the Board that there is an ability to modify the fuel modification zone with the Fire Department because it has been done before to allow development throughout the Santa Monica Mountains. Upon hearing the additional testimony from Applicant and Regional Planning, the Board repeated that the SMMLCP was not adopted to prevent development of housing, but it ensures orderly development that also protects the safety of the

unique region, which features very sensitive biological habitat and significant risk of wildfire. The Board recognized the efforts of the Staff throughout the years, which included ample meetings with Applicant's team, and various attempts to urge Applicant to redesign the Project to one that is viable and respects the SMMLCP. However, the Board indicated that Applicant here has chosen to ignore the guidance of Regional Planning, instead requesting an unprecedented number of variances to develop the Project and Related Projects without regard to the County's rules and processes, and has refused yet again at the Project's public hearing to redesign the Project to meet SMMLCP requirements. The Board then closed the public hearing, denied the appeal, and voted in favor of upholding the Commission's denial of the Project.

24. The Board finds that the Project is not consistent with the LUP. The Rural Land 20 land use designation is intended for single-family residential uses, as well as other resource-dependent uses, on relatively large lots. Although a single-family residence is specifically listed as a principal permitted use under this designation, the Project's overall size and proposed plans, which include a building site area of 10,940 square feet, are not consistent with the policies of the LUP, as identified in the subsections hereunder. The Project's large square footage and footprint would result in development that would extend into the H1 Quiet Zone, as well as fuel modification and brush clearance that would extend into H1 Habitat (oak woodland) and the H1 Habitat Buffer. Additionally, the Project's large footprint and square footage result in a design that is not protective of surrounding landforms by failing to preserve H1 Habitat areas in a more natural state, which is inconsistent with policies regarding the protection of Scenic Resource Areas, as well as those prioritizing protection of sensitive habitats, natural vegetation, and natural resources over development. Finally, when paired with its proximity to Piuma Road, which is a designated scenic route, the Project also results in unnecessary visual impacts to the surrounding area. The Project is not consistent with the following policies of the LUP:

A. Conservation and Open Space Element:

- i. Policy CO-41 – New non-resource-dependent development shall be prohibited in H1 Habitat areas to protect these most sensitive environmental resource areas from disruption of habitat values. The only exception is that two uses may be approved in H1 Habitat other than wetlands in very limited circumstances, as follows: (1) Public Works projects required to repair or protect existing public roads when there is no feasible alternative, as long as impacts to H1 Habitat are avoided to the maximum extent feasible, and unavoidable impacts are minimized and mitigated; and (2) an access road to a lawfully-permitted use outside H1 Habitat when there is no other feasible alternative to provide access to public

recreation areas or development on a legal parcel, as long as impacts to H1 Habitat are avoided to the maximum extent feasible, and unavoidable impacts are minimized and mitigated. Any new development approved for one of these two uses within woodland or savannah habitat shall protect native trees in accordance with Policy CO-99. The County shall not approve the development of any non-resource dependent use other than these two uses within H1 Habitat, unless such use has first been considered in an SMMLCP amendment that is certified by the Coastal Commission. The Project's large square footage and footprint would result in fuel modification and brush clearance that would extend into H1 Habitat (oak woodland).

- ii. Policy CO-51 – Where new development is permitted in H2 Habitat pursuant to this SMMLCP, the maximum allowable building site area on parcels shall be 10,000 square feet, or 25 percent of the parcel size, whichever is less. Where new residential development is permitted in H3 Habitat, the maximum allowable residential building site area shall be 10,000 square feet, or 25 percent of the parcel size, whichever is less. The restriction of the building site area to less than the maximum may be required if the native tree protection policies require a smaller area or if it is determined that a smaller building site area would serve to avoid impacts to H1 Habitat areas, substantially minimize grading associated with the project, reduce the need for manufactured slopes, or reduce the need for retaining features visible from scenic areas, public trails, and public lands. The allowable building site area may be increased for projects that qualify for participation in the incentive program of Policy LU-29 or for projects that comprise two adjoining legal lots, if the existing lots are merged into one lot and one consolidated building site is provided with one access road or driveway. The allowable building site area shall not exceed the total of the building site areas allowed for each individual parcel. Adverse impacts to H2 Habitat that cannot be avoided through the implementation of siting and design alternatives shall be accommodated through the Resource Conservation Program, pursuant to Policy CO-86a. The Project's overall size and proposed plans, which include a building site area of 10,940 square feet, are not consistent with this policy.
- iii. Policy CO-57 – New non-resource-dependent development shall also provide an additional 100-foot "Quiet Zone" from H1 Habitat where feasible (measured from the outer edge of the 100-foot H1 Habitat buffer required above). New development is not

permitted in the H1 Habitat Quiet Zone except resource-dependent uses, non-irrigated fuel modification required by the Fire Department for lawfully-established structures, and the following other uses in very limited circumstances: (1) Public Works projects required to protect existing public roads when there is no feasible alternative, as long as impacts to H1 Habitat and the H1 Buffer are avoided to the maximum extent feasible, and unavoidable impacts are minimized and mitigated; (2) an access road to a lawfully-permitted use when there is no other feasible alternative to provide access to public recreation areas or development on a legal parcel, as long as impacts to H1 Habitat and H1 Buffer are avoided to the maximum extent feasible, and unavoidable impacts are minimized and mitigated; and (3) a development on a lawfully-created parcel that is the minimum development necessary to provide a reasonable economic use of the property and where there is no feasible alternative, as long as impacts to H1 Habitat and H1 Buffer are avoided to the maximum extent feasible, and unavoidable impacts are minimized and mitigated. The Project's large square footage and footprint would result in development that would extend into the H1 Quiet Zone, as well as fuel modification and brush clearance that would extend into the H1 Habitat Buffer. It has not been demonstrated that such development is necessary to provide a reasonable economic use of this property, or that there is no feasible alternative to develop the site.

- iv. Policy CO-63 – New development adjoining parklands, where the purpose of the park is to protect the natural environment and SERAs, shall be sited and designed to minimize impacts to habitat and recreational opportunities to the maximum extent feasible. Natural vegetation buffer areas shall be provided around parklands. Buffers shall be of a sufficient size to prevent impacts to parkland resources, but in no case shall they be less than 100 feet in width. Variances or modifications to the required H1 Habitat Buffer width shall not be granted, except for a permitted use included in Policy CO-56. New development permitted adjacent to parklands shall include open space conservation easements over the habitat areas outside the approved development site to ensure that impacts to the H1 and H2 Habitats, H1 Habitat Buffer, or parkland buffer are avoided.
- v. Policy CO-66 – Protection of H1 and H2 Habitats and public access shall take priority over other development standards, and where there is any conflict between general/other development standards and the biological resource and/or public access protection

provisions, the standards that are most protective of H1 and H2 Habitats and public access shall have precedence. The Project's large footprint and square footage result in a design that is not protective of surrounding landforms by failing to preserve H1 and H2 Habitat areas in a more natural state.

- vi. Policy CO-109 – Site and design new development to protect natural features, and minimize removal of natural vegetation. The Project's large footprint and square footage result in a design that does not prioritize protection of sensitive habitats, natural vegetation, and natural resources over development.
- vii. Policy CO-124 – The Santa Monica Mountains contain scenic resources of regional and national importance. The scenic and visual qualities of these resources shall be protected and, where feasible, enhanced. The Project's large footprint and square footage result in a design that is not protective of surrounding landforms by failing to preserve H1 Habitat areas in a more natural state, which is inconsistent with policies regarding the protection of Scenic Resource Areas.
- viii. Policy CO-125 – Protect public views within Scenic Areas and throughout the Coastal Zone. Places on, along, within, or visible from Scenic Routes, public parklands, public trails, beaches, and state waters that offer scenic vistas of the mountains, canyons, coastline, beaches, and other unique natural features are considered Scenic Resource Areas. Scenic Resource Areas do not include areas that are largely developed such as existing, predominantly built-out residential subdivisions. Scenic Resource Areas also include scenic resources [identified on Map 3 of the LUP] and consist of Scenic Elements, Significant Ridgelines, and Scenic Routes as well as public parkland and recreation areas [identified on Map 4 of the LUP] The Project's large footprint and square footage result in a design that is not protective of surrounding landforms by failing to preserve H1 Habitat areas in a more natural state, which is inconsistent with policies regarding the protection of Scenic Resource Areas.
- ix. Policy CO-126 – Maintain and enhance the quality of vistas along identified Scenic Routes. The Project violates this policy as the Project's two-story primary residence would degrade the quality of vistas along Piuma Road, which is a Scenic Route.
- x. Policy CO-131 – Site and design new development to minimize adverse impacts on scenic resources to the maximum extent

feasible. If there is no feasible building site location on the proposed project site where development would not be visible, then the development shall be sited and designed to minimize impacts on scenic areas through measures that may include, but not be limited to, siting development in the least visible portion of the site, breaking up the mass of new structures, designing structures to blend into the natural hillside setting, restricting the building maximum size, reducing maximum height, clustering development, minimizing grading, incorporating landscape and building material screening elements, and where appropriate, berming. The Project's large footprint and square footage result in a design that is not protective of surrounding landforms by failing to preserve H1 Habitat areas in a more natural state, which is inconsistent with policies regarding the protection of Scenic Resource Areas.

B. Land Use Element

Policy LU-33 – Require that new developments be compatible with the rural character of the area and the surrounding natural environment. The Project's large footprint and square footage result in a design that is not protective of surrounding landforms by failing to preserve H1 Habitat areas in a more natural state, which is inconsistent with policies regarding the protection of Scenic Resource Areas, as well as those prioritizing protection of sensitive habitats, natural vegetation, and natural resources over development. Finally, when paired with its proximity to Piuma Road, which is a designated scenic route, the Project also results in unnecessary visual impacts to the surrounding area.

25. The Board finds that the Project's design is not compatible with surrounding environmental resources, as it would result in development of H1 Habitat. Per the requirements of the LIP, no development, except for access driveways and resource-dependent uses, is permitted in H1 Habitat (County Code Section 22.44.1890.C). Because habitable structures are proposed less than 100 feet from H1 Habitat (oak woodland) to the south, fuel modification is required within this area by the approved fuel modification plan.
26. The Board finds that development is proposed within the H1 Habitat Buffer and H1 Quiet Zone. The Project is not consistent with the standard identified in County Code Section 22.44.1890. The Project Site is designated as H1 Habitat and H3 Habitat by the LUP. While all construction would occur within H3 Habitat, impacts from the development would be located within the H1 Quiet Zone and H1 Habitat Buffer. The Project would also result in required fuel modification and brush clearance within H1 Habitat. The Project proposes a 4,270-square-foot single-family residence. Reducing the square footage of the proposed residence and/or relocating the OWTS would provide a greater buffer between

development and the H1 Habitat area. Thus, the development is not the minimum necessary development for the site, as required within an H1 Quiet Zone or H1 Habitat Buffer by the LIP. Therefore, the findings in County Code Sections 22.44.1890.D.8.b and 22.44.1890.E.12.b cannot be met.

27. The Board finds that the Variance is required for new structures less than 100 feet from parklands, per County Code Section 22.44.1900.C. Due to California State Parks open space immediately to the south, a small portion of the residence, as well as hardscape and retaining walls proposed for the Project Site, would extend into the required 100-foot parkland buffer. Because the structure could easily be redesigned to eliminate this encroachment, there are no special characteristics of the lot that require the Variance, nor is it necessary to preserve a substantial property right.
28. The Board finds that the LIP specifically prohibits OWTS seepage pits or leach fields to be placed within 50 feet of the dripline of an oak tree (County Code Section 22.44.1340.B.3.c). There are locations on the Project Site more than 50 feet from oaks or other native trees, and the applicant has not provided documentation that these alternative locations are unsuitable for OWTS seepage pits. Thus, it has not been demonstrated that the Variance is necessary due to special characteristics of the lots or to preserve a substantial property right.
29. The Board finds that the Variance is required for structures greater than 18 feet above grade within Scenic Resource Areas, per County Code Section 22.44.1250.C. The Project, due to its proximity to parklands, Piuma Road, and the Backbone Trail, is within a Scenic Resource Area. The residence would have a maximum structural height of 26 feet, three inches above grade. There are no special characteristics of the Project Site requiring this, and the overheight structures could be redesigned to comply with these sections of the LIP. Thus, it has not been demonstrated that the Variance is necessary due to special characteristics of the lots or to preserve a substantial property right.
30. The Board finds that the Variance is required for a building site area greater than 10,000 square feet, per County Code Section 22.44.1910.I. The Project proposes a building site area of 10,940 square feet. There are no special characteristics of the Project Site requiring this, and the building site area could be reduced in size to comply with these sections of the LIP. Thus, it has not been demonstrated that the Variance is necessary due to special characteristics of the lots or to preserve a substantial property right.
31. The Board finds that the proposed development is not in conformity with the certified local coastal program. As proposed, the Project would not comply with all applicable development standards for residences in the SMMLCP, which includes the LUP and LIP, specifically those standards related to habitat

categories, Scenic Resource Areas, building site area, parkland buffer, and OWTS standards.

32. The Board finds that any development located between the nearest public road and the 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.
33. The Board finds that there are no special circumstances or exceptional characteristics applicable to the property involved, such as size, shape, topography, location, or surroundings, which are not generally applicable to other properties in the same vicinity and under identical zoning classification. It has not been demonstrated that OWTS seepage pits cannot be placed in a location more than 50 feet from the dripline of an oak tree. The design of the residence could be modified to avoid encroaching into the required 100-foot parkland buffer. Also, special site characteristics do not necessitate the construction of overheight structures in a Scenic Resource Area, nor do site conditions require a building site area greater than 10,000 square feet. Thus, the property has not been shown to have special circumstances or exceptional characteristics.
34. The Board finds that the Variance is unnecessary for the preservation of a substantial property right of the applicant such as that possessed by owners of other property in the same vicinity and zone. It has not been demonstrated that OWTS seepage pits cannot be placed in a location more than 50 feet from the dripline of an oak tree. The design of the residence could be modified to avoid encroaching into the required 100-foot parkland buffer. Also, special site characteristics do not necessitate the construction of overheight structures in a Scenic Resource Area, nor do site conditions require a building site area greater than 10,000 square feet.
35. The Board finds that the granting of the Variance will be materially detrimental to the public welfare or be injurious to other property or improvements in the same vicinity and zone. The proposed OWTS location and design would result in greater development near to oak trees and the proposed residence location would result in greater development near to parkland and within a Scenic Resource Area, which would detrimentally affect the public welfare and other properties by degrading scenic and biological resources.
36. The Board finds that the granting of the Variance will be materially detrimental to coastal resources. The proposed OWTS location would result in greater development near to oak trees and the proposed residence location and design would result in greater development near to parkland and within a Scenic

Resource Area, which would detrimentally affect coastal resources by degrading scenic and biological resources.

37. The Board finds that pursuant to County Code Section 22.44.990, the community was properly notified of the Board's public hearing of the Project by mail, newspaper (Los Angeles Bulletin), and property posting. Additionally, the Project was noticed, and case materials were available on the Regional Planning's website. On August 17, 2023, a total of 134 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 Hearing Officer's decision is based in this matter at the 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:

Regarding the Minor CDP:

- A. The proposed Project is not in conformity with the SMMLCP;

Regarding the Variance:

- B. There are no special circumstances or exceptional characteristics applicable to Project Site, such as size, shape, topography, location, or surroundings, which are not generally applicable to other properties in the same vicinity and under identical zoning classification;
- C. The Variance is unnecessary for the preservation of a substantial property right of the Applicant such as that possessed by owners of other property in the same vicinity and zone;
- D. The granting of the Variance will be materially detrimental to the public welfare or be injurious to other property or improvements in the same vicinity and zone; and
- E. The granting of the Variance will be materially detrimental to coastal resources.

THEREFORE, THE BOARD OF SUPERVISORS:

1. Finds that the Project is exempt from CEQA, pursuant to State CEQA Guidelines sections 15061 and 15270 (projects which are rejected or disapproved);
2. Denies the appeal of the Project;
3. Denies Minor CDP No. RPPL2019-003431-(3); and

4. Denies Variance No. RPPL2019-003432-(3).

**FINDINGS OF THE BOARD OF SUPERVISORS
AND ORDER
PROJECT NO. 2019-000686-(3)
MINOR COASTAL DEVELOPMENT PERMIT NO. RPPL2019-003435-(3)
VARIANCE NO. RPPL2019-003436-(3)**

1. The Los Angeles County ("County") Board of Supervisors ("Board") conducted a duly-noticed public hearing on September 19, 2023, in the matter of Project No. 2019-000686-(3), Minor Coastal Development Permit ("CDP") No. RPPL2019-003435-(3) (the "Minor CDP"), and Variance No. RPPL2019-003436-(3) ("Variance"). The Board held the public hearing in conjunction with Applicant's 14 other related and similar minor CDP and variance applications to build 15 single-family residences on 16 lots that adjoin and/or are in close proximity to one another in the Monte Nido Rural Village within the Santa Monica Mountains Coastal Zone (hereinafter referred to as the "Related Projects" comprised of minor CDP nos. RPPL2019-002073-(3), RPPL2019-002474-(3), RPPL2019-002479-(3), RPPL2019-002885-(3), RPPL2019-002887(3), RPPL2019-001222-(3), RPPL2019-003431-(3), RPPL2019-003852(3), RPPL2019-003854-(3), RPPL2019-004230-(3), RPPL2019-004232-(3), RPPL2019-004674-(3), RPPL2019-004677-(3), and RPPL2019-004678-(3); and variance nos. RPPL2019-002475-(3), RPPL2019-002480-(3), RPPL2019-002886-(3), RPPL2019-002888-(3), RPPL2019-001224-(3), RPPL2019-003432-(3), RPPL2019-003853-(3), RPPL2019-003855-(3), RPPL2019-004231-(3), RPPL2019-002074-(3), and RPPL2019-004675-(3)). The County Regional Planning Commission ("Commission") previously conducted a duly-noticed public hearing on the Minor CDP and Variance on April 26, 2003. Prior to the Commission's hearing, a public hearing was also held before the County Department of Regional Planning ("Regional Planning") Hearing Officer ("Hearing Officer") on October 4, 2022, which was continued to November 1, 2022, and again to February 7, 2023.
2. The applicant, California Pacific Homes ("Applicant"), requests the Minor CDP and Variance to authorize the construction of a 5,645-square-foot single-family residence, and an onsite wastewater treatment system ("OWTS") ("Project") on a 0.92-acre property located on the south side of Piuma Road (Assessor's Parcel Number 4456-038-014) in the Santa Monica Mountains Coastal Zone ("Project Site"). Hardscape, retaining walls, and a portion of the residence would be located less than 100 feet from parkland to the south. A total of 1,612 cubic yards of earth (1,042 cubic yards cut, 570 cubic yards fill, 472 cubic yards export) would be graded, and seven-foot-tall retaining walls are proposed. The Project would result in construction within an H1 Habitat Buffer and fuel modification or brush clearance within the protected zones of 14 oak trees.

3. The Project requires a coastal development permit to construct a single-family residence and an OWTS in the R-C-20 (Rural Coastal—20-Acre Minimum Required Lot Area) Zone, pursuant to Los Angeles County Code ("County Code") Section 22.44.810, and a minor CDP is required for any project that requires Environmental Review Board ("ERB") review (County Code Sections 22.44.860 and 22.44.940). The Project requires ERB review because the main residence, as proposed, would result in development less than 200 feet from H1 Habitat. Additionally, a minor CDP is also required for any project that results in the encroachment into the protected zone of any oak tree, pursuant to County Code Section 22.44.950. As proposed, the Project requires fuel modification or brush clearance would occur within the protected zones of 14 oak trees.
4. The Project requires a variance for construction of new structures less than 100 feet from parklands, per County Code Section 22.44.1900.C. A variance is also required for structures that occupy more than 50 percent of the linear frontage of a parcel fronting a scenic route (County Code Section 22.44.2040.C.1). County Code Section 22.44.2040.A.11.c also restricts the height of retaining walls in Scenic Resource Areas to six feet. Finally, County Code Section 22.44.1910.I restricts building site area for new residential development to 10,000 square feet. Because hardscape, retaining walls, and a portion of the residence are located less than 100 feet from parkland to the south, the residence would occupy more than 50 percent of the parcel frontage, the building site area would be 11,205 square feet, and seven-foot-high retaining walls are proposed, the Project requires a variance for all deviations from the development standards of the Santa Monica Mountains Local Implementation Program ("LIP").
5. The Project Site is located within the RL20 (Rural Land—One dwelling unit/20 acres maximum) land use designation of the Santa Monica Mountains Local Coastal Program ("SMMLCP") Land Use Policy Map, a component of the General Plan. The Project Site is located in the Malibu Zoned District and is zoned R-C-20. Pursuant to County Code Section 22.44.1750, a single-family residence is a principal permitted use within the R-C Zone.
6. Surrounding zoning within a 500-foot radius of the Project Site includes:

North:	R-C-20, R-C-1, R-C-10,000 (Rural Coastal—10,000-square-foot Minimum Required Area);
South:	O-S-P (Open Space—Parks);
East:	R-C-20, O-S-P; and
West:	R-C-1 and R-C-20.
7. Surrounding land uses within a 500-foot radius of the Project Site include:

North:	Single-family residences, vacant land;
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South: Open space;
East: Vacant land, open space; and
West: Single-family residences and vacant land.

8. The Project Site is 0.92 gross acres in size and consists of one legal lot, which is rectangular in shape and consists of generally level terrain. An existing graded pad of approximately 12,000 square feet and drainage structures are located on the northern portion of the of the lot. These were legally developed with CDP No. 5-83-004, which was approved with the underlying tract map in 1987 (Tract Map No. 38931). The southern portion of the lot, corresponding to oak woodland, is mapped as H1 Habitat with the remainder mapped as H3 Habitat in the Santa Monica Mountains Local Coastal Program Land Use Plan ("LUP"). While the Project Site is within 200 feet of H1 Habitat, which places it within the H1 Habitat Buffer (0-100 feet away) or H1 Quiet Zone (100-200 feet away). Other than the oak trees, the Project Site contains mostly native and non-native grasses. There is also State Park land adjacent to the eastern and southern portion of the property.
9. The Project Site would be accessed from Piuma Road, a 65-foot-wide public road and designated scenic route, immediately to the north of the Project Site.
10. The site plan shows the construction of a 5,645-square-foot single-family residence, including a 1,759-square-foot basement, and a 556-square-foot attached garage on the northern portion of the 0.92-acre Project Site. The residence would have a maximum height of 17 feet above grade. A total of 1,612 cubic yards of earth (1,042 cubic yards cut, 570 cubic yards fill, 472 cubic yards export) would be graded. The Project would also include an OWTS, retaining walls on three sides up to seven feet tall, and other appurtenant facilities on a total building site of 11,205 square feet within the existing graded pad. The building would be accessed by a 40-foot-long paved driveway, which would access Piuma Road to the north. Development from brush clearance and fuel modification would also encroach into the protected zones of 14 coast live oaks. The southern portion of the Project Site is mapped as H1 Habitat, which places the entirety of the site within H1 Habitat Buffer (0-100 feet away) or H1 Quiet Zone (100-200 feet away). The residence is proposed for a location on the northern portion of the Project Site, within H1 Habitat Buffer and H1 Quiet Zone. A portion of the residence, as well as hardscape and retaining walls, is located less than 100 feet from parklands to the south. An OWTS seepage pit is proposed south of the residence within H1 Habitat Buffer. The Project Site has a linear street frontage of 171 feet and a linear development frontage of 100 feet.
11. The case history shows that an earlier version of the Project was submitted as a plot plan, along with plot plans for the Related Projects, prior to the County's adoption of the SMMLCP. These plot plans entailed ministerial reviews that were approved in concept, as the lack of an approved local coastal program meant

that the necessary coastal development permits to develop the residences would still have to have been obtained from the California Coastal Commission ("Coastal Commission"). Taken together, the Project and the Related Projects did not qualify for an exemption under the California Environmental Quality Act (Public Resources Code section 21000 et seq.) ("CEQA"), resulting in Environmental Assessment No. 201200258 comprised of a Mitigated Negative Declaration ("MND") and Mitigation Monitoring and Reporting Program ("MMRP"). The MND and MMRP were initially approved but subsequently appealed to both the Commission and the Board, which upheld the appeal and invalidated the MND and MMRP on September 22, 2015.

12. On June 6, 2019, the Project, along with the Related Projects, was submitted to Regional Planning in its current form. Thereafter, from 2019 to 2011, Regional Planning staff ("Staff") met with the Applicant 11 times to discuss the Project, with a focus on how to resolve issues related to it as submitted by Applicant. Staff requested that the Project be redesigned to eliminate inconsistencies with LIP standards and reasons for needing the Variance. On August 8, 2021, the ERB reviewed the Project and requested that it be returned with a more comprehensive overview of the Project in conjunction with the Related Projects, including a more detailed analysis of the oak woodlands, and generally a greater effort to be consistent with the LIP. On April 14, 2022, Staff sent a letter to Applicant requesting several specific changes to the Project and indicated that if the changes were not made, the Project would be scheduled for public hearing with a Staff recommendation of denial. The requested changes included, reducing the size and/or changing the location of several of the main residences, relocating the OWTS, and in conjunction with the Related Projects, proposing fewer residences as a whole by merging some of the lots.
13. On May 13, 2022, Applicant responded to Staff in writing that it would not make additional changes to the Project and Related Projects. The Project thereafter proceeded to hearing before the Hearing Officer on June 7, 2022, as an item for discussion and possible action, at which time the Hearing Officer scheduled a public hearing for the Project on October 4, 2022.
14. Staff received four phone calls and 12 letters in opposition over the course of the hearing process for the Project. Issues raised include destruction of sensitive habitat, light pollution, traffic, construction noise, fire hazard, proximity to wildlife, and interference of scenic views from a nearby hiking trail known as the Backbone Trail.
15. Staff consulted with various County departments about the Project and received the following recommendations:
 - A. County Department of Parks and Recreation recommended clearance to public hearing with no conditions through the County's electronic consultation system ("EPIC-LA") on September 29, 2020.

- B. County Fire Department ("Fire Department") recommended clearance to public hearing with no conditions through EPIC-LA on September 30, 2020.
 - C. County Department of Public Works ("Public Works") recommended denial of the Project due to lack of documentation regarding road boundaries, road improvements, lines of sight, and earthmoving details in a letter dated November 5, 2020.
 - D. County Department of Public Health recommended denial of the Project due to lack of information regarding the proposed OWTS and water service in a letter dated October 27, 2020.
 - E. ERB took no action regarding the Project at a meeting held on August 16, 2021, but recommended that it return with a more comprehensive plan and biological assessment, as well as a redesign to be consistent with the LIP.
16. Because CEQA does not apply to projects which a public agency rejects or disapproves, pursuant to sections 15061 and 15270 of the State CEQA Guidelines (Title 14, Cal. Code Regs., Chapter 3, §§ 15000-15387), there has been no CEQA analysis performed on the Project.
17. A duly-noticed public hearing was held before the Hearing Officer on October 4, 2022, which was continued to November 1, 2022, to allow the Hearing Officer to conduct a site visit and thoroughly review all documents. At the November 1, 2022 continued public hearing, Staff provided an overview and recommended denial of the Project, and Applicant's representative spoke in favor of the Project. The Hearing Officer indicated her intent to deny the Project because it failed to meet the development standards of the LIP and because it could not meet the burden of proof required for a variance, and continued the hearing to February 7, 2023, to allow Staff to incorporate directed edits to the denial findings. At the continued hearing on February 7, 2023, the Hearing Officer found that there was nothing preventing Applicant from redesigning the Project to comply with LIP standards and that, as proposed, the Project did not meet the goals and policies of the LUP. Additionally, as to the Variance request, the Hearing Officer found that that Applicant did not demonstrate that there were unique circumstances or special characteristics of the Project Site that required a variance to preserve substantial property rights therein, nor that it was infeasible to redesign the Project to possibly eliminate the need for a variance altogether. Accordingly, the Hearing Officer closed the public hearing and denied the Project.
18. The Hearing Officer's decision was timely appealed to the Commission by the Applicant on February 13, 2023. A duly-noticed public hearing was held before the Commission on April 26, 2023, to consider the appeal of the Hearing Officer's denial of the Project. Staff presented the Project in conjunction with the Related

Projects, and recommended denial thereof for failure to comply with development standards of the LIP, conflicting with the goals and policies of the LUP, and failing to meet the burden of proof for a variance. Staff emphasized that the Project could be redesigned in a manner to comply with the LIP and LUP, and explained that it had ample meetings with Applicant on numerous occasions throughout the Project's history where that message was conveyed. Staff pointed out that Applicant has never submitted any revised plans. Applicant spoke at the public hearing by way of its land use attorney, Michael Shonafelt, who argued that the applicable portions of the LIP and LUP make it impossible to build on any portion of the Project Site. Applicant did acknowledge that there were good faith efforts between Applicant and the County and its various departments, including many well-attended meetings, to find a feasible path forward to develop the Project and Related Projects. However, Applicant concluded that the 200-foot fuel modification radius required by the Fire Department would result in vegetation removal within H1 Habitat, which is prohibited by the LIP. Applicant summarized its position by asserting that the Project Site is essentially unbuildable, as even building a "broom closet" would result in impacts on H1 Habitat due to the fuel modification requirement.

19. At the Commission's public hearing, there was public comment opposing the Project. A total of four constituents voiced their opposition based primarily on the Project's lack of compliance with the SMMLCP and allegations that Applicant was trying to skirt County requirements to build "mega-mansions" in violation of the SMMLCP. The public comments urged the Commission to uphold the Hearing Officer's denial of the Project. Upon conclusion of public comment, the Commission asked Staff to clarify the categories of variances for the Project and Related Projects being requested, and the total count thereof. Staff clarified that for all 15 minor CDP requests by Applicant across 16 lots, including the Project, there are six categories of variance requests, and a total of 12 variance requests. The Commission generally commented that such an amount of variance requests was irregular and unprecedented. It recognized the efforts of both the Applicant and Staff over the year to meet and confer to resolve the issues, but indicated that the Project does not meet the standards required by the SMMLCP as proposed, and then moved to close the public hearing and denied the Project (and Related Projects).
20. The Commission's denial of the Project was timely appealed by Applicant on April 28, 2023. The Board held its duly-noticed public hearing on the appeal of the Commission's decision on September 19, 2023, and, like the Commission, held it in conjunction with Applicant's Related Projects for 14 other similar minor CDP and variance applications to build 15 single-family residences on 16 lots that adjoin and/or are in close proximity to one another in the Monte Nido Rural Village within the Santa Monica Mountains Coastal Zone. Regional Planning submitted a written statement to the Board indicating that the Commission's

denial of the Project should be upheld because as proposed, the Project does not comply with the development standards required by the LIP, the goals and policies of the LUP, and does meet the burden of proof required for a variance under the County Code. Additionally, the Director of Regional Planning, Amy Bodek ("Director") was present and provided some additional background for the Board. She indicated that the Project has been around for a while and predates the County's adoption of the SMMLCP. She explained that since 2018, she has been involved with trying to move the Project along in a collaborative way with the Applicant, as the Project and Related Projects are being proposed on topographically challenging and environmentally sensitive lots that include H1 Habitat, H1 Buffer Zones, buffer zones for oak trees, National Parkland, and streams, in addition to street frontage requirements. She elaborated that Regional Planning has worked closely with Applicant to find a way for development to occur on each lot in a manner compliant with the SMMLCP and believes there is such a way to do so, which has been conveyed to the Applicant on numerous occasions and involves reducing the size of the Project's proposed single-family residence and its location on the site. The Director explained that a stalemate was reached a couple of years ago, and the Applicant was and is not willing to make any additional changes to the Project. Since that time, numerous indications to Applicant were made that Regional Planning would have to recommend denial of the Project unless changes were incorporated, but Applicant has elected not to modify the Project, signifying that Applicant has accepted proceeding to denial of the Project. Accordingly, the Director requested that the Board uphold the Commission's denial of the Project, and reiterated to the Board that there is economic use of the Project Site with a redesign that is consistent with SMMLCP.

21. After the Director spoke at the Board's public hearing, Attorney for Applicant, Michael Shonafelt, was given the opportunity to speak. Mr. Shonafelt, who also appeared for Applicant at the Commission's public hearing, mostly repeated what he presented at that prior public hearing, the primary point being that due to the 200-foot radius for fuel modification required by the Fire Department and the fact that such a radius would impede into H1 Habitat, development of the Project Site and Related Projects it not feasible. Per Mr. Schonafelt, "you could build a broom closet... and it is going to touch H1." In sum, it was his position that the SMMLCP effectively takes away the Applicant's properties, including the Project Site, as it is Applicant's position that nothing can be built on the lots even though they are zoned for residential use. Mr. Shonafelt also wanted to make clear that Applicant's team did do their "homework" and refutes any allegation that Applicant has been uncooperative, as he and the Applicant team have met with County Staff on numerous occasions to try and resolve the issues preventing approval. However, Applicant indicated that they heard from the Fire Department that they would not allow modifications to the fuel modification radius for H1, and

decided it was futile to try and redesign the project because doing so takes a lot of time and money.

22. There was ample public comment at the Board's public hearing of the Project. Of 15 total public comments, 13 were in opposition to the Project, and two were seemingly neutral but questioned the governmental process for approval of projects involving the SMMLCP. The comments in opposition to the Project mostly centered on how the Project and Related Projects simply fun afoul of the SMMLCP requirements, as evidenced by the number of variances being requested, and pointed out how unique the Santa Monica Mountains are and that development therein must comply with SMMLCP, which was the byproduct of a long process that involved ample community input and which is tailored to address the specific needs of the region. The opponents also emphasized that development could occur if the projects would simply reduce the size of the proposed primary residences, which should be achievable since they are "mega mansions." Additionally, there was praise for the Staff for doing their best to work with Applicant, and for the Commission in upholding the requirements of the SMMLCP.
23. After hearing from Regional Planning, Applicant, and the public, the Board addressed the Project and emphasized that the SMMLCP prevents development of the Project and Related Projects as proposed, and repeated that the Director has indicated that housing can be developed on the Project Site. The Board indicated that SMMLCP is intended to protect the safety of the region, especially in light of the fire tragedies in the area. In response to Applicant's claim that nothing can be built on the lots, the Board then specifically asked Applicant if they are interested in revisiting a redesign of the Project and the Related Projects in light of the testimony to the contrary heard before the Board; to which, Mr. Shonafelt responded once again that due to fuel modification requirements, not even a "broom closet" could be built on the Project Site. He concluded that any such attempt would be futile as it would not be allowed under the SMMLCP. The Board then turned to the Director, who refuted the repeated contention that the fuel modification zone cannot be modified, as it has been modified in the Coastal Zone before, and that economic value for each of Applicant's lots can be achieved. She reminded the Board that the proposed homes (for the Project and Related Projects) are very large, ranging from 4,500 to 6,400 square feet in size, for an average of 5,300 square feet; therefore, a reduction in their size would allow for the construction of something larger than a "broom closet" and smaller than 5,300 square feet. Finally, she assured the Board that there is an ability to modify the fuel modification zone with the Fire Department because it has been done before to allow development throughout the Santa Monica Mountains. Upon hearing the additional testimony from Applicant and Regional Planning, the Board repeated that the SMMLCP was not adopted to prevent development of housing, but it ensures orderly development that also protects the safety of the

unique region, which features very sensitive biological habitat and significant risk of wildfire. The Board recognized the efforts of the Staff throughout the years, which included ample meetings with Applicant's team, and various attempts to urge Applicant to redesign the Project to one that is viable and respects the SMMLCP. However, the Board indicated that Applicant here has chosen to ignore the guidance of Regional Planning, instead requesting an unprecedented number of variances to develop the Project and Related Projects without regard to the County's rules and processes, and has refused yet again at the Project's public hearing to redesign the Project to meet SMMLCP requirements. The Board then closed the public hearing, denied the appeal, and voted in favor of upholding the Commission's denial of the Project.

24. The Board finds that the Project is not consistent with the LUP. The Rural Land 20 land use designation is intended for single-family residential uses, as well as other resource-dependent uses, on relatively large lots. Although a single-family residence is specifically listed as a principal permitted use under this designation, the Project's overall size and proposed plans, which include a building site area of 11,205 square feet, are not consistent with the policies of the LUP, as identified in the subsections hereunder. The Project's large square footage and footprint would result in development that would extend into the H1 Quiet Zone, as well as fuel modification and brush clearance that would extend into H1 Habitat (oak woodland) and the H1 Habitat Buffer. Additionally, the Project's large footprint and square footage result in a design that is not protective of surrounding landforms by failing to preserve H1 Habitat areas in a more natural state, which is inconsistent with policies regarding the protection of Scenic Resource Areas, as well as those prioritizing protection of sensitive habitats, natural vegetation, and natural resources over development. Finally, when paired with its proximity to Piuma Road, which is a designated scenic route, the Project also results in unnecessary visual impacts to the surrounding area. The Project is not consistent with the following policies of the LUP:

A. Conservation and Open Space Element:

- i. Policy CO-41 – New non-resource-dependent development shall be prohibited in H1 Habitat areas to protect these most sensitive environmental resource areas from disruption of habitat values. The only exception is that two uses may be approved in H1 Habitat other than wetlands in very limited circumstances, as follows: (1) Public Works projects required to repair or protect existing public roads when there is no feasible alternative, as long as impacts to H1 Habitat are avoided to the maximum extent feasible, and unavoidable impacts are minimized and mitigated; and (2) an access road to a lawfully-permitted use outside H1 Habitat when there is no other feasible alternative to provide access to public

recreation areas or development on a legal parcel, as long as impacts to H1 Habitat are avoided to the maximum extent feasible, and unavoidable impacts are minimized and mitigated. Any new development approved for one of these two uses within woodland or savannah habitat shall protect native trees in accordance with Policy CO-99. The County shall not approve the development of any non-resource dependent use other than these two uses within H1 Habitat, unless such use has first been considered in an SMMLCP amendment that is certified by the Coastal Commission. The Project's large square footage and footprint would result in fuel modification and brush clearance that would extend into H1 Habitat (oak woodland).

- ii. Policy CO-51 – Where new development is permitted in H2 Habitat pursuant to the SMMLCP, the maximum allowable building site area on parcels shall be 10,000 square feet, or 25 percent of the parcel size, whichever is less. Where new residential development is permitted in H3 Habitat, the maximum allowable residential building site area shall be 10,000 square feet, or 25 percent of the parcel size, whichever is less. The restriction of the building site area to less than the maximum may be required if the native tree protection policies require a smaller area or if it is determined that a smaller building site area would serve to avoid impacts to H1 Habitat areas, substantially minimize grading associated with the project, reduce the need for manufactured slopes, or reduce the need for retaining features visible from scenic areas, public trails, and public lands. The allowable building site area may be increased for projects that qualify for participation in the incentive program of Policy LU-29 or for projects that comprise two adjoining legal lots, if the existing lots are merged into one lot and one consolidated building site is provided with one access road or driveway. The allowable building site area shall not exceed the total of the building site areas allowed for each individual parcel. Adverse impacts to H2 Habitat that cannot be avoided through the implementation of siting and design alternatives shall be accommodated through the Resource Conservation Program pursuant to Policy CO-86a. The Project's overall size and proposed plans, which include a building site area of 11,205 square feet, are not consistent with this policy.
- iii. Policy CO-57 – New non-resource-dependent development shall also provide an additional 100-foot "Quiet Zone" from H1 Habitat where feasible (measured from the outer edge of the 100-foot H1 Habitat Buffer required above). New development is not permitted in the H1 Habitat Quiet Zone except resource-dependent

uses, non-irrigated fuel modification required by the Fire Department for lawfully-established structures, and the following other uses in very limited circumstances: (1) Public Works projects required to protect existing public roads when there is no feasible alternative, as long as impacts to H1 Habitat and the H1 Buffer are avoided to the maximum extent feasible, and unavoidable impacts are minimized and mitigated; (2) an access road to a lawfully-permitted use when there is no other feasible alternative to provide access to public recreation areas or development on a legal parcel, as long as impacts to H1 Habitat and H1 Buffer are avoided to the maximum extent feasible, and unavoidable impacts are minimized and mitigated; and (3) a development on a lawfully-created parcel that is the minimum development necessary to provide a reasonable economic use of the property and where there is no feasible alternative, as long as impacts to H1 Habitat and H1 Buffer are avoided to the maximum extent feasible, and unavoidable impacts are minimized and mitigated. The Project's large square footage and footprint would result in development that would extend into the H1 Quiet Zone, as well as fuel modification and brush clearance that would extend into the H1 Habitat Buffer. It has not been demonstrated that such development is necessary to provide a reasonable economic use of this property, or that there is no feasible alternative to develop the site.

- iv. CO-63 – New development adjoining parklands, where the purpose of the park is to protect the natural environment and SERAs, shall be sited and designed to minimize impacts to habitat and recreational opportunities to the maximum extent feasible. Natural vegetation buffer areas shall be provided around parklands. Buffers shall be of a sufficient size to prevent impacts to parkland resources, but in no case shall they be less than 100 feet in width. Variances or modifications to the required H1 Habitat Buffer width shall not be granted, except for a permitted use included in Policy CO-56. New development permitted adjacent to parklands shall include open space conservation easements over the habitat areas outside the approved development site to ensure that impacts to the H1 and H2 Habitats, H1 Habitat Buffer, or parkland buffer are avoided.
- v. Policy CO-66 – Protection of H1 and H2 Habitats and public access shall take priority over other development standards, and where there is any conflict between general/other development standards and the biological resource and/or public access protection provisions, the standards that are most protective of H1 and

H2 Habitats and public access shall have precedence. The Project's large footprint and square footage result in a design that is not protective of surrounding landforms by failing to preserve H1 and H2 Habitat areas in a more natural state.

- vi. Policy CO-109 – Site and design new development to protect natural features, and minimize removal of natural vegetation. The Project's large footprint and square footage result in a design that does not prioritize protection of sensitive habitats, natural vegetation, and natural resources over development.
- vii. Policy CO-114 – New development shall be sited and designed to minimize the height and length of manufactured cut and fill slopes, and minimize the height and length of retaining walls. Graded slopes shall blend with the natural contours of the land and shall utilize landform grading.
- viii. Policy CO-124 – The Santa Monica Mountains contain scenic resources of regional and national importance. The scenic and visual qualities of these resources shall be protected and, where feasible, enhanced. The Project's large footprint and square footage result in a design that is not protective of surrounding landforms by failing to preserve H1 Habitat areas in a more natural state, which is inconsistent with policies regarding the protection of Scenic Resource Areas.
- ix. Policy CO-125 – Protect public views within Scenic Areas and throughout the Coastal Zone. Places on, along, within, or visible from Scenic Routes, public parklands, public trails, beaches, and state waters that offer scenic vistas of the mountains, canyons, coastline, beaches, and other unique natural features are considered Scenic Resource Areas. Scenic Resource Areas do not include areas that are largely developed such as existing, predominantly built-out residential subdivisions. Scenic Resource Areas also include scenic resources identified on [Map 3 of the LUP] and consist of Scenic Elements, Significant Ridgelines, and Scenic Routes as well as public parkland and recreation areas [identified on Map 4 of the LUP]. The Project's large footprint and square footage result in a design that is not protective of surrounding landforms by failing to preserve H1 Habitat areas in a more natural state, which is inconsistent with policies regarding the protection of Scenic Resource Areas.
- x. Policy CO-126 – Maintain and enhance the quality of vistas along identified Scenic Routes. The Project violates this policy as the

Project's two-story primary residence would degrade the quality of vistas along Piuma Road, which is a Scenic Route.

- xi. Policy CO-131 – Site and design new development to minimize adverse impacts on scenic resources to the maximum extent feasible. If there is no feasible building site location on the proposed project site where development would not be visible, then the development shall be sited and designed to minimize impacts on scenic areas through measures that may include, but not be limited to, siting development in the least visible portion of the site, breaking up the mass of new structures, designing structures to blend into the natural hillside setting, restricting the building maximum size, reducing maximum height, clustering development, minimizing grading, incorporating landscape and building material screening elements, and where appropriate, berming. The Project's large footprint and square footage result in a design that is not protective of surrounding landforms by failing to preserve H1 Habitat areas in a more natural state, which is inconsistent with policies regarding the protection of Scenic Resource Areas. Development is not sited in the least visible portion of the site, nor is development clustered or building size restricted.

B. Land Use Element:

Policy LU-33 – Require that new developments be compatible with the rural character of the area and the surrounding natural environment. The Project's large footprint and square footage result in a design that is not protective of surrounding landforms by failing to preserve H1 Habitat areas in a more natural state, which is inconsistent with policies regarding the protection of Scenic Resource Areas, as well as those prioritizing protection of sensitive habitats, natural vegetation, and natural resources over development. Finally, when paired with its proximity to Piuma Road, which is a designated scenic route, the Project also results in unnecessary visual impacts to the surrounding area.

- 25. The Board finds that the Project is not consistent with the standards for development in sensitive habitats identified in Subsections C to E of the County Code Section 22.44.1890. The Project Site is designated as H1 Habitat and H3 Habitat by the LUP. While all construction would occur within H3 Habitat, impacts from the development would be located within the H1 Quiet Zone and H1 Habitat Buffer. The Project would also result in required fuel modification and brush clearance within H1 Habitat. Per the requirements of the LIP, no development, except for access driveways and resource-dependent uses, is permitted in H1 Habitat (County Code Section 22.44.1890.C). Because habitable structures are proposed less than 100 feet from H1 Habitat (oak woodland) to the

south, fuel modification is required within this area by the approved fuel modification plan. Therefore, the Project design is not compatible with surrounding environmental resources, as it would result in development of H1 Habitat.

26. The Board finds that development is proposed within the H1 Habitat Buffer and H1 Quiet Zone. The Project's large square footage and footprint, including an 11,205-square-foot building site area, would result in development that would extend into the H1 Habitat Buffer and H1 Quiet Zone, as well as fuel modification and brush clearance that would extend into H1 Habitat (oak woodland). The Project's large footprint and square footage result in a design that is not protective of surrounding landforms by failing to preserve H1 Habitat areas in a more natural state. It would also negatively affect adjoining parklands by creating development less than 100 feet away. This would also not be consistent with policies regarding the protection of Scenic Resource Areas. The Project's design, which includes seven-foot-tall retaining walls, when paired with its location less than 100 feet from parklands to the south, its partial view from the Backbone Trail, and its proximity to Piuma Road, a designated scenic route, would result in unnecessary visual impacts to the surrounding area.
27. The Board finds that reducing the square footage of the proposed residence and/or relocating the OWTS would provide a greater buffer between development and the H1 Habitat area. Thus, the development is not the minimum necessary development for the site, as required within an H1 Quiet Zone or H1 Habitat Buffer by the LIP. Therefore, the findings in County Code Sections 22.44.1890.D.8.b and 22.44.1890.E.12.b cannot be met.
28. The Board finds that there are no special characteristics of the lot that require the Variance, nor is one necessary to preserve a substantial property right. A Variance is required for new structures less than 100 feet from parklands, per County Code Section 22.44.1900.C, and due to California State Parks open space immediately to the south, a small portion of the residence, as well as hardscape and retaining walls proposed for the Project Site, would extend into the required 100-foot parkland buffer. However, the Board finds that the Project could easily be redesigned to eliminate this encroachment.
29. The Board finds that it has not been demonstrated that the Variance is necessary due to special characteristics of the lot or to preserve a substantial property right. The Project proposes a building site area of 11,205 square feet and retaining walls up to seven feet tall on three sides. A variance is required for a building site area greater than 10,000 square feet, per County Code Section 22.44.1910.I, and for retaining walls taller than six feet within Scenic Resource Areas, per County Code Section 22.44.2040.A.11. As to the latter, the Project, due to its proximity to parklands, Piuma Road, and the Backbone Trail, is within a Scenic Resource Area. However, there are no special characteristics of the Project Site

necessitating a variance as to these features. The Board finds that the building site area could be reduced in size and the retaining walls could be terraced or redesigned to comply with the LIP.

30. The Board finds that the proposed development is not in conformity with the certified local coastal program. As proposed, the Project would not comply with all applicable development standards for residences in the SMMLCP, which includes the LUP and LIP, specifically those standards related to Scenic Resource Areas, building site area, habitat categories and parkland buffers.
31. The Board finds that any development located between the nearest public road and the 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.
32. The Board finds that there are no special circumstances or exceptional characteristics applicable to the property involved, such as size, shape, topography, location, or surroundings, which are not generally applicable to other properties in the same vicinity and under identical zoning classification. The design of the residence could be modified to avoid encroaching into the required 100-foot parkland buffer. Also, special site characteristics do not necessitate the construction of overheight retaining walls in a Scenic Resource Area, nor do site conditions require a building site area greater than 10,000 square feet. Thus, the property has not been shown to have special circumstances or exceptional characteristics.
33. The Board finds that the Variance is unnecessary for the preservation of a substantial property right of the applicant such as that possessed by owners of other property in the same vicinity and zone. The design of the residence could easily be modified to avoid encroaching into the required 100-foot parkland buffer. Also, special site characteristics do not necessitate the construction of overheight structures or retaining walls in a Scenic Resource Area, nor do site conditions require a building site area greater than 10,000 square feet. Thus, the variance is unnecessary to preserve a substantial property right.
34. The Board finds that the granting of the Variance will be materially detrimental to the public welfare or be injurious to other property or improvements in the same vicinity and zone. The proposed residence location would result in greater development near parkland and along a scenic route, including an unnecessarily large building site area and retaining walls, which would detrimentally affect the public welfare and other properties by degrading scenic and biological resources.
35. The Board finds that the granting of the Variance will be materially detrimental to coastal resources. The proposed residence location would result in greater

development near parkland and along a scenic route, including an unnecessarily large building site area and retaining walls, which would detrimentally affect coastal resources by degrading scenic and biological resources.

36. The Board finds that CEQA does not apply to the Project pursuant to sections 15061 and 15270 of the State CEQA Guidelines (Title 14, Cal. Code Regs., Chapter 3, §§ 15000-15387), because CEQA does not apply to projects that a public agency rejects or disapproves.
37. The Board finds that pursuant to County Code Section 22.44.990, the community was properly notified of the Board's public hearing of the Project by mail, newspaper (Los Angeles Bulletin), and property posting. Additionally, the Project was noticed, and case materials were available on the Regional Planning's website. On August 17, 2023, a total of 134 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 Hearing Officer's decision is based in this matter is at the 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:

Regarding the Minor CDP:

- A. The proposed Project is not in conformity with the SMMCLP;

Regarding the Variance:

- B. There are no special circumstances or exceptional characteristics applicable to Project Site, such as size, shape, topography, location, or surroundings, which are not generally applicable to other properties in the same vicinity and under identical zoning classification;
- C. The Variance is unnecessary for the preservation of a substantial property right of the Applicant such as that possessed by owners of other property in the same vicinity and zone;
- D. The granting of the Variance will be materially detrimental to the public welfare or be injurious to other property or improvements in the same vicinity and zone; and
- E. The granting of the Variance will be materially detrimental to coastal resources.

THEREFORE, THE BOARD OF SUPERVISORS:

1. Finds that the Project is exempt from CEQA, pursuant to State CEQA Guidelines sections 15061 and 15270 (projects which are rejected or disapproved);
2. Denies the appeal of the Project;
3. Denies Minor CDP No. RPPL2019-003435-(3); and
4. Denies Variance No. RPPL2019-003436-(3).

**FINDINGS OF THE BOARD OF SUPERVISORS
AND ORDER
PROJECT NO. 2019-000686-(3)
MINOR COASTAL DEVELOPMENT PERMIT NO. RPPL2019-003852-(3)
VARIANCE NO. RPPL2019-003853-(3)**

1. The Los Angeles County ("County") Board of Supervisors ("Board") conducted a duly-noticed public hearing on September 19, 2023, in the matter of Project No. 2019-000686-(3), consisting of Minor Coastal Development Permit ("CDP") No. RPPL2019-003852-(3) (the "Minor CDP"), and Variance No. RPPL2019-003853-(3) ("Variance"). The Board held the public hearing in conjunction with Applicant's 14 other related and similar minor CDP and variance applications to build 15 single-family residences on 16 lots that adjoin and/or are in close proximity to one another in the Monte Nido Rural Village within the Santa Monica Mountains Coastal Zone (hereinafter referred to as the "Related Projects" comprised of minor CDP nos. RPPL2019-002073-(3) RPPL2019-002474-(3), RPPL2019-002479-(3), RPPL2019-002885-(3), RPPL2019-002887-(3), RPPL2019-001222-(3), RPPL2019-003431-(3), RPPL2019-003435-(3), RPPL2019-003854-(3), RPPL2019-004230-(3), RPPL2019-004232-(3), RPPL2019-004674-(3), RPPL2019-004677-(3), and RPPL2019-004678-(3); and variance nos. RPPL2019-002074-(3), RPPL2019-002475-(3), RPPL2019-002480-(3), RPPL2019-002886-(3), RPPL2019-002888-(3), RPPL2019-001224-(3), RPPL2019-003432-(3), RPPL2019-003436-(3), RPPL2019-003855-(3), RPPL2019-004231-(3), and RPPL2019-004675-(3)). The County Regional Planning Commission ("Commission") previously conducted a duly-noticed public hearing on the Minor CDP and Variance on April 26, 2003. Prior to the Commission's hearing, a public hearing was also held before the County Department of Regional Planning ("Regional Planning") Hearing Officer ("Hearing Officer") on October 4, 2022, which was continued to November 1, 2022, and again to February 7, 2023.
2. The applicant, California Pacific Homes ("Applicant"), requests the Minor CDP and Variance to authorize the construction of a 5,886-square-foot single-family residence, a 572-square-foot attached garage, and an onsite wastewater treatment system ("OWTS") ("Project") on a 1.84-acre property consisting of two legal lots located on the south side of Piuma Road (Assessor's Parcel Numbers 4456-038-015 and 4456-038-016) in the Santa Monica Mountains Coastal Zone ("Project Site"). Hardscape, retaining walls, and a portion of the residence would be located less than 100 feet from parkland to the south. A total of 1,580 cubic yards of earth (1,580 cubic yards cut, all exported) would be graded. The Project would result in construction within an H1 Habitat Buffer and fuel modification or brush clearance within the protected zones of 17 oak trees.
3. The Project requires a coastal development permit to construct a single-family residence and an OWTS in the R-C-20 (Rural Coastal—20-Acre Minimum Required Lot Area) Zone, pursuant to Los Angeles County Code ("County Code") Section 22.44.810, and a minor CDP is required for any project that requires

Environmental Review Board ("ERB") review (County Code Sections 22.44.860 and 22.44.940). The Project requires ERB review because as proposed, the main residence would result in development less than 200 feet from H1 Habitat. Additionally, a minor CDP is also required for any project that results in the encroachment into the protected zone of any oak tree, pursuant to County Code Section 22.44.950. As proposed, the Project requires fuel modification or brush clearance would occur within the protected zones of 17 oak trees.

4. The Project requires a variance for construction of new structures less than 100 feet from parklands, per County Code Section 22.44.1900.C because hardscape, retaining walls, and a portion of the residence are located less than 100 feet from parkland to the south.
5. The Project Site is located within the RL20 (Rural Land—One dwelling unit/20 acres maximum) land use designation of the Santa Monica Mountains Local Coastal Program ("SMMLCP") Land Use Policy Map, a component of the General Plan. The Project Site is located in the Malibu Zoned District and is zoned R-C-20. Pursuant to County Code Section 22.44.1750, a single-family residence is a principal permitted use within the R-C Zone.
6. Surrounding zoning within a 500-foot radius of the Project Site includes:
 - North: R-C-20, R-C-1 (Rural Coastal—One Acre Minimum Required Lot Area), R-C-10,000 (Rural Coastal—10,000-square-foot Minimum Required Area);
 - South: O-S-P (Open Space—Parks);
 - East: R-C-20, O-S-P; and
 - West: R-C-1 and R-C-20.
7. Surrounding land uses within a 500-foot radius of the Project Site include:
 - North: Single-family residences, vacant land;
 - South: Open space;
 - East: Vacant land, open space; and
 - West: Single-family residences and vacant land.
8. The Project Site is 1.84 gross acres in size and consists of two legal lots, each 0.92 acres, which are irregular in shape and consist of generally level terrain. Two existing graded pads of approximately 12,000 square feet each and drainage structures are located adjacent to each other on the central portion of the Project Site. These were legally developed with CDP No. 5-83-004, which was approved with the underlying tract map in 1987 (Tract Map No. 38931). The western portion of the Project Site, corresponding to oak woodland, is mapped as H1 Habitat with the remainder mapped as H3 Habitat in the Santa Monica Mountains Local Coastal Program Land Use Plan ("LUP"). The majority of the Project Site is within 200 feet of H1 Habitat, which places it within H1 Habitat

Buffer (0-100 feet away) or H1 Quiet Zone (100-200 feet away). Other than the oak trees, the Project Site contains mostly native and non-native grasses.

9. The Project Site would be accessed from Piuma Road, a 65-foot-wide public road and designated scenic route, immediately to the north of the Project Site.
10. The site plan shows the construction of a 5,886-square-foot single-family residence, including a 1,455-square-foot basement, and a 572-square-foot attached garage on the central portion of the 1.84-acre Project Site. The residence would have a maximum height of 17 feet, six inches above grade. A total of 1,580 cubic yards of earth (1,580 cubic yards cut, all exported) would be graded. The Project would also include an OWTS, retaining walls, and other appurtenant facilities on a total building site of 19,454 square feet within the two existing graded pads, as well as a small portion of the Project Site between the two that is currently ungraded. The building would be accessed by a 150-foot-long paved circular driveway, which would access Piuma Road to the north. Development from brush clearance and fuel modification would also encroach into the protected zones of 17 coast live oaks. The western portion of the Project Site is mapped as H1 Habitat, which places the majority of the site within H1 Habitat Buffer (0-100 feet away) or H1 Quiet Zone (100-200 feet away). The residence is proposed for a location on the northern central portion of the Project Site, within H1 Habitat Buffer and H1 Quiet Zone. A portion of the residence, as well as hardscape and retaining walls, is located less than 100 feet from parklands to the south. An OWTS seepage pit is proposed south of the residence within the parkland buffer. The Project is partially visible from the Backbone Trail to the south. The Project Site has a linear street frontage of 435 feet and a linear development frontage of 115 feet.
11. The case history shows that an earlier version of the Project was submitted as a plot plan, along with plot plans for the Related Projects, prior to the County's adoption of the SMMLCP. These plot plans entailed ministerial reviews that were approved in concept, as the lack of an approved local coastal program meant that the necessary coastal development permits to develop the residences would still have to have been obtained from the California Coastal Commission ("Coastal Commission"). Taken together, the Project and the Related Projects did not qualify for an exemption under the California Environmental Quality Act (Public Resources Code section 21000 et seq.) ("CEQA"), resulting in Environmental Assessment No. 201200258 comprised of a Mitigated Negative Declaration ("MND") and Mitigation Monitoring and Reporting Program ("MMRP"). The MND and MMRP were initially approved but subsequently appealed to both the Commission and the Board, which upheld the appeal and invalidated the MND and MMRP on September 22, 2015.
12. On June 26, 2019, the Project, along with the Related Projects, was submitted to Regional Planning in its current form. Thereafter, from 2019 to 2011, Regional Planning staff ("Staff") met with the Applicant 11 times to discuss the Project, with a focus on how to resolve issues related to it as submitted by Applicant. Staff

requested that the Project be redesigned to eliminate inconsistencies with LIP standards and reasons for needing the Variance. On August 8, 2021, the ERB reviewed the Project and requested that it be returned with a more comprehensive overview of the Project in conjunction with the Related Projects, including a more detailed analysis of the oak woodlands, and generally a greater effort to be consistent with the LIP. On April 14, 2022, Staff sent a letter to Applicant requesting several specific changes to the Project and indicated that if the changes were not made, the Project would be scheduled for public hearing with a Staff recommendation of denial. The requested changes included reducing the size and/or changing the location of several of the main residences, relocating the OWTS, and in conjunction with the Related Projects, proposing fewer residences as a whole by merging some of the lots.

13. On May 13, 2022, Applicant responded to Staff in writing that it would not make additional changes to the Project and Related Projects. The Project thereafter proceeded to hearing before the Hearing Officer on June 7, 2022, as an item for discussion and possible action, at which time the Hearing Officer scheduled a public hearing for the Project on October 4, 2022.
14. Staff received four phone calls and nine letters in opposition over the course of the hearing process for the Project. Issues raised include destruction of sensitive habitat, light pollution, traffic, construction noise, fire hazards, proximity to wildlife, and interference of scenic views from a nearby hiking trail known as the Backbone Trail.
15. Staff consulted with various County departments about the Project and received the following recommendations:
 - A. County Department of Parks and Recreation recommended clearance to public hearing with no conditions through the County's electronic consultation system ("EPIC-LA") on September 29, 2020.
 - B. County Fire Department ("Fire Department") recommended clearance to public hearing with no conditions through EPIC-LA on September 30, 2020.
 - C. County Department of Public Works ("Public Works") recommended denial of the Project due to lack of documentation regarding road boundaries, road improvements, lines of sight, and earthmoving details in a letter dated November 5, 2020.
 - D. County Department of Public Health recommended denial of the Project due to lack of information regarding the proposed OWTS and water service in a letter dated October 27, 2020.
 - E. ERB took no action regarding the Project at a meeting held on August 16, 2021, but recommended that it return with a more comprehensive plan

and biological assessment, as well as a redesign to be consistent with the Santa Monica Mountains Local Implementation Program ("LIP").

16. Because CEQA does not apply to projects which a public agency rejects or disapproves, pursuant to sections 15061 and 15270 of the State CEQA Guidelines (Title 14, Cal. Code Regs., Chapter 3, §§ 15000-15387), there has been no CEQA analysis performed on the Project.
17. A duly-noticed public hearing was held before the Hearing Officer on October 4, 2022, which was continued to November 1, 2022, to allow the Hearing Officer to conduct a site visit and thoroughly review all documents. At the November 1, 2022 continued public hearing, Staff provided an overview and recommended denial of the Project, and the Applicant's representative spoke in favor of the Project. The Hearing Officer indicated her intent to deny the Project because it failed to meet the development standards of the LIP and because it could not meet the burden of proof required for a variance, and continued the hearing to February 7, 2023, to allow Staff to incorporate directed edits to the denial findings. At the continued hearing on February 7, 2023, the Hearing Officer found that there was nothing preventing Applicant from redesigning the Project to comply with LIP standards and that, as proposed, the Project did not meet the goals and policies of the LUP. Additionally, as to the Variance request, the Hearing Officer found that that Applicant did not demonstrate that there were unique circumstances or special characteristics of the Project Site that required a variance to preserve substantial property rights therein, nor that it was infeasible to redesign the Project to possibly eliminate the need for a variance altogether. Accordingly, the Hearing Officer closed the public hearing and denied the Project.
18. The Hearing Officer's decision was timely appealed to the Commission by the Applicant on February 13, 2023. A duly-noticed public hearing was held before the Commission on April 26, 2023, to consider the appeal of the Hearing Officer's denial of the Project. Staff presented the Project in conjunction with the Related Projects, and recommended denial thereof for failure to comply with development standards of the LIP, conflicting with the goals and policies of the LUP, and failing to meet the burden of proof for a variance. Staff emphasized that the Project could be redesigned in a manner to comply with the LIP and LUP, and explained that it had ample meetings with Applicant on numerous occasions throughout the Project's history where that message was conveyed. Staff pointed out that Applicant has never submitted any revised plans. Applicant spoke at the public hearing by way of its land use attorney, Michael Shonafelt, who argued that the applicable portions of the LIP and LUP make it impossible to build on any portion of the Project Site. Applicant did acknowledge that there were good faith efforts between Applicant and the County and its various departments, including many well-attended meetings, to find a feasible path forward to develop the Project and Related Projects. However, Applicant concluded that the 200-foot fuel modification radius required by the Fire Department would result in vegetation removal within H1 Habitat, which is prohibited by the LIP. Applicant summarized its position by asserting that the Project Site is essentially unbuildable, as even

building a "broom closet" would result in impacts on H1 Habitat due to the fuel modification requirement.

19. At the Commission's public hearing, there was public comment opposing the Project. A total of four constituents voiced their opposition based primarily on the Project's lack of compliance with the SMMLCP and allegations that Applicant was trying to skirt County requirements to build "mega-mansions" in violation of the SMMLCP. The public comments urged the Commission to uphold the Hearing Officer's denial of the Project. Upon conclusion of public comment, the Commission asked Staff to clarify the categories of variances for the Project and Related Projects being requested, and the total count thereof. Staff clarified that for all 15 minor CDP requests by Applicant across 16 lots, including the Project, there are six categories of variance requests, and a total of 12 variance requests. The Commission generally commented that such an amount of variance requests was irregular and unprecedented. It recognized the efforts of both the Applicant and Staff over the year to meet and confer to resolve the issues, but indicated that the Project does not meet the standards required by the SMMLCP as proposed, and then moved to close the public hearing and denied the Project (and Related Projects).
20. The Commission's denial of the Project was timely appealed by Applicant on April 28, 2023. The Board held its duly-noticed public hearing on the appeal of the Commission's decision on September 19, 2023, and, like the Commission, held it in conjunction with Applicant's Related Projects for 14 other similar minor CDP and variance applications to build 15 single-family residences on 16 lots that adjoin and/or are in close proximity to one another in the Monte Nido Rural Village within the Santa Monica Mountains Coastal Zone. Regional Planning submitted a written statement to the Board indicating that the Commission's denial of the Project should be upheld because as proposed, the Project does not comply with the development standards required by the LIP, the goals and policies of the LUP, and does meet the burden of proof required for a variance under the County Code. Additionally, the Director of Regional Planning, Amy Bodek ("Director") was present and provided some additional background for the Board. She indicated that the Project has been around for a while and predates the County's adoption of the SMMLCP. She explained that since 2018, she has been involved with trying to move the Project along in a collaborative way with the Applicant, as the Project and Related Projects are being proposed on topographically challenging and environmentally sensitive lots that include H1 Habitat, H1 Buffer Zones, buffer zones for oak trees, National Parkland, and streams, in addition to street frontage requirements. She elaborated that Regional Planning has worked closely with the Applicant to find a way for development to occur on each lot in a manner compliant with the SMMLCP and believes there is such a way to do so, which has been conveyed to the Applicant on numerous occasions and involves reducing the size of the Project's proposed single-family residence and its location on the site. The Director explained that a stalemate was reached a couple of years ago, and the Applicant was and is not willing to make any additional changes to the Project. Since that time, numerous

indications to Applicant were made that Regional Planning would have to recommend denial of the Project unless changes were incorporated, but Applicant has elected not to modify the Project, signifying that Applicant has accepted proceeding to denial of the Project. Accordingly, the Director requested that the Board uphold the Commission's denial of the Project, and reiterated to the Board that there is economic use of the Project Site with a redesign that is consistent with SMMLCP.

21. After the Director spoke at the Board's public hearing, Attorney for Applicant, Michael Shonafelt, was given the opportunity to speak. Mr. Shonafelt, who also appeared for Applicant at the Commission's public hearing, mostly repeated what he presented at that prior public hearing, the primary point being that due to the 200-foot radius for fuel modification required by the Fire Department and the fact that such a radius would impede into H1 Habitat, development of the Project Site and Related Projects is not feasible. Per Mr. Shonafelt, "you could build a broom closet... and it is going to touch H1." In sum, it was his position that the SMMLCP effectively takes away the Applicant's properties, including the Project Site, as it is Applicant's position that nothing can be built on the lots even though they are zoned for residential use. Mr. Shonafelt also wanted to make clear that Applicant's team did do their "homework" and refutes any allegation that Applicant has been uncooperative, as he and the Applicant team have met with County Staff on numerous occasions to try and resolve the issues preventing approval. However, Applicant indicated that they heard from the Fire Department that they would not allow modifications to the fuel modification radius for H1, and decided it was futile to try and redesign the project because doing so takes a lot of time and money.
22. There was ample public comment at the Board's public hearing of the Project. Of 15 total public comments, 13 were in opposition to the Project, and two were seemingly neutral but questioned the governmental process for approval of projects involving the SMMLCP. The comments in opposition to the Project mostly centered on how the Project and Related Projects simply run afoul of the SMMLCP requirements, as evidenced by the number of variances being requested, and pointed out how unique the Santa Monica Mountains are and that development therein must comply with SMMLCP, which was the byproduct of a long process that involved ample community input and which is tailored to address the specific needs of the region. The opponents also emphasized that development could occur if the projects would simply reduce the size of the proposed primary residences, which should be achievable since they are "mega mansions." Additionally, there was praise for the Staff for doing their best to work with Applicant, and for the Commission in upholding the requirements of the SMMLCP.
23. After hearing from Regional Planning, Applicant, and the public, the Board addressed the Project and emphasized that the SMMLCP prevents development of the Project and Related Projects as proposed, and repeated that the Director has indicated that housing can be developed on the Project Site. The Board

indicated that SMMLCP is intended to protect the safety of the region, especially in light of the fire tragedies in the area. In response to Applicant's claim that nothing can be built on the lots, the Board then specifically asked Applicant if they are interested in revisiting a redesign of the Project and the Related Projects in light of the testimony to the contrary heard before the Board; to which, Mr. Shonafelt responded once again that due to fuel modification requirements, not even a "broom closet" could be built on the Project Site. He concluded that any such attempt would be futile as it would not be allowed under the SMMLCP. The Board then turned to the Director, who refuted the repeated contention that the fuel modification zone cannot be modified, as it has been modified in the Coastal Zone before, and that economic value for each of Applicant's lots can be achieved. She reminded the Board that the proposed homes (for the Project and Related Projects) are very large, ranging from 4,500 to 6,400 square feet in size, for an average of 5,300 square feet; therefore, a reduction in their size would allow for the construction of something larger than a "broom closet" and smaller than 5,300 square feet. Finally, she assured the Board that there is an ability to modify the fuel modification zone with the Fire Department because it has been done before to allow development throughout the Santa Monica Mountains. Upon hearing the additional testimony from Applicant and Regional Planning, the Board repeated that the SMMLCP was not adopted to prevent development of housing, but it ensures orderly development that also protects the safety of the unique region, which features very sensitive biological habitat and significant risk of wildfire. The Board recognized the efforts of the Staff throughout the years, which included ample meetings with Applicant's team, and various attempts to urge Applicant to redesign the Project to one that is viable and respects the SMMLCP. However, the Board indicated that Applicant here has chosen to ignore the guidance of Regional Planning, instead requesting an unprecedented number of variances to develop the Project and Related Projects without regard to the County's rules and processes, and has refused yet again at the Project's public hearing to redesign the Project to meet SMMLCP requirements. The Board then closed the public hearing, denied the appeal, and voted in favor of upholding the Commission's denial of the Project.

24. The Board finds that the Project is not consistent with the LUP. The Rural Land 20 land use designation is intended for single-family residential uses, as well as other resource-dependent uses, on relatively large lots. Although a single-family residence is specifically listed as a principal permitted use under this designation, the Project's overall size and proposed plans, which include a building site area of 19,454 square feet, are not consistent with the policies of the LUP, as identified in the subsections hereunder. The Project's large square footage and footprint would result in development that would extend into the H1 Quiet Zone, as well as fuel modification and brush clearance that would extend into H1 Habitat (oak woodland) and the H1 Habitat Buffer. Additionally, the Project's large footprint and square footage result in a design that is not protective of surrounding landforms by failing to preserve H1 Habitat areas in a more natural state, which is inconsistent with policies regarding the protection of Scenic Resource Areas, as well as those prioritizing protection of sensitive habitats,

natural vegetation, and natural resources over development. Finally, when paired with its proximity to Piuma Road, which is a designated scenic route, the Project also results in unnecessary visual impacts to the surrounding area. The Project is not consistent with the following policies of the LUP:

A. Conservation and Open Space Element:

- i. Policy CO-41 – New non-resource-dependent development shall be prohibited in H1 Habitat areas to protect these most sensitive environmental resource areas from disruption of habitat values. The only exception is that two uses may be approved in H1 Habitat other than wetlands in very limited circumstances, as follows: (1) Public Works projects required to repair or protect existing public roads when there is no feasible alternative, as long as impacts to H1 Habitat are avoided to the maximum extent feasible, and unavoidable impacts are minimized and mitigated; and (2) an access road to a lawfully-permitted use outside H1 Habitat when there is no other feasible alternative to provide access to public recreation areas or development on a legal parcel, as long as impacts to H1 Habitat are avoided to the maximum extent feasible, and unavoidable impacts are minimized and mitigated. Any new development approved for one of these two uses within woodland or savannah habitat shall protect native trees in accordance with Policy CO-99. The County shall not approve the development of any non-resource dependent use other than these two uses within H1 Habitat, unless such use has first been considered in an SMMLCP amendment that is certified by the Coastal Commission. The Project's large square footage and footprint would result in fuel modification and brush clearance that would extend into H1 Habitat (oak woodland).
- i. Policy CO-51 – Where new development is permitted in H2 Habitat pursuant to the SMMLCP, the maximum allowable building site area on parcels shall be 10,000 square feet, or 25 percent of the parcel size, whichever is less. Where new residential development is permitted in H3 Habitat, the maximum allowable residential building site area shall be 10,000 square feet, or 25 percent of the parcel size, whichever is less. The restriction of the building site area to less than the maximum may be required if the native tree protection policies require a smaller area or if it is determined that a smaller building site area would serve to avoid impacts to H1 Habitat areas, substantially minimize grading associated with the project, reduce the need for manufactured slopes, or reduce the need for retaining features visible from scenic areas, public trails, and public lands. The allowable building site area may be increased for projects that qualify for participation in the incentive program of Policy LU-29 or for projects that comprise two adjoining

legal lots, if the existing lots are merged into one lot and one consolidated building site is provided with one access road or driveway. The allowable building site area shall not exceed the total of the building site areas allowed for each individual parcel. Adverse impacts to H2 Habitat that cannot be avoided through the implementation of siting and design alternatives shall be accommodated through the Resource Conservation Program pursuant to Policy CO-86a. The Project's overall size and proposed plans, which include a building site area of 19,454 square feet, are not consistent with this policy.

- iii. Policy CO-57 – New non-resource-dependent development shall also provide an additional 100-foot "Quiet Zone" from H1 Habitat where feasible (measured from the outer edge of the 100-foot H1 Habitat Buffer required above). New development is not permitted in the H1 Habitat Quiet Zone except resource-dependent uses, non-irrigated fuel modification required by the Fire Department for lawfully-established structures, and the following other uses in very limited circumstances: (1) Public Works projects required to protect existing public roads when there is no feasible alternative, as long as impacts to H1 Habitat and the H1 Buffer are avoided to the maximum extent feasible, and unavoidable impacts are minimized and mitigated; (2) an access road to a lawfully-permitted use when there is no other feasible alternative to provide access to public recreation areas or development on a legal parcel, as long as impacts to H1 Habitat and H1 Buffer are avoided to the maximum extent feasible, and unavoidable impacts are minimized and mitigated; and (3) a development on a lawfully-created parcel that is the minimum development necessary to provide a reasonable economic use of the property and where there is no feasible alternative, as long as impacts to H1 Habitat and H1 Buffer are avoided to the maximum extent feasible, and unavoidable impacts are minimized and mitigated. The Project's large square footage and footprint would result in development that would extend into the H1 Quiet Zone, as well as fuel modification and brush clearance that would extend into the H1 Habitat Buffer. It has not been demonstrated that such development is necessary to provide a reasonable economic use of this property, or that there is no feasible alternative to develop the site.
- iv. Policy CO-63 – New development adjoining parklands, where the purpose of the park is to protect the natural environment and SERAs, shall be sited and designed to minimize impacts to habitat and recreational opportunities to the maximum extent feasible. Natural vegetation buffer areas shall be provided around parklands. Buffers shall be of a sufficient size to prevent impacts to parkland resources, but in no case shall they be less than 100 feet in width.

Variations or modifications to the required H1 Habitat Buffer width shall not be granted, except for a permitted use included in Policy CO-56. New development permitted adjacent to parklands shall include open space conservation easements over the habitat areas outside the approved development site to ensure that impacts to the H1 and H2 Habitats, H1 Habitat Buffer, or parkland buffer are avoided.

- v. Policy CO-66 – Protection of H1 and H2 Habitat and public access shall take priority over other development standards, and where there is any conflict between general/other development standards and the biological resource and/or public access protection provisions, the standards that are most protective of H1 and H2 Habitats and public access shall have precedence. The Project's large footprint and square footage result in a design that is not protective of surrounding landforms by failing to preserve H1 and H2 Habitat areas in a more natural state.
- vi. Policy CO-109 – Site and design new development to protect natural features, and minimize removal of natural vegetation. The Project's large footprint and square footage result in a design that does not prioritize protection of sensitive habitats, natural vegetation, and natural resources over development.
- vii. Policy CO-124 – The Santa Monica Mountains contain scenic resources of regional and national importance. The scenic and visual qualities of these resources shall be protected and, where feasible, enhanced. The Project's large footprint and square footage result in a design that is not protective of surrounding landforms by failing to preserve H1 Habitat areas in a more natural state, which is inconsistent with policies regarding the protection of Scenic Resource Areas.
- viii. Policy CO-125 – Protect public views within Scenic Areas and throughout the Coastal Zone. Places on, along, within, or visible from Scenic Routes, public parklands, public trails, beaches, and state waters that offer scenic vistas of the mountains, canyons, coastline, beaches, and other unique natural features are considered Scenic Resource Areas. Scenic Resource Areas do not include areas that are largely developed such as existing, predominantly built-out residential subdivisions. Scenic Resource Areas also include scenic resources [identified on Map 3 of the LUP] and consist of Scenic Elements, Significant Ridgelines, and Scenic Routes as well as public parkland and recreation areas [identified on Map 4 of the LUP]. The Project's large footprint and square footage result in a design that is not protective of surrounding landforms by failing to preserve H1 Habitat areas in a

more natural state, which is inconsistent with policies regarding the protection of Scenic Resource Areas.

- xi. Policy CO-126 – Maintain and enhance the quality of vistas along identified Scenic Routes. The Project violates this policy as the Project's two-story primary residence would degrade the quality of vistas along Piuma Road, which is a Scenic Route.
- x. Policy CO-131 – Site and design new development to minimize adverse impacts on scenic resources to the maximum extent feasible. If there is no feasible building site location on the proposed project site where development would not be visible, then the development shall be sited and designed to minimize impacts on scenic areas through measures that may include, but not be limited to, siting development in the least visible portion of the site, breaking up the mass of new structures, designing structures to blend into the natural hillside setting, restricting the building maximum size, reducing maximum height, clustering development, minimizing grading, incorporating landscape and building material screening elements, and where appropriate, berming. The Project's large footprint and square footage result in a design that is not protective of surrounding landforms by failing to preserve H1 Habitat areas in a more natural state, which is inconsistent with policies regarding the protection of Scenic Resource Areas.

B. Land Use Element:

Policy LU-33 – Require that new developments be compatible with the rural character of the area and the surrounding natural environment. The Project's large square footage and footprint would result in development that would extend into the H1 Habitat Buffer and H1 Quiet Zone, as well as fuel modification and brush clearance that would extend into H1 Habitat (oak woodland). The Project's large footprint and square footage result in a design that is not protective of surrounding landforms by failing to preserve H1 Habitat areas in a more natural state. This would also not be consistent with policies regarding the protection of Scenic Resource Areas. The Project's design, when paired with its proximity to Piuma Road, a designated scenic route, would result in unnecessary visual impacts to the surrounding area.

25. The Board finds that the Project is not consistent with the standard identified in County Code Section 22.44.1890. The Project Site is designated as H1 Habitat and H3 Habitat by the LUP. While all construction would occur within H3 Habitat, impacts from the development would be located within the H1 Quiet Zone and H1 Habitat Buffer. The Project would also result in required fuel modification and brush clearance within H1 Habitat. Per the requirements of the LIP, no development, except for access driveways and resource-dependent uses, is

permitted in H1 Habitat (County Code Section 22.44.1890.C). Because habitable structures are proposed less than 100 feet from H1 Habitat (oak woodland) to the west, fuel modification is required within this area by the approved fuel modification plan. Therefore, the Project design is not compatible with surrounding environmental resources, as it would result in development of H1 Habitat.

26. The Board finds that the Project impermissibly proposes development within the H1 Habitat Buffer and H1 Quiet Zone as the LIP only allows residential development if all the criteria of County Code Section 22.44.1890.D.8 for H1 Habitat Buffer and Section 22.44.1890.E.12 for H1 Quiet Zone (which are identical) are met. As proposed, the Project is comprised of a 5,418-square-foot single-family residence and reducing the square footage of the proposed residence would provide a greater buffer between the development and the H1 Habitat area, while still providing reasonable economic use of the property. Accordingly, the development is not the minimum development necessary to provide reasonable economic use of the Project Site as required by County Code Sections 22.44.1890.D.8.b and 22.44.1890.E.12.b.
27. The Board finds that a variance is required for new structures less than 100 feet from parklands, per County Code Section 22.44.1900.C. Due to California State Parks open space immediately to the south, a small portion of the residence, as well as hardscape and retaining walls proposed for the Project Site, would extend into the required 100-foot parkland buffer. Because the structure could easily be redesigned to eliminate this encroachment, there are no special characteristics of the lot that require a variance, nor is it necessary to preserve a substantial property right.
28. The Board finds that the proposed development is not in conformity with the certified local coastal program. As proposed, the Project would not comply with all applicable development standards for residences in the SMMLCP, which includes the LUP and LIP, specifically those standards related to habitat categories, OWTS standards and parkland buffers.
29. The Board finds that any development located between the nearest public road and the 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.
30. The Board finds that there are no special circumstances or exceptional characteristics applicable to the property involved, such as size, shape, topography, location, or surroundings, which are not generally applicable to other properties in the same vicinity and under identical zoning classification. The design of the residence could easily be modified to avoid encroaching into the

required 100-foot parkland buffer. Thus, the property has not been shown to have special circumstances or exceptional characteristics.

31. The Board finds that the Variance is unnecessary for the preservation of a substantial property right of the Applicant such as that possessed by owners of other property in the same vicinity and zone. The design of the residence could easily be modified to avoid encroaching into the required 100-foot parkland buffer. Thus, the variance is unnecessary to preserve a substantial property right.
32. The Board finds that the granting of the Variance will be materially detrimental to the public welfare or be injurious to other property or improvements in the same vicinity and zone. The proposed residence location would result in greater development near to parkland, which would detrimentally affect the public welfare and other properties by degrading scenic and biological resources.
33. The Board finds that the granting of the Variance will be materially detrimental to coastal resources. The proposed residence location would result in greater development near to parkland, which would detrimentally affect coastal resources by degrading scenic and biological resources.
34. The Board finds that CEQA does not apply to the Project pursuant to sections 15061 and 15270 of the State CEQA Guidelines (Title 14, Cal. Code Regs., Chapter 3, §§ 15000-15387), because CEQA does not apply to projects that a public agency rejects or disapproves.
35. The Board finds that pursuant to County Code Section 22.44.990, the community was properly notified of the Board's public hearing of the Project by mail, newspaper (Los Angeles Bulletin), and property posting. Additionally, the Project was noticed, and case materials were available on the Regional Planning's website. On August 17, 2023, a total of 134 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.
36. The location of the documents and other materials constituting the record of proceedings upon which the Hearing Officer's decision is based in this matter is at the 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:

Regarding the Minor CDP:

- A. The proposed Project is not in conformity with the SMMCLP;

Regarding the Variance:

- B. There are no special circumstances or exceptional characteristics applicable to Project Site, such as size, shape, topography, location, or surroundings, which are not generally applicable to other properties in the same vicinity and under identical zoning classification;
- C. The Variance is unnecessary for the preservation of a substantial property right of the Applicant such as that possessed by owners of other property in the same vicinity and zone;
- D. The granting of the Variance will be materially detrimental to the public welfare or be injurious to other property or improvements in the same vicinity and zone; and
- E. The granting of the Variance will be materially detrimental to coastal resources.

THEREFORE, THE BOARD OF SUPERVISORS:

- 1. Finds that the Project is exempt from CEQA, pursuant to State CEQA Guidelines sections 15061 and 15270 (projects which are rejected or disapproved);
- 2. Denies the appeal of the Project;
- 3. Denies Minor CDP No. RPPL2019-003852-(3); and
- 4. Denies Variance No. RPPL2019-003853-(3).

**FINDINGS OF THE BOARD OF SUPERVISORS
AND ORDER
PROJECT NO. 2019-000686-(3)
MINOR COASTAL DEVELOPMENT PERMIT NO. RPPL2019-003854-(3)
VARIANCE NO. RPPL2019-003855-(3)**

1. The Los Angeles County ("County") Board of Supervisors ("Board") conducted a duly-noticed public hearing on September 19, 2023, in the matter of Project No. 2019-000686-(3), Minor Coastal Development Permit ("CDP") No. RPPL2019-003854-(3) (the "Minor CDP"), and Variance No. RPPL2019-003855-(3) ("Variance"). The Board held the public hearing in conjunction with Applicant's 14 other related and similar minor CDP and variance applications to build 15 single-family residences on 16 lots that adjoin and/or are in close proximity to one another in the Monte Nido Rural Village within the Santa Monica Mountains Coastal Zone (hereinafter referred to as the "Related Projects" comprised of minor CDP nos. RPPL2019-002073-(3), RPPL2019-002474-(3), RPPL2019-002479-(3), RPPL2019-002885-(3), RPPL2019-001222-(3), RPPL2019-002887-(3), RPPL2019-003431-(3), RPPL2019-003435-(3), RPPL2019-003852-(3), RPPL2019-004230-(3), RPPL2019-004232-(3), RPPL2019-004674-(3), RPPL2019-004677-(3), and RPPL2019-004678-(3); and variance nos. RPPL2019-002074-(3), RPPL2019-002475-(3), RPPL2019-002480-(3), RPPL2019-002886-(3), RPPL2019-002888-(3), RPPL2019-003432-(3), RPPL2019-003436-(3), RPPL2019-001224-(3), RPPL2019-003853-(3), RPPL2019-00423-(3), and RPPL2019-004675-(3)). The County Regional Planning Commission ("Commission") previously conducted a duly-noticed public hearing on the Minor CDP and Variance on April 26, 2003. Prior to the Commission's hearing, a public hearing was also held before the County Department of Regional Planning ("Regional Planning") Hearing Officer ("Hearing Officer") on October 4, 2022, which was continued to November 1, 2022, and again to February 7, 2023.
2. The applicant, California Pacific Homes ("Applicant"), requests the Minor CDP and Variance to authorize the construction of a 4,241-square-foot single-family residence, and an onsite wastewater treatment system ("OWTS") ("Project") on a 1.3-acre property located on the south side of Piuma Road (Assessor's Parcel Number 4456-038-017) in the Santa Monica Mountains Coastal Zone ("Project Site"). Hardscape, retaining walls, and a portion of the residence would be located less than 100 feet from parkland to the south. A total of 1,498 cubic yards of earth would be graded. The Project would result in development within H1 Habitat, the H1 Habitat Buffer, and the H1 Quite zone and fuel modification or brush clearance within the protected zones of 16 oak trees.
3. The Project requires a coastal development permit to construct a single-family residence and an OWTS in the R-C-20 (Rural Coastal—20-Acre Minimum

Required Lot Area) Zone, pursuant to Los Angeles County Code ("County Code") Section 22.44.810, and a minor CDP is required for any project that requires Environmental Review Board ("ERB") review (County Code Sections 22.44.860 and 22.44.940). The residence would result in development less than 200 feet from H1 Habitat and thus requires ERB review. A minor CDP is also required for any project that results in the encroachment into the protected zone of any oak tree, pursuant County Code Section 22.44.950. As proposed, the Project requires fuel modification or brush clearance would occur within the protected zones of 16 oak trees.

4. The Project requires a variance for a new construction less than 100 feet from parklands, per County Code Section 22.44.1900.C. A variance is also required for construction of an OWTS seepage pit or leach field within 50 feet of an oak tree or within 150 feet of riparian canopy, per County Code Section 22.44.1340.B.3.c. Hardscape, retaining walls, and a portion of the residence are located less than 100 feet from parkland to the south and an OWTS seepage pit is proposed less than 150 feet from riparian canopy to the northeast. A variance is required for any new or improved driveway exceeding 300 feet in length (County Code Section 22.44.1920 C), and the Project proposes a 386-foot-long driveway. Finally, County Code Section 22.44.1910.I restricts building site area for new residential development to 10,000 square feet, and the proposed building site area is 10,200 square feet. A The Project requires a variance is required for all deviations from the development standards of the Santa Monica Mountains Local Implementation Program ("LIP").
5. The Project Site is located within the RL20 (Rural Land-One dwelling unit/20 acres maximum) land use designation of the Santa Monica Mountains Local Coastal Program ("SMMLCP") Land Use Policy Map, a component of the General Plan. The Project Site is located in the Malibu Zoned District and is zoned R-C-20. Pursuant to County Code Section 22.44.1750, a single-family residence is a principal permitted use within the R-C Zone.
6. Surrounding zoning within a 500-foot radius of the Project Site includes:
 - North: R-C-20, R-C-1 (Rural Coastal—One Acre Minimum Required Lot Area), R-C-10,000 (Rural Coastal—10,000-square-foot Minimum Required Area);
 - South: O S-P (Open Space—Parks);
 - East: R-C-20, O-S-P; and
 - West: R-C-1 and R-C-20.
7. Surrounding land uses within a 500-foot radius of the Project Site include:
 - North: Single-family residences, vacant land;
 - South: Open space;
 - East: Vacant land, open space; and

West: Single-family residences and vacant land.

8. The Project Site is 1.3 gross acres in size and consists of one legal lot, which is irregular in shape and consists of generally level terrain on the central portion of the lot and steep north-to-south upward slopes on its northern and southern portions. An existing graded pad of approximately 12,000 square feet and drainage structures are located on the central portion of the lot. These were legally developed with CDP No. 5-83-004, which was approved with the underlying tract map in 1987 (Tract Map No. 38931). The entirety of the lot is mapped as H3 Habitat in the Santa Monica Mountains Local Coastal Program Land Use Plan ("LUP"). The majority of the Project Site is within 200 feet of H1 Habitat to the northeast, which places it within the H1 Habitat Buffer (0-100 feet away) or H1 Quiet Zone (100-200 feet away). Other than the oak trees, the Project Site contains mostly native and non-native grasses, shrubs, and non-native trees. The Project Site is partially visible from the Backbone Trail.
9. The Project Site would be accessed from Piuma Road, a 65-foot-wide public road and designated scenic route, immediately to the north of the Project Site.
10. The site plan shows the construction of a 4,241-square-foot single-family residence and a 744-square-foot attached garage on the central portion of the 1.3-acre Project Site. The residence would have a maximum height of 16 feet above grade. A total of 1,498 cubic yards of earth (1,498 cubic yards cut, all exported) would be graded. The Project would also include an OWTS, retaining walls, and other appurtenant facilities on a total building site of 10,200 square feet—including non-exempt driveway areas—within the existing graded pad. The building would be accessed by a 386-foot-long paved driveway, which would access Piuma Road to the north. Development from brush clearance and fuel modification would also encroach into the protected zones of 16 coast live oaks. While the entirety of the Project Site is mapped as H3 Habitat, the majority of the Project Site is within the H1 Habitat Buffer (0-100 feet away) or H1 Quiet Zone (100-200 feet away) due to the presence of oak woodland and riparian canopy to the northeast. The residence is proposed for a location on the central portion of the Project Site, within the H1 Quiet Zone. A portion of the residence, as well as hardscape and retaining walls, is located less than 100 feet from parklands to the south. An OWTS seepage pit is proposed north of the residence within the H1 Habitat Buffer. The Project is partially visible from the Backbone Trail to the south. The Project Site has a linear street frontage of 165 feet and a linear development frontage of 75 feet.
11. The case history shows that an earlier version of the Project was submitted as a plot plan, along with plot plans for the Related Projects, prior to the County's adoption of the SMMLCP. These plot plans entailed ministerial reviews that were approved in concept, as the lack of an approved local coastal program meant that the necessary coastal development permits to develop the residences would

still have to have been obtained from the California Coastal Commission ("Coastal Commission"). Taken together, the Project and the Related Projects did not qualify for an exemption under the California Environmental Quality Act (Public Resources Code section 21000 et seq.) ("CEQA"), resulting in Environmental Assessment No. 201200258 comprised of a Mitigated Negative Declaration ("MND") and Mitigation Monitoring and Reporting Program ("MMRP"). The MND and MMRP were initially approved but subsequently appealed to both the Commission and the Board, which upheld the appeal and invalidated the MND and MMRP on September 22, 2015.

12. On June 26, 2019, the Project, along with the Related Projects, was submitted to Regional Planning. Thereafter, from 2019 to 2011, Regional Planning staff ("Staff") met with the Applicant 11 times to discuss the Project, with a focus on how to resolve issues related to it as submitted by Applicant. Staff requested that the Project be redesigned to eliminate inconsistencies with LIP standards and reasons for needing the Variance. On August 8, 2021, the ERB reviewed the Project and requested that it be returned with a more comprehensive overview of the Project in conjunction with the Related Projects, including a more detailed analysis of the oak woodlands, and generally a greater effort to be consistent with the LIP. On April 14, 2022, Staff sent a letter to Applicant requesting several specific changes to the Project and indicated that if the changes were not made, the Project would be scheduled for public hearing with a Staff recommendation of denial. The requested changes included removing the habitable accessory structure (guest house), reducing the size and/or changing the location of several of the main residences, relocating the OWTS, and in conjunction with the Related Projects, proposing fewer residences as a whole by merging some of the lots.
13. On May 13, 2022, Applicant responded to Staff in writing that it would not make additional changes to the Project and Related Projects. The Project thereafter proceeded to hearing before the Hearing Officer on June 7, 2022, as an item for discussion and possible action, at which time the Hearing Officer scheduled a public hearing for the Project on October 4, 2022.
14. Staff received four phone calls and nine letters of opposition have been received over the course of the hearing process for the Project. Issues raised include destruction of sensitive habitat, light pollution, traffic, construction noise, fire hazard, proximity to wildlife, and interference of scenic views from the Backbone Trail.
15. Staff consulted with various County departments about the Project and received the following recommendations:
 - A. County Department of Parks and Recreation recommended clearance to public hearing with no conditions through the County's electronic consultation system ("EPIC-LA") on September 29, 2020.

- B. County Fire Department ("Fire Department") recommended clearance to public hearing with no conditions through EPIC-LA on September 30, 2020.
 - C. County Department of Public Works ("Public Works") recommended denial of the Project due to lack of documentation regarding road boundaries, road improvements, lines of sight, and earthmoving details in a letter dated November 10, 2020.
 - D. County Department of Public Health recommended denial of the Project due to lack of information regarding the proposed OWTS and water service in a letter dated October 27, 2020.
 - E. ERB took no action regarding the Project at a meeting held on August 16, 2021, but recommended that it return with a more comprehensive plan and biological assessment, as well as a redesign to be consistent with the LIP.
16. Because CEQA does not apply to projects which a public agency rejects or disapproves, pursuant to sections 15061 and 15270 of the State CEQA Guidelines (Title 14, Cal. Code Regs., Chapter 3, §§ 15000-15387), there has been no CEQA analysis performed on the Project.
17. A duly noticed public hearing was held before the Hearing Officer on October 4, 2022, which was continued to November 1, 2022, to allow the Hearing Officer to conduct site visit and thoroughly review all documents. At the November 1, 2022 continued public hearing, Staff provided an overview and recommended denial of the Project. Applicant's representative spoke in favor of the Project. The Hearing Officer indicated her intent to deny the Project because it failed to meet the development standards of the LIP and because it could not meet the burden of proof required for a variance, and continued the hearing to February 7, 2023, the Hearing Officer found that there was nothing preventing Applicant from redesigning the Project to comply with LIP standards and that, as proposed, the Project did not meet the goals and policies of the LUP. Additionally, as to the Variance request, the Hearing Officer found that that Applicant did not demonstrate that there were unique circumstances or special characteristics of the Project Site that required a variance to preserve substantial property rights therein, nor that it was infeasible to redesign the Project to possibly eliminate the need for a variance altogether. Accordingly, the Hearing Officer closed the public hearing and denied the Project.
18. The Hearing Officer's decision was timely appealed to the Commission by the Applicant on February 13, 2023. A duly-noticed public hearing was held before the Commission on April 26, 2023, to consider the appeal of the Hearing Officer's denial of the Project. Staff presented the Project in conjunction with the Related Projects, and recommended denial thereof for failure to comply with development

standards of the LIP, conflicting with the goals and policies of the LUP, and failing to meet the burden of proof for a variance. Staff emphasized that the Project could be redesigned in a manner to comply with the LIP and LUP, and explained that it had ample meetings with Applicant on numerous occasions throughout the Project's history where that message was conveyed. Staff pointed out that Applicant has never submitted any revised plans. Applicant spoke at the public hearing by way of its land use attorney, Michael Shonafelt, who argued that the applicable portions of the LIP and LUP make it impossible to build on any portion of the Project Site. Applicant did acknowledge that there were good faith efforts between Applicant and the County and its various departments, including many well-attended meetings, to find a feasible path forward to develop the Project and Related Projects. However, Applicant concluded that the 200-foot fuel modification radius required by the Fire Department would result in vegetation removal within H1 Habitat, which is prohibited by the LIP. Applicant summarized its position by asserting that the Project Site is essentially unbuildable, as even building a "broom closet" would result in impacts on H1 Habitat due to the fuel modification requirement.

19. At the Commission's public hearing, there was public comment opposing the Project. A total of four constituents voiced their opposition based primarily on the Project's lack of compliance with the SMMLCP and allegations that Applicant was trying to skirt County requirements to build "mega-mansions" in violation of the SMMLCP. The public comments urged the Commission to uphold the Hearing Officer's denial of the Project. Upon conclusion of public comment, the Commission asked Staff to clarify the categories of variances for the Project and Related Projects being requested, and the total count thereof. Staff clarified that for all 15 minor CDP requests by Applicant across 16 lots, including the Project, there are six categories of variance requests, and a total of 12 variance requests. The Commission generally commented that such an amount of variance requests was irregular and unprecedented. It recognized the efforts of both the Applicant and Staff over the year to meet and confer to resolve the issues, but indicated that the Project does not meet the standards required by the SMMLCP as proposed, and then moved to close the public hearing and denied the Project (and Related Projects).
20. The Commission's denial of the Project was timely appealed by Applicant on April 28, 2023. The Board held its duly-noticed public hearing on the appeal of the Commission's decision on September 19, 2023, and, like the Commission, held it in conjunction with Applicant's Related Projects for 14 other similar minor CDP and variance applications to build 15 single-family residences on 16 lots that adjoin and/or are in close proximity to one another in the Monte Nido Rural Village within the Santa Monica Mountains Coastal Zone. Regional Planning submitted a written statement to the Board indicating that the Commission's denial of the Project should be upheld because as proposed, the Project does

not comply with the development standards required by the LIP, the goals and policies of the LUP, and does meet the burden of proof required for a variance under the County Code. Additionally, the Director of Regional Planning, Amy Bodek ("Director") was present and provided some additional background for the Board. She indicated that the Project has been around for a while and predates the County's adoption of the SMMLCP. She explained that since 2018, she has been involved with trying to move the Project along in a collaborative way with the Applicant, as the Project and Related Projects are being proposed on topographically challenging and environmentally sensitive lots that include H1 Habitat, H1 Buffer Zones, buffer zones for oak trees, National Parkland, and streams, in addition to street frontage requirements. She elaborated that Regional Planning has worked closely with Applicant to find a way for development to occur on each lot in a manner compliant with the SMMLCP and believes there is such a way to do so, which has been conveyed to the Applicant on numerous occasions and involves reducing the size of the Project's proposed single-family residence and its location on the site. The Director explained that a stalemate was reached a couple of years ago, and the Applicant was and is not willing to make any additional changes to the Project. Since that time, numerous indications to Applicant were made that Regional Planning would have to recommend denial of the Project unless changes were incorporated, but Applicant has elected not to modify the Project, signifying that Applicant has accepted proceeding to denial of the Project. Accordingly, the Director requested that the Board uphold the Commission's denial of the Project, and reiterated to the Board that there is economic use of the Project Site with a redesign that is consistent with SMMLCP.

21. After the Director spoke at the Board's public hearing, Attorney for Applicant, Michael Shonafelt, was given the opportunity to speak. Mr. Shonafelt, who also appeared for Applicant at the Commission's public hearing, mostly repeated what he presented at that prior public hearing, the primary point being that due to the 200-foot radius for fuel modification required by the Fire Department and the fact that such a radius would impede into H1 Habitat, development of the Project Site and Related Projects, it is not feasible. Per Mr. Shonafelt, "you could build a broom closet... and it is going to touch H1." In sum, it was his position that the SMMLCP effectively takes away the Applicant's properties, including the Project Site, as it is Applicant's position that nothing can be built on the lots even though they are zoned for residential use. Mr. Shonafelt also wanted to make clear that Applicant's team did do their "homework" and refutes any allegation that Applicant has been uncooperative, as he and the Applicant team have met with County Staff on numerous occasions to try and resolve the issues preventing approval. However, Applicant indicated that they heard from the Fire Department that they would not allow modifications to the fuel modification radius for H1, and decided it was futile to try and redesign the project because doing so takes a lot of time and money.

22. There was ample public comment at the Board's public hearing of the Project. Of 15 total public comments, 13 were in opposition to the Project, and two were seemingly neutral but questioned the governmental process for approval of projects involving the SMMLCP. The comments in opposition to the Project mostly centered on how the Project and Related Projects simply fun afoul of the SMMLCP requirements, as evidenced by the number of variances being requested, and pointed out how unique the Santa Monica Mountains are and that development therein must comply with SMMLCP, which was the byproduct of a long process that involved ample community input and which is tailored to address the specific needs of the region. The opponents also emphasized that development could occur if the projects would simply reduce the size of the proposed primary residences, which should be achievable since they are "mega mansions." Additionally, there was praise for the Staff for doing their best to work with Applicant, and for the Commission in upholding the requirements of the SMMLCP.
23. After hearing from Regional Planning, Applicant, and the public, the Board addressed the Project and emphasized that the SMMLCP prevents development of the Project and Related Projects as proposed, and repeated that the Director has indicated that housing can be developed on the Project Site. The Board indicated that SMMLCP is intended to protect the safety of the region, especially in light of the fire tragedies in the area. In response to Applicant's claim that nothing can be built on the lots, the Board then specifically asked Applicant if they are interested in revisiting a redesign of the Project and the Related Projects in light of the testimony to the contrary heard before the Board; to which, Mr. Shonafelt responded once again that due to fuel modification requirements, not even a "broom closet" could be built on the Project Site. He concluded that any such attempt would be futile as it would not be allowed under the SMMLCP. The Board then turned to the Director, who refuted the repeated contention that the fuel modification zone cannot be modified, as it has been modified in the Coastal Zone before, and that economic value for each of Applicant's lots can be achieved. She reminded the Board that the proposed homes (for the Project and Related Projects) are very large, ranging from 4,500 to 6,400 square feet in size, for an average of 5,300 square feet; therefore, a reduction in their size would allow for the construction of something larger than a "broom closet" and smaller than 5,300 square feet. Finally, she assured the Board that there is an ability to modify the fuel modification zone with the Fire Department because it has been done before to allow development throughout the Santa Monica Mountains. Upon hearing the additional testimony from Applicant and Regional Planning, the Board repeated that the SMMLCP was not adopted to prevent development of housing, but it ensures orderly development that also protects the safety of the unique region, which features very sensitive biological habitat and significant risk of wildfire. The Board recognized the efforts of the Staff throughout the years, which included ample meetings with Applicant's team, and various attempts to

urge Applicant to redesign the Project to one that is viable and respects the SMMLCP. However, the Board indicated that Applicant here has chosen to ignore the guidance of Regional Planning, instead requesting an unprecedented number of variances to develop the Project and Related Projects without regard to the County's rules and processes, and has refused yet again at the Project's public hearing to redesign the Project to meet SMMLCP requirements. The Board then closed the public hearing, denied the appeal, and voted in favor of upholding the Commission's denial of the Project.

24. The Board finds that the Project is not consistent with the LUP. The Rural Village land use designation is intended for single-family residential uses, as well as other resource-dependent uses, on relatively small lots. Although a single-family residence is specifically listed as a principal permitted use under this designation, the Project's overall size and proposed plans, which include a building site area of 10,200 square feet, are not consistent with the policies of the LUP, as identified in the subsections hereunder. The Project's large square footage and footprint would result in development, including a habitable accessory structure, that would extend into the H1 Quiet Zone, as well as fuel modification and brush clearance that would extend into H1 Habitat (oak woodland) and the H1 Habitat Buffer. Additionally, the Project's large footprint and square footage result in a design that is not protective of surrounding landforms by failing to preserve H1 Habitat areas in a more natural state, which is inconsistent with policies regarding the protection of Scenic Resource Areas, as well as those prioritizing protection of sensitive habitats, natural vegetation, and natural resources over development. Finally, when paired with its proximity to Piuma Road, which is a designated scenic route, the Project also results in unnecessary visual impacts to the surrounding area. The Project is not consistent with the following policies of the LUP:

A. Conservation and Open Space Element:

- i. Policy CO-41 – New non-resource-dependent development shall be prohibited in H1 Habitat areas to protect these most sensitive environmental resource areas from disruption of habitat values. The only exception is that two uses may be approved in H1 Habitat other than wetlands in very limited circumstances, as follows: (1) Public Works projects required to repair or protect existing public roads when there is no feasible alternative, as long as impacts to H1 Habitat are avoided to the maximum extent feasible, and unavoidable impacts are minimized and mitigated; and (2) an access road to a lawfully-permitted use outside H1 Habitat when there is no other feasible alternative to provide access to public recreation areas or development on a legal parcel, as long as impacts to H1 Habitat are avoided to the maximum extent feasible,

and unavoidable impacts are minimized and mitigated. Any new development approved for one of these two uses within woodland or savannah habitat shall protect native trees in accordance with Policy CO-99. The County shall not approve the development of any non-resource dependent use other than these two uses within H1 Habitat, unless such use has first been considered in an SMMLCP amendment that is certified by the Coastal Commission. The Project's large square footage and footprint would result in fuel modification and brush clearance that would extend into H1 Habitat (oak woodland).

- ii. Policy CO-51 – Where new development is permitted in H2 Habitat pursuant to this SMMLCP, the maximum allowable building site area on parcels shall be 10,000 square feet, or 25 percent of the parcel size, whichever is less. Where new residential development is permitted in H3 Habitat, the maximum allowable residential building site area shall be 10,000 square feet, or 25 percent of the parcel size, whichever is less. The restriction of the building site area to less than the maximum may be required if the native tree protection policies require a smaller area or if it is determined that a smaller building site area would serve to avoid impacts to H1 Habitat areas, substantially minimize grading associated with the project, reduce the need for manufactured slopes, or reduce the need for retaining features visible from scenic areas, public trails, and public lands. The allowable building site area may be increased for projects that qualify for participation in the incentive program of Policy LU-29 or for projects that comprise two adjoining legal lots, if the existing lots are merged into one lot and one consolidated building site is provided with one access road or driveway. The allowable building site area shall not exceed the total of the building site areas allowed for each individual parcel. Adverse impacts to H2 Habitat that cannot be avoided through the implementation of siting and design alternatives shall be accommodated through the Resource Conservation Program, pursuant to Policy CO-86a. The Project's overall size and proposed plans, which include a building site area of 10,200 square feet, are not consistent with this policy.
- iii. Policy CO-57 – New non-resource-dependent development shall also provide an additional 100-foot "Quiet Zone" from H1 Habitat where feasible (measured from the outer edge of the 100-foot H1 Habitat buffer required above). New development is not permitted in the H1 Habitat Quiet Zone except resource-dependent uses, non-irrigated fuel modification required by the Fire

Department for lawfully-established structures, and the following other uses in very limited circumstances: (1) Public Works projects required to protect existing public roads when there is no feasible alternative, as long as impacts to H1 Habitat and the H1 Buffer are avoided to the maximum extent feasible, and unavoidable impacts are minimized and mitigated; (2) an access road to a lawfully-permitted use when there is no other feasible alternative to provide access to public recreation areas or development on a legal parcel, as long as impacts to H1 Habitat and H1 Buffer are avoided to the maximum extent feasible, and unavoidable impacts are minimized and mitigated; and (3) a development on a lawfully-created parcel that is the minimum development necessary to provide a reasonable economic use of the property and where there is no feasible alternative, as long as impacts to H1 Habitat and H1 Buffer are avoided to the maximum extent feasible, and unavoidable impacts are minimized and mitigated. The Project's large square footage and footprint would result in development, including a habitable accessory structure, that would extend into the H1 Quiet Zone, as well as fuel modification and brush clearance that would extend into the H1 Habitat Buffer. It has not been demonstrated that such development is necessary to provide a reasonable economic use of this property, or that there is no feasible alternative to develop the site.

- iv. Policy CO-66 – Protection of H1 and H2 Habitats and public access shall take priority over other development standards, and where there is any conflict between general/other development standards and the biological resource and/or public access protection provisions, the standards that are most protective of H1 and H2 Habitats and public access shall have precedence. The Project's large footprint and square footage result in a design that is not protective of surrounding landforms by failing to preserve H1 and H2 Habitat areas in a more natural state.
- v. Policy CO-109 – Site and design new development to protect natural features, and minimize removal of natural vegetation. The Project's large footprint and square footage result in a design that does not prioritize protection of sensitive habitats, natural vegetation, and natural resources over development.
- vi. Policy CO-124 – The Santa Monica Mountains contain scenic resources of regional and national importance. The scenic and visual qualities of these resources shall be protected and, where feasible, enhanced. The Project's large footprint and square

footage result in a design that is not protective of surrounding landforms by failing to preserve H1 Habitat areas in a more natural state, which is inconsistent with policies regarding the protection of Scenic Resource Areas.

- vii. Policy CO-125 – Protect public views within Scenic Areas and throughout the Coastal Zone. Places on, along, within, or visible from Scenic Routes, public parklands, public trails, beaches, and state waters that offer scenic vistas of the mountains, canyons, coastline, beaches, and other unique natural features are considered Scenic Resource Areas. Scenic Resource Areas do not include areas that are largely developed such as existing, predominantly built-out residential subdivisions. Scenic Resource Areas also include scenic resources [identified on Map 3 of the LUP] and consist of Scenic Elements, Significant Ridgelines, and Scenic Routes as well as public parkland and recreation areas [identified on Map 4 of the LUP]. The Project's large footprint and square footage result in a design that is not protective of surrounding landforms by failing to preserve H1 Habitat areas in a more natural state, which is inconsistent with policies regarding the protection of Scenic Resource Areas.
- viii. Policy CO-126 – Maintain and enhance the quality of vistas along identified Scenic Routes. The Project violates this policy as the Project's two-story primary residence would degrade the quality of vistas along Piuma Road, which is a Scenic Route.
- ix. Policy CO-131 – Site and design new development to minimize adverse impacts on scenic resources to the maximum extent feasible. If there is no feasible building site location on the proposed project site where development would not be visible, then the development shall be sited and designed to minimize impacts on scenic areas through measures that may include, but not be limited to, siting development in the least visible portion of the site, breaking up the mass of new structures, designing structures to blend into the natural hillside setting, restricting the building maximum size, reducing maximum height, clustering development, minimizing grading, incorporating landscape and building material screening elements, and where appropriate, berming. The Project's large footprint and square footage result in a design that is not protective of surrounding landforms by failing to preserve H1 Habitat areas in a more natural state, which is inconsistent with policies regarding the protection of Scenic Resource Areas.

Development is not sited in the least visible portion of the site, nor is development clustered or building size restricted.

B. Land Use Element:

Policy LU-33 – Require that new developments be compatible with the rural character of the area and the surrounding natural environment. The Project's large footprint and square footage result in a design that is not protective of surrounding landforms by failing to preserve H1 Habitat areas in a more natural state, which is inconsistent with policies regarding the protection of Scenic Resource Areas, as well as those prioritizing protection of sensitive habitats, natural vegetation, and natural resources over development. Finally, when paired with its proximity to Piuma Road, which is a designated scenic route, the Project also results in unnecessary visual impacts to the surrounding area.

25. The Board finds that the Project's design is not compatible with surrounding environmental resources, as it would result in development of H1 Habitat. Per the requirements of the LIP, no development, except for access driveways and resource-dependent uses, is permitted in H1 Habitat (County Code Section 22.44.1890.C). Because habitable structures are proposed less than 100 feet from H1 Habitat (riparian zone) to the northeast, fuel modification is required within this area by the approved fuel modification plan.
26. The Board finds that the Project impermissibly proposes development within the H1 Habitat Buffer and H1 Quiet Zone and is not consistent with the standards for development in sensitive habitats identified in Subsections C to E of County Code Section 22.44.1890. The Project Site is designated as H3 Habitat by the LUP. The Project proposes a 4,241-square-foot single-family residence. Reducing the square footage of the proposed residence would provide a greater buffer between development and the H1 Habitat area. Thus, the development is not the minimum necessary development for the site, as required within an H1 Quiet Zone or H1 Habitat Buffer by the LIP. Therefore, the findings in County Code Sections 22.44.1890.D.8.b and 22.44.1890.E.12.b cannot be met.
28. The Board finds that the LIP specifically prohibits OWTS seepage pits or leach fields to be placed within 150 feet from the edge of riparian canopy (County Code Section 22.44.1340.B.3.c). There are locations on the Project Site more than 150 feet from riparian canopy, and the applicant has not provided documentation that these alternative locations are unsuitable for OWTS seepage pits. Thus, it has not been demonstrated that a variance is necessary due to special characteristics of the lot or to preserve a substantial property right.
29. The Board finds that a variance is required for a building site area greater than 10,000 square feet, per County Code Section 22.44.1910.I. The Project proposes a building site area of 10,200 square feet. However, there are no

special characteristics of the Project Site requiring this, and the building site area could be reduced in size to comply with these sections of the LIP. Thus, it has not been demonstrated that the Variance is necessary due to special characteristics of the lots or to preserve a substantial property right.

30. The Board finds that the proposed development is not in conformity with the certified local coastal program. As proposed, the Project would not comply with all applicable development standards for residences in the SMMLCP, which includes the LUP and LIP, specifically those standards related to habitat categories, building site area, and OWTS standards.
31. The Board finds that any development located between the nearest public road and the 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.
32. The Board finds that there are no special circumstances or exceptional characteristics applicable to the property involved, such as size, shape, topography, location, or surroundings, which are not generally applicable to other properties in the same vicinity and under identical zoning classification. The design of the Project could easily be modified to reduce the building site area. It has not been demonstrated that OWTS seepage pits cannot be placed in a location more than 50 feet from the dripline of an oak tree and/or more than 150 feet from riparian canopy, or that the proposed location is the least impactful to biological resources. Thus, the property has not been shown to have special circumstances or exceptional characteristics.
33. The Board finds that the Variance is unnecessary for the preservation of a substantial property right of the Applicant such as that possessed by owners of other property in the same vicinity and zone. The design of the Project could easily be modified to reduce the building site area. It has not been demonstrated that OWTS seepage pits cannot be placed in a location more than 50 feet from the dripline of an oak tree or that that the proposed location is the least impactful to biological resources. Thus, the Variance is unnecessary to preserve a substantial property right.
34. The Board finds that the granting of the Variance will be materially detrimental to the public welfare or be injurious to other property or improvements in the same vicinity and zone. The proposed OWTS location and large building site area would result in greater development near to oak trees and riparian canopy, which would detrimentally affect the public welfare and other properties by degrading scenic and biological resources.

35. The Board finds that the granting of the Variance will be materially detrimental to coastal resources. The proposed OWTS location and building site area would result in greater development near to oak trees and riparian canopy, which would detrimentally affect coastal resources by degrading scenic and biological resources.
36. The Board finds that pursuant to County Code Section 22.44.990, the community was properly notified of the Board's public hearing of the Project by mail, newspaper (Los Angeles Bulletin), and property posting. Additionally, the Project was noticed, and case materials were available on the Regional Planning's website. On August 17, 2023, a total of 134 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.
37. The location of the documents and other materials constituting the record of proceedings upon which the Hearing Officer's decision is based in this matter is at the 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:

Regarding the Minor CDP:

- A. The proposed Project is not in conformity with the SMMLCP;

Regarding the Variance:

- B. There are no special circumstances or exceptional characteristics applicable to Project Site, such as size, shape, topography, location, or surroundings, which are not generally applicable to other properties in the same vicinity and under identical zoning classification;
- C. The Variance is unnecessary for the preservation of a substantial property right of the Applicant such as that possessed by owners of other property in the same vicinity and zone;
- D. The granting of the Variance will be materially detrimental to the public welfare or be injurious to other property or improvements in the same vicinity and zone; and
- E. The granting of the Variance will be materially detrimental to coastal resources.

THEREFORE, THE BOARD OF SUPERVISORS:

1. Finds that the Project is exempt from CEQA, pursuant to State CEQA Guidelines sections 15061 and 15270 (projects which are rejected or disapproved);

2. Denies the appeal of the Project;
3. Denies Minor CDP No. RPPL2019-003854-(3); and
4. Denies Variance No. RPPL2019-003855-(3).

**FINDINGS OF THE BOARD OF SUPERVISORS
AND ORDER
PROJECT NO. 2019-000686-(3)
MINOR COASTAL DEVELOPMENT PERMIT NO. RPPL2019-004230-(3)
VARIANCE NO. RPPL2019-004231-(3)**

1. The Los Angeles County ("County") Board of Supervisors ("Board") conducted a duly-noticed public hearing on September 19, 2023, in the matter of Project No. 2019-000686-(3), Minor Coastal Development Permit ("CDP") No. RPPL2019-004230-(3) (the "Minor CDP"), and Variance No. RPPL2019-004231-(3) ("Variance"). The Board held the public hearing in conjunction with Applicant's 14 other related and similar minor CDP and variance applications to build 15 single-family residences on 16 lots that adjoin and/or are in close proximity to one another in the Monte Nido Rural Village within the Santa Monica Mountains Coastal Zone (hereinafter referred to as the "Related Projects" comprised of minor CDP nos. RPPL2019-002073-(3), RPPL2019-002474-(3), RPPL2019-002479-(3), RPPL2019-002885-(3), RPPL2019-002887-(3), RPPL2019-001222-(3), RPPL2019-003431-(3), RPPL2019-003435-(3), RPPL2019-003852-(3), RPPL2019-003854-(3), RPPL2019-004232-(3), RPPL2019-004674-(3), RPPL2019-004677-(3), and RPPL2019-004678-(3), and variance nos. RPPL2019-002074-(3), RPPL2019-002475-(3), RPPL2019-002480-(3), RPPL2019-002886-(3), RPPL2019-002888-(3), RPPL2019-001224-(3), RPPL2019-003432-(3), RPPL2019-003436-(3), RPPL2019-003853-(3), RPPL2019-003855-(3), and RPPL2019-004675-(3)). The County Regional Planning Commission ("Commission") previously conducted a duly-noticed public hearing on the Minor CDP and Variance on April 26, 2003. Prior to the Commission's hearing, a public hearing was also held before the County Department of Regional Planning ("Regional Planning") Hearing Officer ("Hearing Officer") on October 4, 2022, which was continued to November 1, 2022, and again to February 7, 2023.
2. The applicant, California Pacific Homes ("Applicant"), requests the Minor CDP and Variance to authorize the construction of a 4,241-square-foot single-family residence and an onsite wastewater treatment system ("OWTS") ("Project") on a 1.3-acre property located on the south side of Piuma Road (Assessor's Parcel Number 4456-038-017) in the Santa Monica Mountains Coastal Zone ("Project Site"). Hardscape, retaining walls, and a portion of the residence would be located less than 100 feet from parkland to the south. A total of 1,498 cubic yards of earth (1,498 cubic yards cut, all exported) would be graded. The Project would result in development within H1 Habitat, the H1 Habitat Buffer, and the H1 Quiet Zone and fuel modification or brush clearance within the protected zones of 16 oak trees.
3. The Project requires a coastal development permit to construct a single-family residence and an OWTS in the R-C-20 (Rural Coastal—20-Acre Minimum Required Lot Area) Zone, pursuant to Los Angeles County Code ("County Code")

Section 22.44.810, and a minor CDP is required for any project that requires Environmental Review Board ("ERB") review (County Code Sections 22.44.860 and 22.44.940). The Project requires ERB review because the main residence, as proposed would result in development less than 200 feet from H1 Habitat. Additionally, a minor CDP is also required for any project that results in the encroachment into the protected zone of any oak tree, pursuant to County Code Section 22.44.950. As proposed, the Project requires fuel modification or brush clearance would occur within the protected zones of 16 oak trees.

4. The Project requires a variance for new structures less than 100 feet from parklands, per County Code Section 22.44.1900.C. A variance is also required for construction of an OWTS seepage pit or leach field within 150 feet of an riparian canopy, per County Code Section 22.44.1340 B.3.c. Hardscape, retaining walls, and a portion of the residence are located less than 100 feet from parkland to the south and an OWTS seepage pit is proposed less than 150 feet from riparian canopy to the northeast. A variance is required for any new or improved driveway exceeding 300 feet in length (County Code Section 22.44.1920.C); the Project proposes a 386-foot-long driveway. Finally, County Code Section 22.44.1910.I restricts building site area for new residential development to 10,000 square feet, while the proposed building site area is 10,200 square feet. The Project requires a variance for all deviations from the standards of the Santa Monica Mountains Local Implementation Program ("LIP").
5. The Project Site is located within the RL20 (Rural Land—One dwelling unit/20 acres maximum) land use designation of the Santa Monica Mountains Local Coastal Program ("SMMLCP") Land Use Policy Map, a component of the General Plan. The Project Site is located in the Malibu Zoned District and is zoned R-C-20. Pursuant to County Code Section 22.44.1750, a single-family residence is a principal permitted use within the R-C Zone.
6. Surrounding zoning within a 500-foot radius of the Project Site includes:
 - North: R-C-20, R-C-1 (Rural Coastal—One Acre Minimum Required Lot Area), R-C-10,000 (Rural Coastal—10,000-square-foot Minimum Required Area);
 - South: O-S-P (Open Space—Parks);
 - East: R-C-20, O-S-P; and
 - West: R-C-1 and R-C-20.
7. Surrounding land uses within a 500-foot radius of the Project Site include:
 - North: Single-family residences, vacant land;
 - South: Open space;
 - East: Vacant land, open space; and
 - West: Single-family residences and vacant land.

8. The Project Site is 1.3 gross acres in size and consists of one legal lot, which is irregular in shape and consists of generally level terrain on the central portion of the lot and steep north-to-south upward slopes on its northern and southern portions. An existing graded pad of approximately 12,000 square feet and drainage structures are located on the central portion of the lot. These were legally developed with CDP No. 5-83-004, which was approved with the underlying tract map in 1987 (Tract Map No. 38931). The entirety of the lot is mapped as H3 Habitat in the Santa Monica Mountains Local Coastal Program Land Use Plan ("LUP"). While the Project Site is within 200 feet of H1 Habitat to the northeast, which places it within the H1 Habitat Buffer (0-100 feet away) or H1 Quiet Zone (100-200 feet away). Other than the oak trees, the Project Site contains mostly native and non-native grasses, shrubs, and non-native trees. The Project Site is partially visible from the Backbone Trail.
9. The Project Site would be accessed from Piuma Road, a 65-foot-wide public road and designated scenic route, immediately to the north of the Project Site.
10. The site plan shows the construction of a 4,241-square-foot single-family residence and a 744-square-foot attached garage on the central portion of the 1.3-acre Project Site. The residence would have a maximum height of 16 feet above grade. A total of 1,498 cubic yards of earth (1,498 cubic yards cut, all exported) would be graded. The Project would also include an OWTS, retaining walls, and other appurtenant facilities on a total building site of 10,200 square feet—which includes non-exempt portions of the driveway—within the existing graded pad. The building would be accessed by a 386-foot-long paved driveway, which would access Piuma Road to the north. Development from brush clearance and fuel modification would also encroach into the protected zones of 16 coast live oaks. While the entirety of the Project Site is mapped as H3 Habitat, the majority of the site is within the H1 Habitat Buffer (0-100 feet away) or H1 Quiet Zone (100-200 feet away) due to the presence of oak woodland and riparian canopy to the northeast. The residence is proposed for a location on the central portion of the Project Site, within the H1 Quiet Zone. A portion of the residence, as well as hardscape and retaining walls, is located less than 100 feet from parklands to the south. An OWTS seepage pit is proposed north of the residence within the H1 Habitat Buffer. The Project is partially visible from the Backbone Trail to the south. The Project Site has a linear street frontage of 165 feet and a linear development frontage of 75 feet.
11. The case history shows that an earlier version of the Project was submitted as a plot plan, along with plot plans for the Related Projects, prior to the County's adoption of the SMMLCP. These plot plans entailed ministerial reviews that were approved in concept, as the lack of an approved local coastal program meant that the necessary coastal development permits to develop the residences would still have to have been obtained from the California Coastal Commission ("Coastal Commission"). Taken together, the Project and the Related Projects did not qualify for an exemption under the California Environmental Quality Act (Public Resources Code section 21000 et seq.) ("CEQA"), resulting in

Environmental Assessment No. 201200258 comprised of a Mitigated Negative Declaration ("MND") and Mitigation Monitoring and Reporting Program ("MMRP"). The MND and MMRP were initially approved but subsequently appealed to both the Commission and the Board, which upheld the appeal and invalidated the MND and MMRP on September 22, 2015.

12. On July 17, 2019, the Project, along with the Related Projects, was submitted to Regional Planning in its current form. Thereafter, from 2019 to 2011, Regional Planning staff ("Staff") met with the Applicant 11 times to discuss the Project, with a focus on how to resolve issues related to it as submitted by Applicant. Staff requested that the Project be redesigned to eliminate inconsistencies with LIP standards and reasons for needing the Variance. On August 8, 2021, the ERB reviewed the Project and requested that it be returned with a more comprehensive overview of the Project in conjunction with the Related Projects, including a more detailed analysis of the oak woodlands, and generally a greater effort to be consistent with the LIP. On April 14, 2022, Staff sent a letter to Applicant requesting several specific changes to the Project and indicated that if the changes were not made, the Project would be scheduled for public hearing with a Staff recommendation of denial. The requested changes reducing the size and/or changing the location of several of the main residences, relocating the OWTS, and in conjunction with the Related Projects, proposing fewer residences as a whole by merging some of the lots.
13. On May 13, 2022, Applicant responded to Staff in writing that it would not make additional changes to the Project and Related Projects. The Project thereafter proceeded to hearing before the Hearing Officer on June 7, 2022, as an item for discussion and possible action, at which time the Hearing Officer scheduled a public hearing for the Project on October 4, 2022.
14. Staff received four phone calls and nine letters in opposition over the course of the hearing process for the Project. Issues raised include destruction of sensitive habitat, light pollution, traffic, construction noise, fire hazards, proximity to wildlife, and interference of scenic views from a nearby hiking trail known as the Backbone Trail.
15. Staff consulted with various County departments about the Project and received the following recommendations:
 - A. County Department of Parks and Recreation: recommended clearance to public hearing with no conditions through the County's electronic consultation system ("EPIC-LA") on September 29, 2020.
 - B. County Fire Department ("Fire Department"): recommended clearance to public hearing with no conditions through EPIC-LA on September 30, 2020.

- C. County Department of Public Works ("Public Works"): recommended denial of the Project due to lack of documentation regarding road boundaries, road improvements, lines of sight, and earthmoving details in a letter dated November 10, 2020.
 - D. County Department of Public Health: recommended denial of the Project due to lack of information regarding the proposed OWTS and water service in a letter dated October 27, 2020.
 - E. ERB: took no action regarding the Project at a meeting held on August 16, 2021, but recommended that it return with a more comprehensive plan and biological assessment, as well as a redesign to be consistent with the LIP.
16. Because CEQA does not apply to projects which a public agency rejects or disapproves, pursuant to sections 15061 and 15270 of the State CEQA Guidelines (Title 14, Cal. Code Regs., Chapter 3, §§ 15000-15387), there has been no CEQA analysis performed on the Project.
17. A duly-noticed public hearing was held before the Hearing Officer on October 4, 2022, which was continued to November 1, 2022, to allow the Hearing Officer to conduct a site visit and thoroughly review all documents. At the November 1, 2022 continued public hearing, Staff provided an overview and recommended denial of the Project, and Applicant's representative spoke in favor of the Project. The Hearing Officer indicated her intent to deny the Project because it failed to meet the development standards of the LIP and because it could not meet the burden of proof required for a variance, and continued the hearing to February 7, 2023, to allow Staff to incorporate directed edits to the denial findings. At the continued hearing on February 7, 2023, the Hearing Officer found that there was nothing preventing Applicant from redesigning the Project to comply with LIP standards and that, as proposed, the Project did not meet the goals and policies of the LUP. Additionally, as to the Variance request, the Hearing Officer found that that Applicant did not demonstrate that there were unique circumstances or special characteristics of the Project Site that required a variance to preserve substantial property rights therein, nor that it was infeasible to redesign the Project to possibly eliminate the need for a variance altogether. Accordingly, the Hearing Officer closed the public hearing and denied the Project.
18. The Hearing Officer's decision was timely appealed to the Commission by the Applicant on February 13, 2023. A duly-noticed public hearing was held before the Commission on April 26, 2023, to consider the appeal of the Hearing Officer's denial of the Project. Staff presented the Project in conjunction with the Related Projects, and recommended denial thereof for failure to comply with development standards of the LIP, conflicting with the goals and policies of the LUP, and failing to meet the burden of proof for a variance. Staff emphasized that the Project could be redesigned in a manner to comply with the LIP and LUP, and explained that it had ample meetings with Applicant on numerous occasions throughout the

Project's history where that message was conveyed. Staff pointed out that Applicant has never submitted any revised plans. Applicant spoke at the public hearing by way of its land use attorney, Michael Shonafelt, who argued that the applicable portions of the LIP and LUP make it impossible to build on any portion of the Project Site. Applicant did acknowledge that there were good faith efforts between Applicant and the County and its various departments, including many well-attended meetings, to find a feasible path forward to develop the Project and Related Projects. However, Applicant concluded that the 200-foot fuel modification radius required by the Fire Department would result in vegetation removal within H1 Habitat, which is prohibited by the LIP. Applicant summarized its position by asserting that the Project Site is essentially unbuildable, as even building a "broom closet" would result in impacts on H1 Habitat due to the fuel modification requirement.

19. At the Commission's public hearing, there was public comment opposing the Project. A total of four constituents voiced their opposition based primarily on the Project's lack of compliance with the SMMLCP and allegations that Applicant was trying to skirt County requirements to build "mega-mansions" in violation of the SMMLCP. The public comments urged the Commission to uphold the Hearing Officer's denial of the Project. Upon conclusion of public comment, the Commission asked Staff to clarify the categories of variances for the Project and Related Projects being requested, and the total count thereof. Staff clarified that for all 15 minor CDP requests by Applicant across 16 lots, including the Project, there are six categories of variance requests, and a total of 12 variance requests. The Commission generally commented that such an amount of variance requests was irregular and unprecedented. It recognized the efforts of both the Applicant and Staff over the year to meet and confer to resolve the issues, but indicated that the Project does not meet the standards required by the SMMLCP as proposed, and then moved to close the public hearing and denied the Project (and Related Projects).
20. The Commission's denial of the Project was timely appealed by Applicant on April 28, 2023. The Board held its duly-noticed public hearing on the appeal of the Commission's decision on September 19, 2023, and, like the Commission, held it in conjunction with Applicant's Related Projects for 14 other similar minor CDP and variance applications to build 15 single-family residences on 16 lots that adjoin and/or are in close proximity to one another in the Monte Nido Rural Village within the Santa Monica Mountains Coastal Zone. Regional Planning submitted a written statement to the Board indicating that the Commission's denial of the Project should be upheld because as proposed, the Project does not comply with the development standards required by the LIP, the goals and policies of the LUP, and does meet the burden of proof required for a variance under the County Code. Additionally, the Director of Regional Planning, Amy Bodek ("Director") was present and provided some additional background for the Board. She indicated that the Project has been around for a while and predates the County's adoption of the SMMLCP. She explained that since 2018, she has been involved with trying to move the Project along in a collaborative way with

the Applicant, as the Project and Related Projects are being proposed on topographically challenging and environmentally sensitive lots that include H1 Habitat, H1 Buffer Zones, buffer zones for oak trees, National Parkland, and streams, in addition to street frontage requirements. She elaborated that Regional Planning has worked closely with Applicant to find a way for development to occur on each lot in a manner compliant with the SMMLCP and believes there is such a way to do so, which has been conveyed to the Applicant on numerous occasions and involves reducing the size of the Project's proposed single-family residence and its location on the site. The Director explained that a stalemate was reached a couple of years ago, and the Applicant was and is not willing to make any additional changes to the Project. Since that time, numerous indications to Applicant were made that Regional Planning would have to recommend denial of the Project unless changes were incorporated, but Applicant has elected not to modify the Project, signifying that Applicant has accepted proceeding to denial of the Project. Accordingly, the Director requested that the Board uphold the Commission's denial of the Project, and reiterated to the Board that there is economic use of the Project Site with a redesign that is consistent with SMMLCP.

21. After the Director spoke at the Board's public hearing, Attorney for Applicant, Michael Shonafelt, was given the opportunity to speak. Mr. Shonafelt, who also appeared for Applicant at the Commission's public hearing, mostly repeated what he presented at that prior public hearing, the primary point being that due to the 200-foot radius for fuel modification required by the Fire Department and the fact that such a radius would impede into H1 Habitat, development of the Project Site and Related Projects, it is not feasible. Per Mr. Shonafelt, "you could build a broom closet... and it is going to touch H1." In sum, it was his position that the SMMLCP effectively takes away the Applicant's properties, including the Project Site, as it is Applicant's position that nothing can be built on the lots even though they are zoned for residential use. Mr. Shonafelt also wanted to make clear that Applicant's team did do their "homework" and refutes any allegation that Applicant has been uncooperative, as he and the Applicant team have met with County Staff on numerous occasions to try and resolve the issues preventing approval. However, Applicant indicated that they heard from the Fire Department that they would not allow modifications to the fuel modification radius for H1, and decided it was futile to try and redesign the project because doing so takes a lot of time and money.
22. There was ample public comment at the Board's public hearing of the Project. Of 15 total public comments, 13 were in opposition to the Project, and two were seemingly neutral but questioned the governmental process for approval of projects involving the SMMLCP. The comments in opposition to the Project mostly centered on how the Project and Related Projects simply fun afoul of the SMMLCP requirements, as evidenced by the number of variances being requested, and pointed out how unique the Santa Monica Mountains are and that development therein must comply with SMMLCP, which was the byproduct of a long process that involved ample community input and which is tailored to

address the specific needs of the region. The opponents also emphasized that development could occur if the projects would simply reduce the size of the proposed primary residences, which should be achievable since they are "mega mansions." Additionally, there was praise for the Staff for doing their best to work with Applicant, and for the Commission in upholding the requirements of the SMMLCP.

23. After hearing from Regional Planning, Applicant, and the public, the Board addressed the Project and emphasized that the SMMLCP prevents development of the Project and Related Projects as proposed, and repeated that the Director has indicated that housing can be developed on the Project Site. The Board indicated that SMMLCP is intended to protect the safety of the region, especially in light of the fire tragedies in the area. In response to Applicant's claim that nothing can be built on the lots, the Board then specifically asked Applicant if they are interested in revisiting a redesign of the Project and the Related Projects in light of the testimony to the contrary heard before the Board; to which, Mr. Shonafelt responded once again that due to fuel modification requirements, not even a "broom closet" could be built on the Project Site. He concluded that any such attempt would be futile as it would not be allowed under the SMMLCP. The Board then turned to the Director, who refuted the repeated contention that the fuel modification zone cannot be modified, as it has been modified in the Coastal Zone before, and that economic value for each of Applicant's lots can be achieved. She reminded the Board that the proposed homes (for the Project and Related Projects) are very large, ranging from 4,500 to 6,400 square feet in size, for an average of 5,300 square feet; therefore, a reduction in their size would allow for the construction of something larger than a "broom closet" and smaller than 5,300 square feet. Finally, she assured the Board that there is an ability to modify the fuel modification zone with the Fire Department because it has been done before to allow development throughout the Santa Monica Mountains. Upon hearing the additional testimony from Applicant and Regional Planning, the Board repeated that the SMMLCP was not adopted to prevent development of housing, but it ensures orderly development that also protects the safety of the unique region, which features very sensitive biological habitat and significant risk of wildfire. The Board recognized the efforts of the Staff throughout the years, which included ample meetings with Applicant's team, and various attempts to urge Applicant to redesign the Project to one that is viable and respects the SMMLCP. However, the Board indicated that Applicant here has chosen to ignore the guidance of Regional Planning, instead requesting an unprecedented number of variances to develop the Project and Related Projects without regard to the County's rules and processes, and has refused yet again at the Project's public hearing to redesign the Project to meet SMMLCP requirements. The Board then closed the public hearing, denied the appeal, and voted in favor of upholding the Commission's denial of the Project.
24. The Board finds that the project is not consistent with the LUP. The Rural Land 20 land use designation is intended for single-family residential uses, as well as other resource-dependent uses, on relatively large lots. Although a single-family

residence is specifically listed as a principal permitted use under this designation, the Project's overall size and proposed plans, which include a building site area of 10,200 square feet, are not consistent with the policies of the LUP, as identified in the subsections hereunder. The Project's large square footage and footprint would result in development, including a habitable accessory structure, that would extend into the H1 Quiet Zone, as well as fuel modification and brush clearance that would extend into H1 Habitat (oak woodland) and the H1 Habitat Buffer. Additionally, the Project's large footprint and square footage result in a design that is not protective of surrounding landforms by failing to preserve H1 Habitat areas in a more natural state, which is inconsistent with policies regarding the protection of Scenic Resource Areas, as well as those prioritizing protection of sensitive habitats, natural vegetation, and natural resources over development. Finally, when paired with its proximity to Piuma Road, which is a designated scenic route, the Project also results in unnecessary visual impacts to the surrounding area. The Project is not consistent with the following policies of the LUP:

A. Conservation and Open Space Element:

- i. Policy CO-41 – New non-resource-dependent development shall be prohibited in H1 Habitat areas to protect these most sensitive environmental resource areas from disruption of habitat values. The only exception is that two uses may be approved in H1 Habitat other than wetlands in very limited circumstances, as follows: (1) Public Works projects required to repair or protect existing public roads when there is no feasible alternative, as long as impacts to H1 Habitat are avoided to the maximum extent feasible, and unavoidable impacts are minimized and mitigated; and (2) an access road to a lawfully-permitted use outside H1 Habitat when there is no other feasible alternative to provide access to public recreation areas or development on a legal parcel, as long as impacts to H1 Habitat are avoided to the maximum extent feasible, and unavoidable impacts are minimized and mitigated. Any new development approved for one of these two uses within woodland or savannah habitat shall protect native trees in accordance with Policy CO-99. The County shall not approve the development of any non-resource dependent use other than these two uses within H1 Habitat, unless such use has first been considered in an SMMLCP amendment that is certified by the Coastal Commission. The Project's large square footage and footprint would result in fuel modification and brush clearance that would extend into H1 Habitat (oak woodland).
- ii. Policy CO-51 – Where new development is permitted in H2 Habitat pursuant to this SMMLCP, the maximum allowable building site area on parcels shall be 10,000 square feet, or 25 percent of the parcel size, whichever is less. Where new residential development

is permitted in H3 Habitat, the maximum allowable residential building site area shall be 10,000 square feet, or 25 percent of the parcel size, whichever is less. The restriction of the building site area to less than the maximum may be required if the native tree protection policies require a smaller area or if it is determined that a smaller building site area would serve to avoid impacts to H1 Habitat areas, substantially minimize grading associated with the project, reduce the need for manufactured slopes, or reduce the need for retaining features visible from scenic areas, public trails, and public lands. The allowable building site area may be increased for projects that qualify for participation in the incentive program of Policy LU-29 or for projects that comprise two adjoining legal lots, if the existing lots are merged into one lot and one consolidated building site is provided with one access road or driveway. The allowable building site area shall not exceed the total of the building site areas allowed for each individual parcel. Adverse impacts to H2 Habitat that cannot be avoided through the implementation of siting and design alternatives shall be accommodated through the Resource Conservation Program pursuant to Policy CO-86a. The Project's overall size and proposed plans, which include a building site area of 10,200 square feet, are not consistent with this policy.

- iii. Policy CO-57 – New non-resource-dependent development shall also provide an additional 100-foot "Quiet Zone" from H1 Habitat where feasible (measured from the outer edge of the 100-foot H1 Habitat Buffer required above). New development is not permitted in the H1 Habitat Quiet Zone except resource-dependent uses, non-irrigated fuel modification required by the Fire Department for lawfully-established structures, and the following other uses in very limited circumstances: (1) Public Works projects required to protect existing public roads when there is no feasible alternative, as long as impacts to H1 Habitat and the H1 Buffer are avoided to the maximum extent feasible, and unavoidable impacts are minimized and mitigated; (2) an access road to a lawfully-permitted use when there is no other feasible alternative to provide access to public recreation areas or development on a legal parcel, as long as impacts to H1 Habitat and H1 Buffer are avoided to the maximum extent feasible, and unavoidable impacts are minimized and mitigated; and (3) a development on a lawfully-created parcel that is the minimum development necessary to provide a reasonable economic use of the property and where there is no feasible alternative, as long as impacts to H1 Habitat and H1 Buffer are avoided to the maximum extent feasible, and unavoidable impacts are minimized and mitigated. The Project's large square footage and footprint would result in development, including a habitable accessory structure, that would extend into the H1 Quiet

Zone, as well as fuel modification and brush clearance that would extend into the H1 Habitat Buffer. It has not been demonstrated that such development is necessary to provide a reasonable economic use of this property, or that there is no feasible alternative to develop the site.

- iv. CO-63 – New development adjoining parklands, where the purpose of the park is to protect the natural environment and SERAs, shall be sited and designed to minimize impacts to habitat and recreational opportunities to the maximum extent feasible. Natural vegetation buffer areas shall be provided around parklands. Buffers shall be of a sufficient size to prevent impacts to parkland resources, but in no case shall they be less than 100 feet in width. Variances or modifications to the required H1 Habitat buffer width shall not be granted, except for a permitted use included in Policy CO-56. New development permitted adjacent to parklands shall include open space conservation easements over the habitat areas outside the approved development site to ensure that impacts to the H1 and H2 Habitats, H1 Habitat Buffer, or parkland buffer are avoided.
- v. Policy CO-66 – Protection of H1 and H2 Habitats and public access shall take priority over other development standards, and where there is any conflict between general/other development standards and the biological resource and/or public access protection provisions, the standards that are most protective of H1 and H2 Habitats and public access shall have precedence. The Project's large footprint and square footage result in a design that is not protective of surrounding landforms by failing to preserve H1 and H2 Habitat areas in a more natural state.
- vi. Policy CO-109 – Site and design new development to protect natural features, and minimize removal of natural vegetation. The Project's large footprint and square footage result in a design that does not prioritize protection of sensitive habitats, natural vegetation, and natural resources over development.
- vii. Policy CO-124 – The Santa Monica Mountains contain scenic resources of regional and national importance. The scenic and visual qualities of these resources shall be protected and, where feasible, enhanced. The Project's large footprint and square footage result in a design that is not protective of surrounding landforms by failing to preserve H1 Habitat areas in a more natural state, which is inconsistent with policies regarding the protection of Scenic Resource Areas.

- viii. Policy CO-125 – Protect public views within Scenic Areas and throughout the Coastal Zone. Places on, along, within, or visible from Scenic Routes, public parklands, public trails, beaches, and state waters that offer scenic vistas of the mountains, canyons, coastline, beaches, and other unique natural features are considered Scenic Resource Areas. Scenic Resource Areas do not include areas that are largely developed such as existing, predominantly built-out residential subdivisions. Scenic Resource Areas also include scenic resources [identified on Map 3 of the LUP] and consist of Scenic Elements, Significant Ridgelines, and Scenic Routes, as well as public parkland and recreation areas [identified on Map 4 of the LUP]. The Project's large footprint and square footage result in a design that is not protective of surrounding landforms by failing to preserve H1 Habitat areas in a more natural state, which is inconsistent with policies regarding the protection of Scenic Resource Areas.
- ix. Policy CO-126 – Maintain and enhance the quality of vistas along identified Scenic Routes. The Project violates this policy as the Project's two-story primary residence would degrade the quality of vistas along Piuma Road, which is a Scenic Route.
- x. Policy CO-131 – Site and design new development to minimize adverse impacts on scenic resources to the maximum extent feasible. If there is no feasible building site location on the proposed project site where development would not be visible, then the development shall be sited and designed to minimize impacts on scenic areas through measures that may include, but not be limited to, siting development in the least visible portion of the site, breaking up the mass of new structures, designing structures to blend into the natural hillside setting, restricting the building maximum size, reducing maximum height, clustering development, minimizing grading, incorporating landscape and building material screening elements, and where appropriate, berming. The Project's large footprint and square footage result in a design that is not protective of surrounding landforms by failing to preserve H1 Habitat areas in a more natural state, which is inconsistent with policies regarding the protection of Scenic Resource Areas. Development is not sited in the least visible portion of the site, nor is development clustered or building size restricted.

B. Land Use Element:

Policy LU-33 – Require that new developments be compatible with the rural character of the area and the surrounding natural environment. The Project's large square footage and footprint would result in development that would extend into the H1 Habitat Buffer and H1 Quiet Zone, as well

as fuel modification and brush clearance that would extend into H1 Habitat (oak woodland). The Project's large footprint and square footage, as well as an OWTS within 50 feet of an oak tree, result in a design that is not protective of surrounding landforms by failing to preserve H1 Habitat areas in a more natural state. This would also not be consistent with policies regarding the protection of Scenic Resource Areas. The Project's design, when paired with its proximity to Piuma Road, a designated scenic route, would result in unnecessary visual impacts to the surrounding area.

25. The Board finds that the Project's large square footage and 10,200-square-foot building site area would result in development that would extend into the H1 Habitat Buffer and H1 Quiet Zone, as well as fuel modification and brush clearance that would extend into H1 Habitat (oak woodland and riparian canopy). The Project's large footprint and square footage result in a design that is not protective of surrounding landforms by failing to preserve H1 Habitat areas in a more natural state. It would also negatively affect adjoining parklands by creating development less than 100 feet away. This would also not be consistent with policies regarding the protection of Scenic Resource Areas. The Project's design, which includes a driveway more than 300 feet long, when paired with its location less than 100 feet from parklands to the south, its partial view from the Backbone Trail, and its proximity to Piuma Road, a designated scenic route, would result in unnecessary visual impacts to the surrounding area.
26. The Board finds that the Project is not consistent with the standards for development in sensitive habitats identified in Subsections C to E of County Code Section 22.44.1890. The Project Site is designated as H3 Habitat by the LUP. While all construction would occur within H3 Habitat, impacts from the development would be located within the H1 Quiet Zone and H1 Habitat Buffer. The Project would also result in required brush clearance within H1 Habitat. Per the requirements of the LIP, no development, except for access driveways and resource-dependent uses, is permitted in H1 Habitat (County Code Section 22.44.1890 C). Because habitable structures are proposed less than 200 feet from H1 Habitat (oak woodland and riparian canopy) to the northeast, brush clearance will be required within H1 Habitat by the County Agricultural Commissioner. Therefore, the Project design is not compatible with surrounding environmental resources, as it would result in development of H1 Habitat.
27. The Board finds that the Project impermissibly proposes development within H1 Habitat Buffer and the H1 Quiet Zone. The Project proposes a 4,241-square-foot single-family residence. Reducing the square footage of the proposed residence and/or relocating the OWTS would provide a greater buffer between development and the H1 Habitat area. Thus, the development is not the minimum necessary development for the site, as required within an H1 Quiet Zone or H1 Habitat Buffer by the LIP. Therefore, the findings in County Code Sections 22.44.1890.D.8.b and 22.44.1890 E.12.b cannot be met.

28. The Board finds the LIP specifically prohibits OWTS seepage pits or leach fields to be placed within 150 feet from the edge of riparian canopy or a streambed (County Code Section 22.44.1340.B.3.c). There are locations on the Project Site more than 150 feet from riparian canopy to the northeast, and the applicant has not provided documentation that these alternative locations are unsuitable for OWTS seepage pits. Thus, it has not been demonstrated that a variance is necessary due to special characteristics of the lots or to preserve a substantial property right.
29. The Board finds that a variance is required for new structures less than 100 feet from parklands, per County Code Section 22.44.1900.C. Due to California State Parks open space immediately to the south, a small portion of the residence, as well as hardscape and retaining walls proposed for the Project Site, would extend into the required 100-foot parkland buffer. Because the structure could easily be redesigned to eliminate this encroachment, there are no special characteristics of the lot that require a variance, nor is it necessary to preserve a substantial property right.
30. The Board finds that a variance is required for a new driveway or access road longer than 300 feet, per County Code Section 22.44.1920.C. The proposed driveway for the Project would have a length of 386 feet. No evidence has been provided to show that this is the minimum driveway necessary to access the Project Site. Thus, there are no special characteristics of the lot that require a variance, nor is it necessary to preserve a substantial property right.
31. The Board finds that a variance is required for a building site area greater than 10,000 square feet, per County Code Section 22.44.1910.I. The Project proposes a building site area of 10,200 square feet. There are no special characteristics of the Project Site requiring this, and the building site area could be reduced in size to comply with these sections of the LIP. Thus, it has not been demonstrated that the Variance is necessary due to special characteristics of the lots or to preserve a substantial property right.
32. The Board finds that the proposed development is not in conformity with the certified local coastal program. As proposed, the Project would not comply with all applicable development standards for residences in the SMMLCP which includes the LUP and LIP, specifically those standards related to habitat categories, OWTS standards, driveway length, building site area, and parkland buffers.
33. The Board finds that any development located between the nearest public road and the 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.

34. The Board finds that there are no special circumstances or exceptional characteristics applicable to the property involved, such as size, shape, topography, location, or surroundings, which are not generally applicable to other properties in the same vicinity and under identical zoning classification. The design of the residence could easily be modified to avoid encroaching into the required 100-foot parkland buffer, lessen the building site area, and reduce the length of the access driveway. It has also not been demonstrated that OWTS seepage pits cannot be placed in a location more than 150 feet from riparian canopy. Thus, the property has not been shown to have special circumstances or exceptional characteristics.
35. The Board finds that the Variance is unnecessary for the preservation of a substantial property right of the Applicant such as that possessed by owners of other property in the same vicinity and zone. The design of the residence could easily be modified to avoid encroaching into the required 100-foot parkland buffer, lessen the building site area, and reduce the length of the access driveway. It has also not been demonstrated that OWTS seepage pits cannot be placed in a location more than 150 feet from riparian canopy. Thus, the Variance is unnecessary to preserve a substantial property right.
36. The Board finds that the granting of the Variance will be materially detrimental to the public welfare or be injurious to other property or improvements in the same vicinity and zone. The proposed residence location would result in greater development near to riparian canopy and parkland, which would detrimentally affect the public welfare and other properties by degrading scenic and biological resources.
37. The Board finds that the granting of the Variance will be materially detrimental to coastal resources. The proposed residence location would result in greater development near riparian canopy and parkland, which would detrimentally affect coastal resources by degrading scenic and biological resources.
38. The Board finds that CEQA does not apply to the Project pursuant to sections 15061 and 15270 of the State CEQA Guidelines (Title 14, Cal. Code Regs., Chapter 3, §§ 15000-15387), because CEQA does not apply to projects that a public agency rejects or disapproves.
39. The Board finds that pursuant to County Code Section 22.44.990, the community was properly notified of the Board's public hearing of the Project by mail, newspaper (Los Angeles Bulletin), and property posting. Additionally, the Project was noticed, and case materials were available on the Regional Planning's website. On August 17, 2023, a total of 134 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.
40. The location of the documents and other materials constituting the record of proceedings upon which the Hearing Officer's decision is based in this matter is

at the 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:

Regarding the Minor CDP:

- A. The proposed Project is not in conformity with the SMMCLP;

Regarding the Variance:

- B. There are no special circumstances or exceptional characteristics applicable to the Project Site, such as size, shape, topography, location, or surroundings, which are not generally applicable to other properties in the same vicinity and under identical zoning classification;
- C. The Variance is unnecessary for the preservation of a substantial property right of the Applicant such as that possessed by owners of other property in the same vicinity and zone;
- D. The granting of the Variance will be materially detrimental to the public welfare or be injurious to other property or improvements in the same vicinity and zone; and
- E. The granting of the Variance will be materially detrimental to coastal resources.

THEREFORE, THE BOARD OF SUPERVISORS:

- 1. Finds that the Project is exempt from CEQA, pursuant to State CEQA Guidelines sections 15061 and 15270 (projects which are rejected or disapproved);
- 2. Denies the appeal of the Project;
- 3. Denies Minor CDP No. RPPL2019-003854-(3); and
- 4. Denies Variance No. RPPL2019-003855-(3).

**FINDINGS OF THE BOARD OF SUPERVISORS
AND ORDER
PROJECT NO. 2019-000686-(3)
MINOR COASTAL DEVELOPMENT PERMIT NO. RPPL2019-004232-(3)**

1. The Los Angeles County ("County") Board of Supervisors ("Board") conducted a duly-noticed public hearing on September 19, 2023, in the matter of Project No. 2019-000686-(3), Minor Coastal Development Permit ("CDP") No. RPPL2019-004232-(3) (the "Minor CDP"). The Board held the public hearing in conjunction with Applicant's 14 other related and similar minor CDP and variance applications to build 15 single-family residences on 16 lots that adjoin and/or are in close proximity to one another in the Monte Nido Rural Village within the Santa Monica Mountains Coastal Zone (hereinafter referred to as the "Related Projects" comprised of minor CDP nos. RPPL2019-002073-(3); RPPL2019-002474-(3), RPPL2019-002885-(3), RPPL2019-002887-(3), RPPL2019-001222-(3), RPPL2019-003431-(3), RPPL2019-003435-(3), RPPL2019-003852-(3), RPPL2019-003854-(3), RPPL2019-004230-(3), RPPL2019-004674-(3), RPPL2019-004677-(3), RPPL2019-004678-(3), and RPPL2019-002479-(3); and variance nos. RPPL2019-002074-(3); RPPL2019-002475-(3), RPPL2019-002480-(3), RPPL2019-002886-(3), RPPL2019-002888-(3), RPPL2019-001224-(3), RPPL2019-003432-(3), RPPL2019-003436-(3), RPPL2019-003853-(3), RPPL2019-003855-(3), RPPL2019-004231-(3), and RPPL2019-004675-(3)). The County Regional Planning Commission ("Commission") previously conducted a duly-noticed public hearing on the Minor CDP on April 26, 2003. Prior to the Commission's hearing, a public hearing was also held before the County Department of Regional Planning ("Regional Planning") Hearing Officer ("Hearing Officer") on October 4, 2022, which was continued to November 1, 2022, and again to February 7, 2023.
2. The applicant, California Pacific Homes ("Applicant"), requests the Minor CDP to authorize the construction of a 4,320-square-foot, 28-foot-tall single-family residence, and an onsite wastewater treatment system ("OWTS") ("Project") on a 1.07-acre property located on the south side of Piuma Road (Assessor's Parcel Number 4456-038-019) in the Santa Monica Mountains Coastal Zone ("Project Site"). A total of 709 cubic yards of earth (709 cubic yards cut, all exported) would be graded. The Project would result in development within H1 Habitat, the H1 Habitat Buffer, and the H1 Quiet Zone and fuel modification or brush clearance within the protected zones of 15 oak trees.
3. The Project requires a coastal development permit to construct a single-family residence and an OWTS in the R-C-20 (Rural Coastal—20-Acre Minimum Required Lot Area) Zone, pursuant to Los Angeles County Code ("County Code") Section 22.44.810, and a minor CDP is required for any project that requires Environmental Review Board ("ERB") review (County Code Sections 22.44.860 and 22.44.940). The Project requires ERB review because the main residence, as proposed, would result in development less than 200 feet from H1 Habitat.

Additionally, a minor CDP is also required for any project that results in the encroachment into the protected zone of any oak tree, pursuant to County Code Section 22.44.950. As proposed, the Project requires fuel modification or brush clearance would occur within the protected zones of 15 oak trees.

4. The Project requires a variance for structural heights exceeding 18 feet above grade within a Scenic Resource Area (County Code Section 22.44.1250.C). As proposed, the Project would have a maximum height of 28 feet above grade. Although a variance is required to permit this design feature, no variance has been requested for the Project.
5. The Project Site is located within the RL20 (Rural Land—One dwelling unit/20 acres maximum) land use designation of the Santa Monica Mountains Local Coastal Program ("SMMLCP") Land Use Policy Map, a component of the General Plan. The Project Site is located in the Malibu Zoned District and is zoned R-C-20. Pursuant to County Code Section 22.44.1750, a single-family residence is a principal permitted use within the R-C Zone.
6. Surrounding zoning within a 500-foot radius of the Project Site includes:
 - North: R-C-20, R-C-1 (Rural Coastal—One Acre Minimum Required Lot Area), R-C-10,000 (Rural Coastal—10,000-square-foot Minimum Required Area);
 - South: O-S-P (Open Space—Parks);
 - East: R-C-20, O-S-P; and
 - West: R-C-1 and R-C-20.
7. Surrounding land uses within a 500-foot radius of the Project Site include:
 - North: Single-family residences, vacant land;
 - South: Open space;
 - East: Vacant land, open space; and
 - West: Single-family residences and vacant land.
8. The Project Site is 1.07 gross acres in size and consists of one legal lot, which is irregular in shape and consists of generally level terrain on the southern portion of the lot and downward slopes on its northern and eastern portions. An existing graded pad of approximately 12,000 square feet and drainage structures are located on the southern portion of the of the lot. These were legally developed with CDP No. 5-83-004, which was approved with the underlying tract map in 1987 (Tract Map No. 38931). The Project Site is mapped as H3 Habitat in the Santa Monica Mountains Local Coastal Program Land Use Plan ("LUP"). While the Project Site is within 200 feet of H1 Habitat to the southwest, which places it within the H1 Habitat Buffer (0-100 feet away) or H1 Quiet Zone (100-200 feet away). Other than the oak trees, the Project Site contains mostly native and non-native grasses, shrubs, and non-native trees.

9. The Project Site would be accessed from Piuma Road, a 65-foot-wide public road and designated scenic route, immediately to the north of the Project Site.
10. The site plan shows the construction of a 4,320-square-foot single-family residence, and a 567-square-foot attached garage on the southern portion of the 1.07-acre Project Site. The residence would have a maximum height of 28 feet above grade. A total of 709 cubic yards of earth (709 cubic yards cut, all exported) would be graded. The Project would also include an OWTS, retaining walls, and other appurtenant facilities on a total building site of 9,719 square feet within the existing graded pad. The building would be accessed by a 291-foot-long paved driveway, which would access Piuma Road to the north. Development from brush clearance and fuel modification would also encroach into the protected zones of 15 coast live oaks. The entirety of the Project Site is mapped as H3 Habitat, although most of the site is within the H1 Habitat Buffer (0-100 feet away) or H1 Quiet Zone (100-200 feet away). The residence is proposed for a location on the southern portion of the Project Site, within the H1 Habitat Buffer and H1 Quiet Zone. An OWTS seepage pit is proposed north of the residence, within the H1 Quiet Zone. The Project is partially visible from the Backbone Trail to the south. The Project Site has a linear street frontage of 115 feet and a linear development frontage of 57 feet.
11. The case history shows that an earlier version of the Project was submitted as a plot plan, along with plot plans for the Related Projects, prior to the County's adoption of the SMMLCP. These plot plans entailed ministerial reviews that were approved in concept, as the lack of an approved local coastal program meant that the necessary coastal development permits to develop the residences would still have to have been obtained from the California Coastal Commission ("Coastal Commission"). Taken together, the Project and the Related Projects did not qualify for an exemption under the California Environmental Quality Act (Public Resources Code section 21000 et seq.) ("CEQA"), resulting in Environmental Assessment No. 201200258 comprised of a Mitigated Negative Declaration ("MND") and Mitigation Monitoring and Reporting Program ("MMRP"). The MND and MMRP were initially approved but subsequently appealed to both the Commission and the Board, which upheld the appeal and invalidated the MND and MMRP on September 22, 2015.
12. On July 17, 2019, the Project, along with the Related Projects, was submitted to Regional Planning in its current form. Thereafter, from 2019 to 2011, Regional Planning staff ("Staff") met with the Applicant 11 times to discuss the Project, with a focus on how to resolve issues related to it as submitted by Applicant. Staff requested that the Project be redesigned to eliminate inconsistencies with LIP standards and reasons for needing variances for the Related Projects. On August 8, 2021, the ERB reviewed the Project and requested that it be returned with a more comprehensive overview of the Project in conjunction with the Related Projects, including a more detailed analysis of the oak woodlands, and generally a greater effort to be consistent with the LIP. On April 14, 2022, Staff sent a letter to Applicant requesting several specific changes to the Project and

indicated that if the changes were not made, the Project would be scheduled for public hearing with a Staff recommendation of denial. The requested changes included, reducing the size and/or changing the location of several of the main residences, relocating the OWTS, and in conjunction with the Related Projects, proposing fewer residences as a whole by merging some of the lots.

13. On May 13, 2022, Applicant responded to Staff in writing that it would not make additional changes to the Project and Related Projects. The Project thereafter proceeded to hearing before the Hearing Officer on June 7, 2022, as an item for discussion and possible action, at which time the Hearing Officer scheduled a public hearing for the Project on October 4, 2022.
14. Staff received four phone calls and nine letters in opposition over the course of the hearing process for the Project. Issues raised include destruction of sensitive habitat, light pollution, traffic, construction noise, fire hazards, proximity to wildlife, and interference of scenic views from a nearby hiking trail known as the Backbone Trail.
15. Staff consulted with various County departments about the Project and received the following recommendations:
 - A. County Department of Parks and Recreation recommended clearance to public hearing with no conditions through the County's electronic consultation system ("EPIC-LA") on September 29, 2020.
 - B. County Fire Department ("Fire Department") recommended clearance to public hearing with no conditions through EPIC-LA on September 30, 2020.
 - C. County Department of Public Works ("Public Works") recommended denial of the Project due to lack of documentation regarding road boundaries, road improvements, lines of sight, and earthmoving details in a letter dated November 2, 2020.
 - D. County Department of Public Health recommended denial of the Project due to lack of information regarding the proposed OWTS and water service in a letter dated October 27, 2020.
 - E. ERB took no action regarding the Project at a meeting held on August 16, 2021, but recommended that it return with a more comprehensive plan and biological assessment, as well as a redesign to be consistent with the Santa Monica Mountains Local Implementation Program ("LIP").
16. Because CEQA does not apply to projects which a public agency rejects or disapproves, pursuant to sections 15061 and 15270 of the State CEQA Guidelines (Title 14, Cal. Code Regs., Chapter 3, §§ 15000-15387), there has been no CEQA analysis performed on the Project.

17. A duly-noticed public hearing was held before the Hearing Officer on October 4, 2022, which was continued to November 1, 2022, to allow the Hearing Officer to conduct a site visit and thoroughly review all documents. At the November 1, 2022, continued public hearing, Staff provided an overview and recommended denial of the Project, and the Applicant's representative spoke in favor of the Project. The Hearing Officer indicated her intent to deny the Project because it failed to meet the development standards of the LIP, and continued the hearing to February 7, 2023, to allow Staff to incorporate directed edits to the denial findings. At the continued hearing on February 7, 2023, the Hearing Officer found that there was nothing preventing Applicant from redesigning the Project to comply with LIP standards and that, as proposed, the Project did not meet the goals and policies of the LUP. Accordingly, the Hearing Officer closed the public hearing and denied the Project.
18. The Hearing Officer's decision was timely appealed to the Commission by the Applicant on February 13, 2023. A duly-noticed public hearing was held before the Commission on April 26, 2023, to consider the appeal of the Hearing Officer's denial of the Project. Staff presented the Project in conjunction with the Related Projects, and recommended denial thereof for failure to comply with development standards of the LIP, conflicting with the goals and policies of the LUP, and failing to meet the burden of proof for the requested variances for the Related Projects. Staff emphasized that the Project could be redesigned in a manner to comply with the LIP and LUP, and explained that it had ample meetings with Applicant on numerous occasions throughout the Project's history where that message was conveyed. Staff pointed out that Applicant has never submitted any revised plans. Applicant spoke at the public hearing by way of its land use attorney, Michael Shonafelt, who argued that the applicable portions of the LIP and LUP make it impossible to build on any portion of the Project Site. Applicant did acknowledge that there were good faith efforts between Applicant and the County and its various departments, including many well-attended meetings, to find a feasible path forward to develop the Project and Related Projects. However, Applicant concluded that the 200-foot fuel modification radius required by the Fire Department would result in vegetation removal within H1 Habitat, which is prohibited by the LIP. Applicant summarized its position by asserting that the Project Site is essentially unbuildable, as even building a "broom closet" would result in impacts on H1 Habitat due to the fuel modification requirement.
19. At the Commission's public hearing, there was public comment opposing the Project. A total of four constituents voiced their opposition based primarily on the Project's lack of compliance with the SMMLCP and allegations that Applicant was trying to skirt County requirements to build "mega-mansions" in violation of the SMMLCP. The public comments urged the Commission to uphold the Hearing Officer's denial of the Project. Upon conclusion of public comment, the Commission asked Staff to clarify the categories of variances for the Related Projects being requested, and the total count thereof. Staff clarified that for all 15 minor CDP requests by Applicant across 16 lots, including the Project, there are six categories of variance requests, and a total of 12 variance requests. The

Commission generally commented that such an amount of variance requests was irregular and unprecedented. It recognized the efforts of both the Applicant and Staff over the year to meet and confer to resolve the issues, but indicated that the Project does not meet the standards required by the SMMLCP as proposed, and then moved to close the public hearing and denied the Project (and Related Projects).

20. The Commission's denial of the Project was timely appealed by Applicant on April 28, 2023. The Board held its duly-noticed public hearing on the appeal of the Commission's decision on September 19, 2023, and, like the Commission, held it in conjunction with Applicant's Related Projects for 14 other similar minor CDP and variance applications to build 15 single-family residences on 16 lots that adjoin and/or are in close proximity to one another in the Monte Nido Rural Village within the Santa Monica Mountains Coastal Zone. Regional Planning submitted a written statement to the Board indicating that the Commission's denial of the Project should be upheld because as proposed, the Project does not comply with the development standards required by the LIP, the goals and policies of the LUP. Additionally, the Director of Regional Planning, Amy Bodek ("Director") was present and provided some additional background for the Board. She indicated that the Project has been around for a while and predates the County's adoption of the SMMLCP. She explained that since 2018, she has been involved with trying to move the Project along in a collaborative way with the Applicant, as the Project and Related Projects are being proposed on topographically challenging and environmentally sensitive lots that include H1 Habitat, H1 Buffer Zones, buffer zones for oak trees, National Parkland, and streams, in addition to street frontage requirements. She elaborated that Regional Planning has worked closely with Applicant to find a way for development to occur on each lot in a manner compliant with the SMMLCP and believes there is such a way to do so, which has been conveyed to the Applicant on numerous occasions and involves reducing the size of the Project's proposed single-family residence and its location on the site. The Director explained that a stalemate was reached a couple of years ago, and Applicant was and is not willing to make any additional changes to the Project. Since that time, numerous indications to Applicant were made that Regional Planning would have to recommend denial of the Project unless changes were incorporated, but Applicant has elected not to modify the Project, signifying that Applicant has accepted proceeding to denial of the Project. Accordingly, the Director requested that the Board uphold the Commission's denial of the Project, and reiterated to the Board that there is economic use of the Project Site with a redesign that is consistent with SMMLCP.
21. After the Director spoke at the Board's public hearing, Attorney for Applicant, Michael Shonafelt, was given the opportunity to speak. Mr. Shonafelt, who also appeared for Applicant at the Commission's public hearing, mostly repeated what he presented at that prior public hearing, the primary point being that due to the 200-foot radius for fuel modification required by the Fire Department and the fact that such a radius would impede into H1 Habitat, development of the Project Site

and Related Projects, it is not feasible. Per Mr. Shonafelt, "you could build a broom closet... and it is going to touch H1." In sum, it was his position that the SMMLCP effectively takes away the Applicant's properties, including the Project Site, as it is Applicant's position that nothing can be built on the lots even though they are zoned for residential use. Mr. Shonafelt also wanted to make clear that Applicant's team did do their "homework" and refutes any allegation that Applicant has been uncooperative, as he and the Applicant team have met with County Staff on numerous occasions to try and resolve the issues preventing approval. However, Applicant indicated that they heard from the Fire Department that they would not allow modifications to the fuel modification radius for H1, and decided it was futile to try and redesign the project because doing so takes a lot of time and money.

22. There was ample public comment at the Board's public hearing of the Project. Of 15 total public comments, 13 were in opposition to the Project, and two were seemingly neutral but questioned the governmental process for approval of projects involving the SMMLCP. The comments in opposition to the Project mostly centered on how the Project and Related Projects simply fun afoul of the SMMLCP requirements, and pointed out how unique the Santa Monica Mountains are and that development therein must comply with SMMLCP, which was the byproduct of a long process that involved ample community input and which is tailored to address the specific needs of the region. The opponents also emphasized that development could occur if the projects would simply reduce the size of the proposed primary residences, which should be achievable since they are "mega mansions." Additionally, there was praise for the Staff for doing their best to work with Applicant, and for the Commission in upholding the requirements of the SMMLCP.
23. After hearing from Regional Planning, Applicant, and the public, the Board addressed the Project and emphasized that the SMMLCP prevents development of the Project and Related Projects as proposed, and repeated that the Director has indicated that housing can be developed on the Project Site. The Board indicated that SMMLCP is intended to protect the safety of the region, especially in light of the fire tragedies in the area. In response to Applicant's claim that nothing can be built on the lots, the Board then specifically asked Applicant if they are interested in revisiting a redesign of the Project and the Related Projects in light of the testimony to the contrary heard before the Board; to which, Mr. Shonafelt responded once again that due to fuel modification requirements, not even a "broom closet" could be built on the Project Site. He concluded that any such attempt would be futile as it would not be allowed under the SMMLCP. The Board then turned to the Director, who refuted the repeated contention that the fuel modification zone cannot be modified, as it has been modified in the Coastal Zone before, and that economic value for each of Applicant's lots can be achieved. She reminded the Board that the proposed homes (for the Project and Related Projects) are very large, ranging from 4,500 to 6,400 square feet in size, for an average of 5,300 square feet; therefore, a reduction in their size would allow for the construction of something larger than a "broom closet" and smaller

than 5,300 square feet. Finally, she assured the Board that there is an ability to modify the fuel modification zone with the Fire Department because it has been done before to allow development throughout the Santa Monica Mountains. Upon hearing the additional testimony from Applicant and Regional Planning, the Board repeated that the SMMLCP was not adopted to prevent development of housing, but it ensures orderly development that also protects the safety of the unique region, which features very sensitive biological habitat and significant risk of wildfire. The Board recognized the efforts of the Staff throughout the years, which included ample meetings with Applicant's team, and various attempts to urge Applicant to redesign the Project to one that is viable and respects the SMMLCP. However, the Board indicated that Applicant here has chosen to ignore the guidance of Regional Planning to comply with SMMLCP, while also requesting an unprecedented number of variances to develop the Related Projects without regard to the County's rules and processes, and has refused yet again at the Project's public hearing to redesign the Project to meet SMMLCP requirements. The Board then closed the public hearing, denied the appeal, and voted in favor of upholding the Commission's denial of the Project.

24. The Board finds that the Project is not consistent with the LUP. The Rural Land 20 land use designation is intended for single-family residential uses, as well as other resource-dependent uses, on relatively large lots. Although a single-family residence is specifically listed as a principal permitted use under this designation, the Project's overall size and proposed plans, which include a building site area of 9,719 square feet, are not consistent with the policies of the LUP, as identified in the subsections hereunder. The Project's large square footage and footprint would result in development that would extend into the H1 Quiet Zone, as well as fuel modification and brush clearance that would extend into H1 Habitat (oak woodland) and the H1 Habitat Buffer. Additionally, the Project's large footprint and square footage result in a design that is not protective of surrounding landforms by failing to preserve H1 Habitat areas in a more natural state, which is inconsistent with policies regarding the protection of Scenic Resource Areas, as well as those prioritizing protection of sensitive habitats, natural vegetation, and natural resources over development. Finally, when paired with its proximity to Piuma Road, which is a designated scenic route, the Project also results in unnecessary visual impacts to the surrounding area. The Project is not consistent with the following policies of the LUP:

A. Conservation and Open Space Element:

- i. Policy CO-41 – New non-resource-dependent development shall be prohibited in H1 Habitat areas to protect these most sensitive environmental resource areas from disruption of habitat values. The only exception is that two uses may be approved in H1 Habitat other than wetlands in very limited circumstances, as follows: (1) Public Works projects required to repair or protect existing public roads when there is no feasible alternative, as long as impacts to H1 Habitat are avoided to the maximum extent feasible,

and unavoidable impacts are minimized and mitigated; and (2) an access road to a lawfully-permitted use outside H1 Habitat when there is no other feasible alternative to provide access to public recreation areas or development on a legal parcel, as long as impacts to H1 Habitat are avoided to the maximum extent feasible, and unavoidable impacts are minimized and mitigated. Any new development approved for one of these two uses within woodland or savannah habitat shall protect native trees in accordance with Policy CO-99. The County shall not approve the development of any non-resource dependent use other than these two uses within H1 Habitat, unless such use has first been considered in an SMMLCP amendment that is certified by the Coastal Commission. The Project's large square footage and footprint would result in fuel modification and brush clearance that would extend into H1 Habitat (oak woodland).

- ii. Policy CO-57 – New non-resource-dependent development shall also provide an additional 100-foot "Quiet Zone" from H1 Habitat where feasible (measured from the outer edge of the 100-foot H1 Habitat Buffer required above). New development is not permitted in the H1 Habitat Quiet Zone except resource-dependent uses, non-irrigated fuel modification required by the Fire Department for lawfully-established structures, and the following other uses in very limited circumstances: (1) Public Works projects required to protect existing public roads when there is no feasible alternative, as long as impacts to H1 Habitat and the H1 Buffer are avoided to the maximum extent feasible, and unavoidable impacts are minimized and mitigated; (2) an access road to a lawfully-permitted use when there is no other feasible alternative to provide access to public recreation areas or development on a legal parcel, as long as impacts to H1 Habitat and H1 Buffer are avoided to the maximum extent feasible, and unavoidable impacts are minimized and mitigated; and (3) a development on a lawfully-created parcel that is the minimum development necessary to provide a reasonable economic use of the property and where there is no feasible alternative, as long as impacts to H1 Habitat and H1 Buffer are avoided to the maximum Santa Monica Mountains Local Coastal Program 31 February 2018, Land Use Plan extent feasible, and unavoidable impacts are minimized and mitigated. The Project's large square footage and footprint would result in development that would extend into the H1 Quiet Zone, as well as fuel modification and brush clearance that would extend into the H1 Habitat Buffer. It has not been demonstrated that such development is necessary to provide a reasonable economic use of this property, or that there is no feasible alternative to develop the site.

- iii. Policy CO-66 – Protection of H1 and H2 Habitats and public access shall take priority over other development standards, and where there is any conflict between general/other development standards and the biological resource and/or public access protection provisions, the standards that are most protective of H1 and H2 Habitats and public access shall have precedence. The Project's large footprint and square footage result in a design that is not protective of surrounding landforms by failing to preserve H1 and H2 Habitat areas in a more natural state.
- iv. Policy CO-109 – Site and design new development to protect natural features, and minimize removal of natural vegetation. The Project's large footprint and square footage result in a design that does not prioritize protection of sensitive habitats, natural vegetation, and natural resources over development.
- v. Policy CO-124 – The Santa Monica Mountains contain scenic resources of regional and national importance. The scenic and visual qualities of these resources shall be protected and, where feasible, enhanced. The Project's large footprint and square footage result in a design that is not protective of surrounding landforms by failing to preserve H1 Habitat areas in a more natural state, which is inconsistent with policies regarding the protection of Scenic Resource Areas.
- vi. Policy CO-125 – Protect public views within Scenic Areas and throughout the Coastal Zone. Places on, along, within, or visible from Scenic Routes, public parklands, public trails, beaches, and state waters that offer scenic vistas of the mountains, canyons, coastline, beaches, and other unique natural features are considered Scenic Resource Areas. Scenic Resource Areas do not include areas that are largely developed such as existing, predominantly built-out residential subdivisions. Scenic Resource Areas also include scenic resources [identified on Map 3 of the LUP] and consist of Scenic Elements, Significant Ridgelines, and Scenic Routes, as well as public parkland and recreation areas [identified on Map 4 of the LUP]. The Project's large footprint and square footage result in a design that is not protective of surrounding landforms by failing to preserve H1 Habitat areas in a more natural state, which is inconsistent with policies regarding the protection of Scenic Resource Areas.
- vii. Policy CO-126 – Maintain and enhance the quality of vistas along identified Scenic Routes. The Project violates this policy as the Project's two-story primary residence would degrade the quality of vistas along Piuma Road, which is a Scenic Route.

- viii. Policy CO-131 – Site and design new development to minimize adverse impacts on scenic resources to the maximum extent feasible. If there is no feasible building site location on the proposed project site where development would not be visible, then the development shall be sited and designed to minimize impacts on scenic areas through measures that may include, but not be limited to, siting development in the least visible portion of the site, breaking up the mass of new structures, designing structures to blend into the natural hillside setting, restricting the building maximum size, reducing maximum height, clustering development, minimizing grading, incorporating landscape and building material screening elements, and where appropriate, berming. The Project's large footprint and square footage result in a design that is not protective of surrounding landforms by failing to preserve H1 Habitat areas in a more natural state, which is inconsistent with policies regarding the protection of Scenic Resource Areas.

B. Land Use Element:

Policy LU-33 – Require that new developments be compatible with the rural character of the area and the surrounding natural environment. The Project's large square footage and footprint would result in development that would extend into the H1 Habitat Buffer and H1 Quiet Zone, as well as fuel modification and brush clearance that would extend into H1 Habitat (oak woodland and riparian canopy). The Project's large footprint and square footage, as well as its height, result in a design that is not protective of surrounding landforms by failing to preserve H1 Habitat areas in a more natural state. This would also not be consistent with policies regarding the protection of Scenic Resource Areas. The Project's design, when paired with its partial view from the Backbone Trail and its proximity to Piuma Road, a designated scenic route, would result in unnecessary visual impacts to the surrounding area.

- 25. The Board finds that the Project Site is designated as H1 Habitat and H3 Habitat by the LUP. While all construction would occur within H3 Habitat, impacts from the development would be located within the H1 Quiet Zone and H1 Habitat Buffer. The Project would also result in required fuel modification and brush clearance within H1 Habitat.
- 26. The Board find that no development, except for access driveways and resource-dependent uses, is permitted in H1 Habitat (County Code Section 22.44.1890.C). Because habitable structures are proposed less than 100 feet from H1 Habitat (oak woodland and riparian canopy) to the southwest, brush clearance will be required within H1 Habitat by the County Agricultural Commissioner. Therefore, the Project design is not compatible with surrounding environmental resources, as it would result in development of H1 Habitat.

27. The Board finds that the Project impermissibly proposes development within the H1 Habitat Buffer and H1 Quiet Zone. As proposed, the Project is compromised of a 4,320-square-foot single-family residence. Reducing the square footage of the proposed residence would provide a greater buffer between development and the H1 Habitat area. Thus, the development is not the minimum necessary development for the site, as required within an H1 Quiet Zone or H1 Habitat Buffer by the LIP. Therefore, the findings in County Code Sections 22.44.1890.D.8.b and 22.44.1890.E.12.b cannot be met.
28. The Board finds that a variance is required for structures greater than 18 feet above grade in a Scenic Resource Area, per County Code Section 22.44.1250.C. The Project, due to its proximity to parklands, Piuma Road, and the Backbone Trail, is within a Scenic Resource Area. The residence would have a maximum structural height of 28 feet. No variance has been requested, and thus the Project would not comply with this section of the LIP.
29. The Board finds that the proposed development is not in conformity with the certified local coastal program. As proposed, the Project would not comply with all applicable development standards for residences in the SMMLCP, which includes the LUP and LIP, specifically those standards related to Scenic Resource Areas and habitat categories.
30. The Board finds that any development located between the nearest public road and the 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.
31. The Board finds that CEQA does not apply to the Project pursuant to sections 15061 and 15270 of the State CEQA Guidelines (Title 14, Cal. Code Regs., Chapter 3, §§ 15000-15387), because CEQA does not apply to projects that a public agency rejects or disapproves.
32. The Board finds that pursuant to County Code Section 22.44.990, the community was properly notified of the Board's public hearing of the Project by mail, newspaper (Los Angeles Bulletin), and property posting. Additionally, the Project was noticed, and case materials were available on the Regional Planning's website. On August 17, 2023, a total of 134 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.
33. The location of the documents and other materials constituting the record of proceedings upon which the Hearing Officer's decision is based in this matter is at the 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 Project is not in conformity with the SMMLCP.

THEREFORE, THE BOARD OF SUPERVISORS:

1. Finds that the Project is exempt from CEQA, pursuant to State CEQA Guidelines sections 15061 and 15270 (projects which are rejected or disapproved);
2. Denies the appeal of the Project; and
3. Denies Minor CDP No. RPPL2019-004232-(3).

**FINDINGS OF THE BOARD OF SUPERVISORS
AND ORDER
PROJECT NO. 2019-000686-(3)
MINOR COASTAL DEVELOPMENT PERMIT NO. RPPL2019-004674-(3)
VARIANCE NO. RPPL2019-004675-(3)**

1. The Los Angeles County ("County") Board of Supervisors ("Board") conducted a duly-noticed public hearing on September 19, 2023, in the matter of Project No. 2019-000686-(3), consisting of Minor Coastal Development Permit ("CDP") No. RPPL2019-004674-(3) (the "Minor CDP"), and Variance No. RPPL2019-004675-(3) ("Variance"). The Board held the Project's public hearing in conjunction with Applicant's 14 other related and similar minor CDP and variance applications to build 15 single-family residences on 16 lots that adjoin and/or are in close proximity to one another in the Monte Nido Rural Village within the Santa Monica Mountains Coastal Zone (hereinafter referred to as the "Related Projects" comprised of minor CDP nos. RPPL2019-002073-(3) RPPL2019-002474-(3), RPPL2019-002479-(3), RPPL2019-002885-(3), RPPL2019-002887-(3), RPPL2019-001222-(3), RPPL2019-003431-(3), RPPL2019-003435-(3), RPPL2019-003852-(3) RPPL2019-003854-(3), RPPL2019-004230-(3), RPPL2019-004232-(3), RPPL2019-004677-(3), and RPPL2019-004678-(3); and variance nos. RPPL2019-002074-(3), RPPL2019-002475-(3), RPPL2019-002480-(3), RPPL2019-002886-(3), RPPL2019-002888-(3), RPPL2019-001224-(3), RPPL2019-003432-(3), RPPL2019-003436-(3), RPPL2019-003853-(3) RPPL2019-003855-(3), and RPPL2019-004231-(3). The County Regional Planning Commission ("Commission") previously conducted a duly-noticed public hearing on the Minor CDP and Variance on April 26, 2003. Prior to the Commission's hearing, a public hearing was also held before the County Department of Regional Planning ("Regional Planning") Hearing Officer ("Hearing Officer") on October 4, 2022, which was continued to November 1, 2022, and again to February 7, 2023.
2. The applicant, California Pacific Homes ("Applicant"), requests the Minor CDP and Variance to authorize the construction of a 4,488-square-foot single-family residence and an onsite wastewater treatment system ("OWTS") ("Project") on a 1.06-acre property located on the south side of Piuma Road (Assessor's Parcel Number 4456-038-020) in the Santa Monica Mountains Coastal Zone ("Project Site"). An OWTS seepage pit would be located less than 50 feet from an oak tree and less than 150 feet from a streambed. Structures greater than 18 feet above grade and retaining walls more than six feet tall within a Scenic Resource Area are also proposed. A total of 992 cubic yards of earth (992 cubic yards cut, all exported) would be graded. The Project would result in development within H1 Habitat, the H1 Habitat Buffer, and the H1 Quiet Zone and fuel modification or brush clearance within the protected zones of 33 oak trees.
3. The project requires a coastal development permit to construct a single-family residence and an OWTS in the R-C-20 (Rural Coastal—20-Acre Minimum Required Lot Area) Zone, pursuant to Los Angeles County Code ("County Code")

Section 22.44.810, and a minor CDP is required for any project that requires Environmental Review Board ("ERB") review (County Code Sections 22.44.860 and 22.44.940). The Project requires ERB review because as proposed the main residence would result in development less than 200 feet from H1 Habitat. Additionally, a minor CDP is also required for any project that results in the encroachment into the protected zone of any oak tree, pursuant to County Code Section 22.44.950. As proposed, the Project requires fuel modification or brush clearance within the protected zones of 33 oak trees.

4. The Project requires a variance for construction of an OWTS seepage pit or leach field within 50 feet of an oak tree or within 150 feet of a riparian canopy, per County Code Section 22.44.1340.B.3.c. An OWTS seepage pit is proposed less than 50 feet from an oak tree and less than 150 feet from a riparian canopy and the residence would occupy more than 50 percent of the parcel frontage, thereby requiring a variance. In addition, because the Project is located within a Scenic Resource Area, structures are allowed a maximum height of 18 feet above grade (County Code Section 22.44.1250.C). As proposed, the Project would have a maximum height of 23 feet, 8.5 inches above grade. County Code Section 22.44.2040.A.11.c also restricts the height of retaining walls in Scenic Resource Areas to six feet, while the Project proposes 12-foot-high retaining walls. Finally, County Code Section 22.44.1910.I restricts the building site area for new residential development to 10,000 square feet, while the proposed building site area is 10,383 square feet. The Project requires a variance for all the aforementioned deviations from the standards of the Santa Monica Mountains Local Implementation Program ("LIP").
5. The Project Site is located within the RL20 (Rural Land—One dwelling unit/20 acres maximum) land use designation of the Santa Monica Mountains Local Coastal Program ("SMMLCP") Land Use Policy Map, a component of the General Plan. The Project Site is located in the Malibu Zoned District and zoned R-C-20. Pursuant to County Code Section 22.44.1750, a single-family residence is a principal permitted use within the R-C Zone.
6. Surrounding zoning within a 500-foot radius of the Project Site includes:
 - North: R-C-20, R-C-1 (Rural Coastal – One Acre Minimum Required Lot Area), R-C-10,000 (Rural Coastal – 10,000- squire-foot Minimum Required Area);
 - South: O-S-P (Open Space-Parks);
 - East: R-C-20, O-S-P; and
 - West: R-C-1 and R-C-20.
7. Surrounding land uses within a 500-foot radius of the Project Site include:
 - North: Single-family residences, vacant land;
 - South: Open space;
 - East: Vacant land, open space; and

West: Single-family residences and vacant land.

8. The Project Site is 1.06 gross acres in size and consists of one legal lot, which is generally rectangular in shape and consists of generally level terrain on the northern portion of the lot and downward slopes on its southern and western portions. An existing graded pad of approximately 12,000-square feet and drainage structures are located on the northern portion of the of the lot. These were legally developed with CDP No. 5-83-004, which was approved with the underlying tract map in 1987 (Tract Map No. 38931). The southwestern portion of the lot is mapped as H1 Habitat (oak woodland and riparian canopy), with the remainder mapped as H3 Habitat in the Santa Monica Mountains Local Coastal Program Land Use Plan ("LUP"). The entirety of the Project Site is within 200 feet of H1 Habitat to the west, which places it within the H1 Habitat Buffer (0-100 feet away) or H1 Quiet Zone (100-200 feet away). Other than the oak trees, the Project Site contains mostly native and non-native grasses, shrubs, and native and non-native trees.
9. The Project Site would be accessed from Piuma Road, a 65-foot-wide public road and designated scenic route, immediately to the north of the Project Site.
10. The site plan shows the construction of a 4,488-square-foot single-family residence, including an 875-square-foot basement, and a 605-square-foot attached garage on the northern portion of the 1.06-acre Project Site. The residence would have a maximum height of 23 feet, 8.5 inches above grade. A total of 992 cubic yards of earth (992 cubic yards cut, all exported) would be graded. The Project would also include an OWTS, retaining walls up to 12 feet in height, and other appurtenant facilities on a total building site of 10,383 square feet—which includes nonexempt driveway areas—within the existing graded pad. The building would be accessed by a 77-foot-long paved driveway, which would access Piuma Road to the north. Development from brush clearance and fuel modification would also encroach into the protected zones of 33 coast live oaks. The southwestern portion of the of the Project Site is mapped as H1 Habitat (oak woodland and riparian canopy) while the remainder of the Project Site is mapped as H3 Habitat, and the entirety of the site is within the H1 Habitat Buffer (0-100 feet away) or H1 Quiet Zone (100-200 feet away). The residence is proposed for a location on the northern portion of the Project Site, within the H1 Habitat Buffer and H1 Quiet Zone. An OWTS seepage pit is proposed northeast of the residence within the H1 Quiet Zone and less than 50 feet from an oak tree, as well as less than 150 feet from the riparian canopy to the southwest. The Project is partially visible from the Backbone Trail to the south. The Project Site has a linear street frontage of 188-feet and a linear development frontage of 94 feet.
11. The case history shows that an earlier version of the Project was submitted as a plot plan, along with plot plans for the Related Projects, prior to the County's adoption of the SMMLCP. These plot plans entailed ministerial reviews that were approved in concept, as the lack of an approved local coastal program meant

that the necessary coastal development permits to develop the residences would still have to have been obtained from the California Coastal Commission ("Coastal Commission"). Taken together, the Project and the Related Projects did not qualify for an exemption under the California Environmental Quality Act (Public Resources Code section 21000 et seq.) ("CEQA"), resulting in Environmental Assessment No. 201200258 comprised of a Mitigated Negative Declaration ("MND") and Mitigation Monitoring and Reporting Program ("MMRP"). The MND and MMRP were initially approved but subsequently appealed to both the Commission and the Board, which upheld the appeal and invalidated the MND and MMRP on September 22, 2015.

12. On August 7, 2019, the Project, along with the Related Projects, was submitted to Regional Planning in its current form. Thereafter, from 2019 to 2011, Regional Planning staff ("Staff") met with the Applicant 11 times to discuss the Project, with a focus on how to resolve issues related to it as submitted by Applicant. Staff requested that the Project be redesigned to eliminate inconsistencies with LIP standards and reasons for needing the Variance. On August 8, 2021, the ERB reviewed the Project and requested that it be returned with a more comprehensive overview of the Project in conjunction with the Related Projects, including a more detailed analysis of the oak woodlands, and generally a greater effort to be consistent with the LIP. On April 14, 2022, Staff sent a letter to Applicant requesting several specific changes to the Project and indicated that if the changes were not made, the Project would be scheduled for public hearing with a Staff recommendation of denial. The requested changes included reducing the size and/or changing the location of several of the main residences, relocating the OWTS, and in conjunction with the Related Projects, proposing fewer residences as a whole by merging some of the lots.
13. On May 13, 2022, Applicant responded to Staff in writing that it would not make additional changes to the Project and Related Projects. The Project thereafter proceeded to hearing before the Hearing Officer on June 7, 2022, as an item for discussion and possible action, at which time the Hearing Officer scheduled a public hearing for the Project on October 4, 2022.
14. Staff received four phone calls and nine letters in opposition over the course of the hearing process for the Project. Issues raised include destruction of sensitive habitat, light pollution, traffic, construction noise, fire hazards, proximity to wildlife, and interference of scenic views from a nearby hiking trail known as the Backbone Trail.
15. Staff consulted with various County departments about the Project and received the following recommendations:
 - A. County Department of Parks and Recreation recommended clearance to public hearing with no conditions through the County's electronic consultation system ("EPIC-LA") on September 29, 2020.

- B. County Fire Department ("Fire Department") recommended clearance to public hearing with no conditions through EPIC-LA on September 30, 2020.
 - C. County Department of Public Works ("Public Works") recommended denial of the Project due to lack of documentation regarding road boundaries, road improvements, lines of sight, and earthmoving details in a letter dated February 3, 2021.
 - D. County Department of Public Health recommended denial of the Project due to lack of information regarding the proposed OWTS and water service in a letter dated October 27, 2020.
 - E. ERB took no action regarding the Project at a meeting held on August 16, 2021, but recommended that it return with a more comprehensive plan and biological assessment, as well as a redesign to be consistent with the LIP.
16. Because CEQA does not apply to projects which a public agency rejects or disapproves, pursuant to sections 15061 and 15270 of the State CEQA Guidelines (Title 14, Cal. Code Regs., Chapter 3, §§ 15000-15387), there has been no CEQA analysis performed on the Project.
 17. A duly-noticed public hearing was held before the Hearing Officer on October 4, 2022, which was continued to November 1, 2022, to allow the Hearing Officer to conduct a site visit and thoroughly review all documents. At the November 1, 2022 continued public hearing, Staff provided an overview and recommended denial of the Project, and Applicant's representative spoke in favor of the Project. The Hearing Officer indicated her intent to deny the Project because it failed to meet the development standards of the LIP and because it could not meet the burden of proof required for a variance, and continued the hearing to February 7, 2023, to allow Staff to incorporate directed edits to the denial findings. At the continued hearing on February 7, 2023, the Hearing Officer found that there was nothing preventing Applicant from redesigning the Project to comply with LIP standards and that, as proposed, the Project did not meet the goals and policies of the LUP. Additionally, as to the Variance request, the Hearing Officer found that that Applicant did not demonstrate that there were unique circumstances or special characteristics of the Project Site that required a variance to preserve substantial property rights therein, nor that it was infeasible to redesign the Project to possibly eliminate the need for a variance altogether. Accordingly, the Hearing Officer closed the public hearing and denied the Project.
 18. The Hearing Officer's decision was timely appealed to the Commission by the Applicant on February 13, 2023. A duly-noticed public hearing was held before the Commission on April 26, 2023, to consider the appeal of the Hearing Officer's denial of the Project. Staff presented the Project in conjunction with the Related Projects, and recommended denial thereof for failure to comply with development

standards of the LIP, conflicting with the goals and policies of the LUP, and failing to meet the burden of proof for a variance. Staff emphasized that the Project could be redesigned in a manner to comply with the LIP and LUP, and explained that it had ample meetings with Applicant on numerous occasions throughout the Project's history where that message was conveyed. Staff pointed out that Applicant has never submitted any revised plans. Applicant spoke at the public hearing by way of its land use attorney, Michael Shonafelt, who argued that the applicable portions of the LIP and LUP make it impossible to build on any portion of the Project Site. Applicant did acknowledge that there were good faith efforts between Applicant and the County and its various departments, including many well-attended meetings, to find a feasible path forward to develop the Project and Related Projects. However, Applicant concluded that the 200-foot fuel modification radius required by the Fire Department would result in vegetation removal within H1 Habitat, which is prohibited by the LIP. Applicant summarized its position by asserting that the Project Site is essentially unbuildable, as even building a "broom closet" would result in impacts on H1 Habitat due to the fuel modification requirement.

19. At the Commission's public hearing, there was public comment opposing the Project. A total of four constituents voiced their opposition based primarily on the Project's lack of compliance with the SMMLCP and allegations that Applicant was trying to skirt County requirements to build "mega-mansions" in violation of the SMMLCP. The public comments urged the Commission to uphold the Hearing Officer's denial of the Project. Upon conclusion of public comment, the Commission asked Staff to clarify the categories of variances for the Project and Related Projects being requested, and the total count thereof. Staff clarified that for all 15 minor CDP requests by Applicant across 16 lots, including the Project, there are six categories of variance requests, and a total of 12 variance requests. The Commission generally commented that such an amount of variance requests was irregular and unprecedented. It recognized the efforts of both the Applicant and Staff over the year to meet and confer to resolve the issues, but indicated that the Project does not meet the standards required by the SMMLCP as proposed, and then moved to close the public hearing and denied the Project (and Related Projects).
20. The Commission's denial of the Project was timely appealed by Applicant on April 28, 2023. The Board held its duly-noticed public hearing on the appeal of the Commission's decision on September 19, 2023, and, like the Commission, held it in conjunction with Applicant's Related Projects for 14 other similar minor CDP and variance applications to build 15 single-family residences on 16 lots that adjoin and/or are in close proximity to one another in the Monte Nido Rural Village within the Santa Monica Mountains Coastal Zone. Regional Planning submitted a written statement to the Board indicating that the Commission's denial of the Project should be upheld because as proposed, the Project does not comply with the development standards required by the LIP, the goals and policies of the LUP, and does meet the burden of proof required for a variance under the County Code. Additionally, the Director of Regional Planning, Amy

Bodek ("Director") was present and provided some additional background for the Board. She indicated that the Project has been around for a while and predates the County's adoption of the SMMLCP. She explained that since 2018, she has been involved with trying to move the Project along in a collaborative way with the Applicant, as the Project and Related Projects are being proposed on topographically challenging and environmentally sensitive lots that include H1 Habitat, H1 Buffer Zones, buffer zones for oak trees, National Parkland, and streams, in addition to street frontage requirements. She elaborated that Regional Planning has worked closely with Applicant to find a way for development to occur on each lot in a manner compliant with the SMMLCP and believes there is such a way to do so, which has been conveyed to the Applicant on numerous occasions and involves reducing the size of the Project's proposed single-family residence and its location on the site. The Director explained that a stalemate was reached a couple of years ago, and the Applicant was and is not willing to make any additional changes to the Project. Since that time, numerous indications to Applicant were made that Regional Planning would have to recommend denial of the Project unless changes were incorporated, but Applicant has elected not to modify the Project, signifying that Applicant has accepted proceeding to denial of the Project. Accordingly, the Director requested that the Board uphold the Commission's denial of the Project, and reiterated to the Board that there is economic use of the Project Site with a redesign that is consistent with SMMLCP.

21. After the Director spoke at the Board's public hearing, Attorney for Applicant, Michael Shonafelt, was given the opportunity to speak. Mr. Shonafelt, who also appeared for Applicant at the Commission's public hearing, mostly repeated what he presented at that prior public hearing, the primary point being that due to the 200-foot radius for fuel modification required by the Fire Department and the fact that such a radius would impede into H1 Habitat, development of the Project Site and Related Projects, it is not feasible. Per Mr. Shonafelt, "you could build a broom closet... and it is going to touch H1." In sum, it was his position that the SMMLCP effectively takes away the Applicant's properties, including the Project Site, as it is Applicant's position that nothing can be built on the lots even though they are zoned for residential use. Mr. Shonafelt also wanted to make clear that Applicant's team did do their "homework" and refutes any allegation that Applicant has been uncooperative, as he and the Applicant team have met with County Staff on numerous occasions to try and resolve the issues preventing approval. However, Applicant indicated that they heard from the Fire Department that they would not allow modifications to the fuel modification radius for H1, and decided it was futile to try and redesign the project because doing so takes a lot of time and money.
22. There was ample public comment at the Board's public hearing of the Project. Of 15 total public comments, 13 were in opposition to the Project, and two were seemingly neutral but questioned the governmental process for approval of projects involving the SMMLCP. The comments in opposition to the Project mostly centered on how the Project and Related Projects simply fun afoul of the

SMMLCP requirements, as evidenced by the number of variances being requested, and pointed out how unique the Santa Monica Mountains are and that development therein must comply with SMMLCP, which was the byproduct of a long process that involved ample community input and which is tailored to address the specific needs of the region. The opponents also emphasized that development could occur if the projects would simply reduce the size of the proposed primary residences, which should be achievable since they are "mega mansions." Additionally, there was praise for the Staff for doing their best to work with Applicant, and for the Commission in upholding the requirements of the SMMLCP.

23. After hearing from Regional Planning, Applicant, and the public, the Board addressed the Project and emphasized that the SMMLCP prevents development of the Project and Related Projects as proposed, and repeated that the Director has indicated that housing can be developed on the Project Site. The Board indicated that SMMLCP is intended to protect the safety of the region, especially in light of the fire tragedies in the area. In response to Applicant's claim that nothing can be built on the lots, the Board then specifically asked Applicant if it is interested in revisiting a redesign of the Project and the Related Projects in light of the testimony to the contrary heard before the Board; to which, Mr. Shonafelt responded once again that due to fuel modification requirements, not even a "broom closet" could be built on the Project Site. He concluded that any such attempt would be futile as it would not be allowed under the SMMLCP. The Board then turned to the Director, who refuted the repeated contention that the fuel modification zone cannot be modified, as it has been modified in the Coastal Zone before, and that economic value for each of Applicant's lots can be achieved. She reminded the Board that the proposed homes (for the Project and Related Projects) are very large, ranging from 4,500 to 6,400 square feet in size, for an average of 5,300 square feet; therefore, a reduction in their size would allow for the construction of something larger than a "broom closet" and smaller than 5,300 square feet. Finally, she assured the Board that there is an ability to modify the fuel modification zone with the Fire Department because it has been done before to allow development throughout the Santa Monica Mountains. Upon hearing the additional testimony from Applicant and Regional Planning, the Board repeated that the SMMLCP was not adopted to prevent development of housing, but it ensures orderly development that also protects the safety of the unique region, which features very sensitive biological habitat and significant risk of wildfire. The Board recognized the efforts of the Staff throughout the years, which included ample meetings with Applicant's team, and various attempts to urge Applicant to redesign the Project to one that is viable and respects the SMMLCP. However, the Board indicated that Applicant here has chosen to ignore the guidance of Regional Planning, instead requesting an unprecedented number of variances to develop the Project and Related Projects without regard to the County's rules and processes, and has refused yet again at the Project's public hearing to redesign the Project to meet SMMLCP requirements. The Board then closed the public hearing, denied the appeal, and voted in favor of upholding the Commission's denial of the Project.

24. The Board finds that the Project is not consistent with the LUP. The Rural Land 20 land use designation is intended for single-family residential uses, as well as other resource-dependent uses, on relatively large lots. Although a single-family residence is specifically listed as a principal permitted use under this designation the Project's overall size and proposed plans, which include a building site area of 10,383 square feet, are not consistent with the policies of the LUP, as identified in the subsections hereunder. The Project's large square footage and footprint would result in development, that would extend into the H1 Quiet Zone, as well as fuel modification and brush clearance that would extend into H1 Habitat (oak woodland) and the H1 Habitat Buffer. Additionally, the Project's large footprint and square footage result in a design that is not protective of surrounding landforms by failing to preserve H1 Habitat areas in a more natural state, which is inconsistent with policies regarding the protection of Scenic Resource Areas, as well as those prioritizing protection of sensitive habitats, natural vegetation, and natural resources over development. Finally, when paired with its proximity to Piuma Road, which is a designated scenic route, the Project also results in unnecessary visual impacts to the surrounding area. The Project is not consistent with the following policies of the LUP:

A. Conservation and Open Space Element:

- i. Policy CO-41 – New non-resource-dependent development shall be prohibited in H1 Habitat areas to protect these most sensitive environmental resource areas from disruption of habitat values. The only exception is that two uses may be approved in H1 Habitat other than wetlands in very limited circumstances, as follows: (1) Public Works projects required to repair or protect existing public roads when there is no feasible alternative, as long as impacts to H1 Habitat are avoided to the maximum extent feasible, and unavoidable impacts are minimized and mitigated; and (2) an access road to a lawfully-permitted use outside H1 Habitat when there is no other feasible alternative to provide access to public recreation areas or development on a legal parcel, as long as impacts to H1 Habitat are avoided to the maximum extent feasible, and unavoidable impacts are minimized and mitigated. Any new development approved for one of these two uses within woodland or savannah habitat shall protect native trees in accordance with Policy CO-99. The County shall not approve the development of any non-resource dependent use other than these two uses within H1 Habitat, unless such use has first been considered in an SMMLCP amendment that is certified by the Coastal Commission. The Project's large square footage and footprint would result in fuel modification and brush clearance that would extend into H1 Habitat (oak woodland).
- ii. Policy CO-51 – Where new development is permitted in H2 Habitat pursuant to this SMMLCP, the maximum allowable building site

area on parcels shall be 10,000 square feet, or 25 percent of the parcel size, whichever is less. Where new residential development is permitted in H3 Habitat, the maximum allowable residential building site area shall be 10,000 square feet, or 25 percent of the parcel size, whichever is less. The restriction of the building site area to less than the maximum may be required if the native tree protection policies require a smaller area or if it is determined that a smaller building site area would serve to avoid impacts to H1 Habitat areas, substantially minimize grading associated with the project, reduce the need for manufactured slopes, or reduce the need for retaining features visible from scenic areas, public trails, and public lands. The allowable building site area may be increased for projects that qualify for participation in the incentive program of Policy LU-29 or for projects that comprise two adjoining legal lots, if the existing lots are merged into one lot and one consolidated building site is provided with one access road or driveway. The allowable building site area shall not exceed the total of the building site areas allowed for each individual parcel. Adverse impacts to H2 Habitat that cannot be avoided through the implementation of siting and design alternatives shall be accommodated through the Resource Conservation Program pursuant to Policy CO-86a. The Project's overall size and proposed plans, which include a building site area of 10,383 square feet, are not consistent with this policy.

- iii. Policy CO-57 – New non-resource-dependent development shall also provide an additional 100-foot "Quiet Zone" from H1 Habitat where feasible (measured from the outer edge of the 100-foot H1 Habitat Buffer required above). New development is not permitted in the H1 Habitat Quiet Zone except resource-dependent uses, non-irrigated fuel modification required by the Fire Department for lawfully-established structures, and the following other uses in very limited circumstances: (1) Public Works projects required to protect existing public roads when there is no feasible alternative, as long as impacts to H1 Habitat and the H1 Buffer are avoided to the maximum extent feasible, and unavoidable impacts are minimized and mitigated; (2) an access road to a lawfully-permitted use when there is no other feasible alternative to provide access to public recreation areas or development on a legal parcel, as long as impacts to H1 Habitat and H1 Buffer are avoided to the maximum extent feasible, and unavoidable impacts are minimized and mitigated; and (3) a development on a lawfully-created parcel that is the minimum development necessary to provide a reasonable economic use of the property and where there is no feasible alternative, as long as impacts to H1 Habitat and H1 Buffer are avoided to the maximum extent feasible, and unavoidable impacts are minimized and mitigated. The Project's large square

footage and footprint would result in development that would extend into the H1 Quiet Zone, as well as fuel modification and brush clearance that would extend into the H1 Habitat Buffer. It has not been demonstrated that such development is necessary to provide a reasonable economic use of this property, or that there is no feasible alternative to develop the site.

- iv. Policy CO-66 – Protection of H1 and H2 Habitats and public access shall take priority over other development standards, and where there is any conflict between general/other development standards and the biological resource and/or public access protection provisions, the standards that are most protective of H1 and H2 Habitats and public access shall have precedence. The Project's large footprint and square footage result in a design that is not protective of surrounding landforms by failing to preserve H1 and H2 Habitat areas in a more natural state.
- v. Policy CO-109 – Site and design new development to protect natural features, and minimize removal of natural vegetation. The Project's large footprint and square footage result in a design that does not prioritize protection of sensitive habitats, natural vegetation, and natural resources over development.
- vi. Policy CO-114 – New development shall be sited and designed to minimize the height and length of manufactured cut and fill slopes, and minimize the height and length of retaining walls. Graded slopes shall blend with the natural contours of the land and shall utilize landform grading.
- vii. Policy CO-124 – The Santa Monica Mountains contain scenic resources of regional and national importance. The scenic and visual qualities of these resources shall be protected and, where feasible, enhanced. The Project's large footprint and square footage result in a design that is not protective of surrounding landforms by failing to preserve H1 Habitat areas in a more natural state, which is inconsistent with policies regarding the protection of Scenic Resource Areas.
- viii. Policy CO-125 – Protect public views within Scenic Areas and throughout the Coastal Zone. Places on, along, within, or visible from Scenic Routes, public parklands, public trails, beaches, and state waters that offer scenic vistas of the mountains, canyons, coastline, beaches, and other unique natural features are considered Scenic Resource Areas. Scenic Resource Areas do not include areas that are largely developed such as existing, predominantly built-out residential subdivisions. Scenic Resource Areas also include the scenic resources [identified on Map 3 of the

LUP] and consist of Scenic Elements, Significant Ridgelines, and Scenic Routes, as well as public parkland and recreation areas identified on Map 4 of the LUP]. The Project's large footprint and square footage result in a design that is not protective of surrounding landforms by failing to preserve H1 Habitat areas in a more natural state, which is inconsistent with policies regarding the protection of Scenic Resource Areas.

- ix. Policy CO-126 – Maintain and enhance the quality of vistas along identified Scenic Routes. The Project violates this policy as the Project's two-story primary residence would degrade the quality of vistas along Piuma Road, which is a Scenic Route.
- x. Policy CO-131 – Site and design new development to minimize adverse impacts on scenic resources to the maximum extent feasible. If there is no feasible building site location on the proposed project site where development would not be visible, then the development shall be sited and designed to minimize impacts on scenic areas through measures that may include, but not be limited to, siting development in the least visible portion of the site, breaking up the mass of new structures, designing structures to blend into the natural hillside setting, restricting the building maximum size, reducing maximum height, clustering development, minimizing grading, incorporating landscape and building material screening elements, and where appropriate, berming. The Project's large footprint and square footage result in a design that is not protective of surrounding landforms by failing to preserve H1 Habitat areas in a more natural state, which is inconsistent with policies regarding the protection of Scenic Resource Areas. Development is not sited in the least visible portion of the site, nor is development clustered or building size restricted.

B. Land Use Element:

Policy LU-33 – Require that new developments be compatible with the rural character of the area and the surrounding natural environment. The Project's large square footage and footprint would result in development that would extend into the H1 Habitat Buffer and H1 Quiet Zone, as well as fuel modification and brush clearance that would extend into H1 Habitat (oak woodland and riparian canopy). The Project's large footprint, square footage, and retaining walls result in a design that is not protective of surrounding landforms by failing to preserve H1 Habitat areas in a more natural state. This would also not be consistent with policies regarding the protection of Scenic Resource Areas. The Project's design, when paired with its location less than 100 feet from parklands to the south, its partial view from the Backbone Trail, and its proximity to Piuma Road, a

designated scenic route, would result in unnecessary visual impacts to the surrounding area.

25. The Board finds that the Project is not consistent with the standard identified in County Code Section 22.44.1890. The Project Site is designated as H3 Habitat by the LUP. While all construction would occur within H3 Habitat, impacts from the development would be located within the H1 Quiet Zone and H1 Habitat Buffer. The Project would also result in required fuel modification and brush clearance within H1 Habitat. Per the requirements of the LIP, no development, except for access driveways and resource-dependent uses, is permitted in H1 Habitat (County Code Section 22.44.1890.C). Because habitable structures are proposed less than 200 feet from H1 Habitat (oak woodland and riparian canopy) to the west, fuel modification is required within this area by the approved fuel modification plan. Therefore, the Project design is not compatible with surrounding environmental resources, as it would result in development of H1 Habitat.
26. The Board finds that the Project impermissibly proposes development within the H1 Habitat Buffer and H1 Quiet Zone. The Project proposes a 4,488-square-foot single-family residence. Reducing the square footage of the proposed residence would provide a greater buffer between development and the H1 Habitat area. Thus, the development is not the minimum necessary development for the site, as required within an H1 Quiet Zone or H1 Habitat Buffer by the LIP. Therefore, the findings in County Code Sections 22.44.1890.D.8.b and 22.44.1890.E.12.b cannot be met.
27. The Board finds that the LIP specifically prohibits OWTS seepage pits or leach fields to be placed within 50 feet of the canopy of an oak tree or within 150 feet of a riparian canopy or streambed (County Code Section 22.44.1340.B.3.c). While the entirety of the Project Site is within 150 feet of riparian canopy, there are locations on the Project Site more 50 feet from any oak tree, and the applicant has not provided documentation that these alternative locations are unsuitable for OWTS seepage pits. Thus, it has not been demonstrated that a variance is necessary due to special characteristics of the lots or to preserve a substantial property right.
28. The Board finds that a variance is required for structures greater than 18 feet above grade and retaining walls taller than six feet within Scenic Resource Areas, per County Code Sections 22.44.1250.C and 22.44.2040.A.11.c, respectively. The Project, due to its proximity to parklands, Piuma Road, and the Backbone Trail, is within a Scenic Resource Area. The residence would have a maximum structural height of 23 feet, 8.5 inches and 12-foot-tall retaining walls. There are no special characteristics of the Project Site requiring this, and the overheight structures could be redesigned to comply with these sections of the LIP. Thus, it has not been demonstrated that a variance is necessary due to special characteristics of the lots or to preserve a substantial property right.

29. The Board finds that a variance is required for a building site area greater than 10,000 square feet, per County Code Section 22.44.1910.I. The Project proposes a building site area of 10,383 square feet. There are no special characteristics of the Project Site requiring this, and the building site area could be reduced in size to comply with these sections of the LIP. Thus, it has not been demonstrated that a variance is necessary due to special characteristics of the lots or to preserve a substantial property right).
30. The Board finds that the proposed development is not in conformity with the certified local coastal program. As proposed, the Project would not comply with all applicable development standards for residences in the SMMLCP, which includes the LUP and LIP, specifically those standards related to habitat categories, Scenic Resource Areas, building site area, and OWTS standards.
31. The Board finds that any development located between the nearest public road and the 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.
32. The Board finds that there are no special circumstances or exceptional characteristics applicable to the property involved, such as size, shape, topography, location, or surroundings, which are not generally applicable to other properties in the same vicinity and under identical zoning classification. It has not been demonstrated that OWTS seepage pits cannot be placed in a location more than 50 feet from an oak tree. Also, special site characteristics do not necessitate the construction of overheight structures or retaining walls in a Scenic Resource Area, nor do site conditions require a building site area greater than 10,000 square feet. Thus, the property has not been shown to have special circumstances or exceptional characteristics.
33. The Board finds that a variance is unnecessary for the preservation of a substantial property right of the Applicant such as that possessed by owners of other property in the same vicinity and zone. It has not been demonstrated that OWTS seepage pits cannot be placed in a location more than 50 feet from an oak tree. Also, special site characteristics do not necessitate the construction of overheight structures or retaining walls in a Scenic Resource Area, nor do site conditions require a building site area greater than 10,000 square feet. Thus, the Variance is unnecessary to preserve a substantial property right.
34. The Board finds that the granting of the Variance will be materially detrimental to the public welfare or be injurious to other property or improvements in the same vicinity and zone. The proposed residence location would result in greater development near to oak trees and along a scenic route, which would detrimentally affect the public welfare and other properties by degrading scenic and biological resources.

35. The Board finds that the granting of the Variance will be materially detrimental to coastal resources. The proposed residence location would result in greater development near to oak trees and the construction of an overheight residence and retaining walls in a Scenic Resource Area, which would detrimentally affect coastal resources by degrading scenic and biological resources.
36. The Board finds that CEQA does not apply to the Project pursuant to sections 15061 and 15270 of the State CEQA Guidelines (Title 14, Cal. Code Regs., Chapter 3, §§ 15000-15387), because CEQA does not apply to projects that a public agency rejects or disapproves.
37. The Board finds that pursuant to County Code Section 22.44.990, the community was properly notified of the Board's public hearing of the Project by mail, newspaper (Los Angeles Bulletin), and property posting. Additionally, the Project was noticed, and case materials were available on the Regional Planning's website. On August 17, 2023, a total of 134 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 Hearing Officer's decision is based in this matter is at the 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:

Regarding the Minor CDP:

- A. The proposed Project is not in conformity with the SMMCLP;

Regarding the Variance:

- B. There are no special circumstances or exceptional characteristics applicable to the Project Site, such as size, shape, topography, location, or surroundings, which are not generally applicable to other properties in the same vicinity and under identical zoning classification;
- C. The Variance is unnecessary for the preservation of a substantial property right of the Applicant such as that possessed by owners of other property in the same vicinity and zone;
- D. The granting of the Variance will be materially detrimental to the public welfare or be injurious to other property or improvements in the same vicinity and zone; and
- E. The granting of the Variance will be materially detrimental to coastal resources.

THEREFORE, THE BOARD OF SUPERVISORS:

1. Finds that the Project is exempt from CEQA, pursuant to State CEQA Guidelines sections 15061 and 15270 (projects which are rejected or disapproved);
2. Denies the appeal of the Project;
3. Denies MINOR CDP No.RPPL2019-004674-(3); and
4. Denies Variance No. RPPL2019-004675-(3).

**FINDINGS OF THE BOARD OF SUPERVISORS
AND ORDER
PROJECT NO. 2019-000686-(3)
MINOR COASTAL DEVELOPMENT PERMIT NO. RPPL2019-004677-(3)**

1. The Los Angeles County ("County") Board of Supervisor ("Board") conducted a duly-noticed public hearing on September 19, 2023, in the matter of Project No. 2019-000686-(3), Minor Coastal Development Permit ("CDP") No. RPPL2019-004677-(3) (the "Minor CDP"). The Board held the public hearing in conjunction with Applicant's 14 other related and similar minor CDP and variance applications to build 15 single-family residences on 16 lots that adjoin and/or are in close proximity to one another in the Monte Nido Rural Village within the Santa Monica Mountains Coastal Zone (hereinafter referred to as the "Related Projects" comprised of minor CDP nos. RPPL2019-002073-(3); RPPL2019-002474-(3), RPPL2019-002885-(3), RPPL2019-002887-(3), RPPL2019-001222-(3), RPPL2019-002479-(3), RPPL2019-003431-(3), RPPL2019-003435-(3), RPPL2019-003852-(3), RPPL2019-003854-(3), RPPL2019-004230-(3), RPPL2019-004232-(3), RPPL2019-004674-(3), and RPPL2019-004678-(3); and variance nos. RPPL2019-002074-(3); RPPL2019-002475-(3), RPPL2019-002886-(3), RPPL2019-002888-(3), RPPL2019-001224-(3), RPPL2019-003432-(3), RPPL2019-003436-(3), RPPL2019-003853-(3), RPPL2019-003855-(3), RPPL2019-002480-(3), RPPL2019-004231-(3), and RPPL2019-004675-(3)). The County Regional Planning Commission ("Commission") previously conducted a duly-noticed public hearing on the Minor CDP on April 26, 2003. Prior to the Commission's hearing, a public hearing was also held before the County Department of Regional Planning ("Regional Planning") Hearing Officer ("Hearing Officer") on October 4, 2022, which was continued to November 1, 2022, and again to February 7, 2023.
2. The applicant, California Pacific Homes ("Applicant"), requests the Minor CDP to authorize the construction of a 4,675-square-foot single-family residence and an onsite wastewater treatment system ("OWTS") ("Project") on a 1.12-acre property located on the south side of Piuma Road (Assessor's Parcel Number 4456-038-021) in the Santa Monica Mountains Coastal Zone ("Project Site"). A total of 1,206 cubic yards of earth (995 cubic yards cut, 211 cubic yards fill, 784 cubic yards export) would be graded. The Project would result in development within H1 Habitat, the H1 Habitat Buffer, and the H1 Quiet Zone and fuel modification or brush clearance within the protected zones of 19 oak trees.
3. The Project requires a coastal development permit to construct a single-family residence and an OWTS in the R-C-20 (Rural Coastal—20-Acre Minimum Required Lot Area) Zone, pursuant to Los Angeles County Code ("County Code") Section 22.44.810, and a minor CDP is required for any project that requires Environmental Review Board ("ERB") review (County Code Sections 22.44.860 and 22.44.940). The Project requires ERB review because as proposed the

residence would result in development less than 200 feet from H1 Habitat. Additionally, a minor CDP is also required for any project that results in the encroachment into the protected zone of any oak tree, pursuant to County Code Section 22.44.950. As proposed, the Project requires fuel modification or brush clearance would occur within the protected zones of 19 oak trees.

4. The Project requires a variance for new structures less than 100 feet from parklands, per County Code Section 22.44.1900.C. New structures are proposed less than 100 feet from California State Parks open space to the south. The Project also requires a variance for any new or improved driveway exceeding 300 feet in length (County Code Section 22.44.1920.C), while the Project proposes a 350-foot-long driveway. In addition, because the Project is located within a Scenic Resource Area, structures are allowed a maximum height of 18 feet above grade (County Code Section 22.44.1250.C). As proposed, the Project would have a maximum height of 23 feet, 10 inches above grade. County Code Section 22.44.2040.A.11.c also restricts the height of retaining walls in Scenic Resource Areas to six feet, while the Project proposes eight-foot-high retaining walls. Although variances are required to permit all of these design features, the Applicant has not submitted a variance application for the Project.
5. The Project Site is located within the RL20 (Rural Land—One dwelling unit/20 acres maximum) land use designation of the Santa Monica Mountains Local Coastal Program ("SMMLCP") Land Use Policy Map, a component of the General Plan. The Project Site is located in the Malibu Zoned District and is zoned R-C-20. Pursuant to County Code Section 22.44.1750, a single-family residence is a principal permitted use within the R-C Zone.
6. Surrounding zoning within a 500-foot radius of the Project Site includes:
 - North: R-C-20, R-C-1 (Rural Coastal—One Acre Minimum Required Lot Area), R-C-10,000 (Rural Coastal—10,000-square-foot Minimum Required Area);
 - South: O-S-P (Open Space—Parks);
 - East: R-C-20, O-S-P; and
 - West: R-C-1 and R-C-20.
7. Surrounding land uses within a 500-foot radius of the Project Site include:
 - North: Single-family residences, vacant land;
 - South: Open space;
 - East: Vacant land, open space; and
 - West: Single-family residences and vacant land.
8. The Project Site is 1.12 gross acres in size and consists of one legal lot, which is irregular in shape and consists of generally level terrain on the western portion of the lot and downward slopes on its eastern portion. A drainage, flowing from southeast to northwest, crosses the eastern portion of the Project Site. An

existing graded pad of approximately 12,000 square feet and drainage structures are located on the western portion of the of the lot. These were legally developed with CDP No. 5-83-004, which was approved with the underlying tract map in 1987 (Tract Map No. 38931). The easternmost portion of the lot is mapped as H1 Habitat (oak woodland and riparian canopy), with the remainder mapped as H3 Habitat in the Santa Monica Mountains Local Coastal Program Land Use Plan ("LUP"). The entirety of the Project Site is within 200 feet of H1 Habitat to the east, which places it within the H1 Habitat Buffer (0-100 feet away) or H1 Quiet Zone (100-200 feet away). Other than the oaks, the Project Site contains mostly native and non-native grasses, shrubs, and native and non-native trees.

9. The Project Site would be accessed from Piuma Road, a 65-foot-wide public road and designated scenic route, immediately to the north of the Project Site.
10. The site plan shows the construction of a 4,675-square-foot single-family residence, including a 1,135-square-foot basement, and a 644-square-foot attached garage on the western portion of the 1.12-acre Project Site. The residence would have a maximum height of 23 feet, 10 inches above grade. A total of 1,206 cubic yards of earth (995 cubic yards cut, 211 cubic yards fill, 784 cubic yards export) would be graded. The Project would also include an OWTS, retaining walls, and other appurtenant facilities on a total building site of approximately 8,647 square feet within the existing graded pad. The building would be accessed by a 350-foot-long paved driveway, which would access Piuma Road to the north. Development from brush clearance and fuel modification would also encroach into the protected zones of 19 coast live oaks. The easternmost portion of the of the Project Site is mapped as H1 Habitat (oak woodland and riparian canopy) while the remainder of the Project Site is mapped as H3 Habitat, and the entirety of the Project Site is within the H1 Habitat Buffer (0-100 feet away) or H1 Quiet Zone (100-200 feet away). The residence is proposed for a location on the western portion of the Project Site, within the H1 Habitat Buffer and H1 Quiet Zone. An OWTS seepage pit is proposed west of the residence, within the H1 Quiet Zone. Most of the residence, as well as the OWTS, hardscape, and retaining walls, is located less than 100 feet from parklands to the south. The Project is partially visible from the Backbone Trail to the south. The Project Site has a linear street frontage of 331 feet and a linear development frontage of 90 feet.
11. The case history shows that an earlier version of the Project was submitted as a plot plan, along with plot plans for the Related Projects, prior to the County's adoption of the SMMLCP. These plot plans entailed ministerial reviews that were approved in concept, as the lack of an approved local coastal program meant that the necessary coastal development permits to develop the residences would still have to have been obtained from the California Coastal Commission ("Coastal Commission"). Taken together, the Project and the Related Projects did not qualify for an exemption under the California Environmental Quality Act (Public Resources Code section 21000 et seq.) ("CEQA"), resulting in

Environmental Assessment No. 201200258 comprised of a Mitigated Negative Declaration ("MND") and Mitigation Monitoring and Reporting Program ("MMRP"). The MND and MMRP were initially approved but subsequently appealed to both the Commission and the Board, which upheld the appeal and invalidated the MND and MMRP on September 22, 2015.

12. On August 7, 2019, the Project, along with the Related Projects, was submitted to Regional Planning in its current form. Thereafter, from 2019 to 2011, Regional Planning staff ("Staff") met with the Applicant 11 times to discuss the Project, with a focus on how to resolve issues related to it as submitted by Applicant. Staff requested that the Project be redesigned to eliminate inconsistencies with LIP standards and reasons for needing variances for the Related Projects. On August 8, 2021, the ERB reviewed the Project and requested that it be returned with a more comprehensive overview of the Project in conjunction with the Related Projects, including a more detailed analysis of the oak woodlands, and generally a greater effort to be consistent with the LIP. On April 14, 2022, Staff sent a letter to Applicant requesting several specific changes to the Project and indicated that if the changes were not made, the Project would be scheduled for public hearing with a Staff recommendation of denial. The requested changes included, reducing the size and/or changing the location of several of the main residences, relocating the OWTS, and in conjunction with the Related Projects, proposing fewer residences as a whole by merging some of the lots.
13. On May 13, 2022, Applicant responded to Staff in writing that it would not make additional changes to the Project and Related Projects. The Project thereafter proceeded to hearing before the Hearing Officer on June 7, 2022, as an item for discussion and possible action, at which time the Hearing Officer scheduled a public hearing for the Project on October 4, 2022.
14. Staff received four phone calls and nine letters in opposition over the course of the hearing process for the Project. Issues raised include destruction of sensitive habitat, light pollution, traffic, construction noise, fire hazards, proximity to wildlife, and interference of scenic views from a nearby hiking trail known as the Backbone Trail.
15. Staff consulted with various County departments about the Project and received the following recommendations:
 - A. County Department of Parks and Recreation recommended clearance to public hearing with no conditions through the County's electronic consultation system ("EPIC-LA") on September 29, 2020.
 - B. County Fire Department ("Fire Department") recommended clearance to public hearing with no conditions through EPIC-LA on September 30, 2020.

- C. County Department of Public Works ("Public Works") recommended denial of the Project due to lack of documentation regarding road boundaries, road improvements, lines of sight, and earthmoving details in a letter dated November 10, 2020.
 - D. County Department of Public Health recommended denial of the Project due to lack of information regarding the proposed OWTS and water service in a letter dated October 27, 2020.
 - E. ERB took no action regarding the Project at a meeting held on August 16, 2021, but recommended that it return with a more comprehensive plan and biological assessment, as well as a redesign to be consistent with the LIP.
16. Because CEQA does not apply to projects which a public agency rejects or disapproves, pursuant to sections 15061 and 15270 of the State CEQA Guidelines (Title 14, Cal. Code Regs., Chapter 3, §§ 15000-15387), there has been no CEQA analysis performed on the Project.
17. A duly-noticed public hearing was held before the Hearing Officer on October 4, 2022, which was continued to November 1, 2022, to allow the Hearing Officer to conduct a site visit and thoroughly review all documents. At the November 1, 2022, continued public hearing, Staff provided an overview and recommended denial of the Project, and Applicant's representative spoke in favor of the Project. The Hearing Officer indicated her intent to deny the Project because it failed to meet the development standards of the LIP, and continued the hearing to February 7, 2023, to allow Staff to incorporate directed edits to the denial findings. At the continued hearing on February 7, 2023, the Hearing Officer found that there was nothing preventing Applicant from redesigning the Project to comply with LIP standards and that, as proposed, the Project did not meet the goals and policies of the LUP. Accordingly, the Hearing Officer closed the public hearing and denied the Project.
18. The Hearing Officer's decision was timely appealed to the Commission by the Applicant on February 13, 2023. A duly-noticed public hearing was held before the Commission on April 26, 2023, to consider the appeal of the Hearing Officer's denial of the Project. Staff presented the Project in conjunction with the Related Projects, and recommended denial thereof for failure to comply with development standards of the LIP, conflicting with the goals and policies of the LUP, and failing to meet the burden of proof for the requested variances for the Related Projects. Staff emphasized that the Project could be redesigned in a manner to comply with the LIP and LUP, and explained that it had ample meetings with Applicant on numerous occasions throughout the Project's history where that message was conveyed. Staff pointed out that Applicant has never submitted any revised plans. Applicant spoke at the public hearing by way of its land use attorney, Michael Shonafelt, who argued that the applicable portions of the LIP and LUP make it impossible to build on any portion of the Project Site. Applicant did

acknowledge that there were good faith efforts between Applicant and the County and its various departments, including many well-attended meetings, to find a feasible path forward to develop the Project and Related Projects. However, Applicant concluded that the 200-foot fuel modification radius required by the Fire Department would result in vegetation removal within H1 Habitat, which is prohibited by the LIP. Applicant summarized its position by asserting that the Project Site is essentially unbuildable, as even building a "broom closet" would result in impacts on H1 Habitat due to the fuel modification requirement.

19. At the Commission's public hearing, there was public comment opposing the Project. A total of four constituents voiced their opposition based primarily on the Project's lack of compliance with the SMMLCP and allegations that Applicant was trying to skirt County requirements to build "mega-mansions" in violation of the SMMLCP. The public comments urged the Commission to uphold the Hearing Officer's denial of the Project. Upon conclusion of public comment, the Commission asked Staff to clarify the categories of variances for the Related Projects being requested, and the total count thereof. Staff clarified that for all 15 minor CDP requests by Applicant across 16 lots, including the Project, there are six categories of variance requests, and a total of 12 variance requests. The Commission generally commented that such an amount of variance requests was irregular and unprecedented. It recognized the efforts of both the Applicant and Staff over the year to meet and confer to resolve the issues, but indicated that the Project does not meet the standards required by the SMMLCP as proposed, and then moved to close the public hearing and denied the Project (and Related Projects).
20. The Commission's denial of the Project was timely appealed by Applicant on April 28, 2023. The Board held its duly-noticed public hearing on the appeal of the Commission's decision on September 19, 2023, and, like the Commission, held it in conjunction with Applicant's Related Projects for 14 other similar minor CDP and variance applications to build 15 single-family residences on 16 lots that adjoin and/or are in close proximity to one another in the Monte Nido Rural Village within the Santa Monica Mountains Coastal Zone. Regional Planning submitted a written statement to the Board indicating that the Commission's denial of the Project should be upheld because as proposed, the Project does not comply with the development standards required by the LIP, the goals and policies of the LUP. Additionally, the Director of Regional Planning, Amy Bodek ("Director") was present and provided some additional background for the Board. She indicated that the Project has been around for a while and predates the County's adoption of the SMMLCP. She explained that since 2018, she has been involved with trying to move the Project along in a collaborative way with the Applicant, as the Project and Related Projects are being proposed on topographically challenging and environmentally sensitive lots that include H1 Habitat, H1 Buffer Zones, buffer zones for oak trees, National Parkland, and streams, in addition to street frontage requirements. She elaborated that Regional Planning has worked closely with Applicant to find a way for development to occur on each lot in a manner compliant with the SMMLCP and

believes there is such a way to do so, which has been conveyed to the Applicant on numerous occasions and involves reducing the size of the Project's proposed single-family residence and its location on the site. The Director explained that a stalemate was reached a couple of years ago, and the Applicant was and is not willing to make any additional changes to the Project. Since that time, numerous indications to Applicant were made that Regional Planning would have to recommend denial of the Project unless changes were incorporated, but Applicant has elected not to modify the Project, signifying that Applicant has accepted proceeding to denial of the Project. Accordingly, the Director requested that the Board uphold the Commission's denial of the Project, and reiterated to the Board that there is economic use of the Project Site with a redesign that is consistent with SMMLCP.

21. After the Director spoke at the Board's public hearing, Attorney for Applicant, Michael Shonafelt, was given the opportunity to speak. Mr. Shonafelt, who also appeared for Applicant at the Commission's public hearing, mostly repeated what he presented at that prior public hearing, the primary point being that due to the 200-foot radius for fuel modification required by the Fire Department and the fact that such a radius would impede into H1 Habitat, development of the Project Site and Related Projects, it is not feasible. Per Mr. Shonafelt, "you could build a broom closet... and it is going to touch H1." In sum, it was his position that the SMMLCP effectively takes away the Applicant's properties, including the Project Site, as it is Applicant's position that nothing can be built on the lots even though they are zoned for residential use. Mr. Shonafelt also wanted to make clear that Applicant's team did do their "homework" and refutes any allegation that Applicant has been uncooperative, as he and the Applicant team have met with County Staff on numerous occasions to try and resolve the issues preventing approval. However, Applicant indicated that they heard from the Fire Department that they would not allow modifications to the fuel modification radius for H1, and decided it was futile to try and redesign the project because doing so takes a lot of time and money.
22. There was ample public comment at the Board's public hearing of the Project. Of 15 total public comments, 13 were in opposition to the Project, and two were seemingly neutral but questioned the governmental process for approval of projects involving the SMMLCP. The comments in opposition to the Project mostly centered on how the Project and Related Projects simply fun afoul of the SMMLCP requirements, and pointed out how unique the Santa Monica Mountains are and that development therein must comply with SMMLCP, which was the byproduct of a long process that involved ample community input and which is tailored to address the specific needs of the region. The opponents also emphasized that development could occur if the projects would simply reduce the size of the proposed primary residences, which should be achievable since they are "mega mansions." Additionally, there was praise for the Staff for doing their best to work with Applicant, and for the Commission in upholding the requirements of the SMMLCP.

23. After hearing from Regional Planning, Applicant, and the public, the Board addressed the Project and emphasized that the SMMLCP prevents development of the Project and Related Projects as proposed, and repeated that the Director has indicated that housing can be developed on the Project Site. The Board indicated that SMMLCP is intended to protect the safety of the region, especially in light of the fire tragedies in the area. In response to Applicant's claim that nothing can be built on the lots, the Board then specifically asked Applicant if it is interested in revisiting a redesign of the Project and the Related Projects in light of the testimony to the contrary heard before the Board; to which, Mr. Shonafelt responded once again that due to fuel modification requirements, not even a "broom closet" could be built on the Project Site. He concluded that any such attempt would be futile as it would not be allowed under the SMMLCP. The Board then turned to the Director, who refuted the repeated contention that the fuel modification zone cannot be modified, as it has been modified in the Coastal Zone before, and that economic value for each of Applicant's lots can be achieved. She reminded the Board that the proposed homes (for the Project and Related Projects) are very large, ranging from 4,500 to 6,400 square feet in size, for an average of 5,300 square feet; therefore, a reduction in their size would allow for the construction of something larger than a "broom closet" and smaller than 5,300 square feet. Finally, she assured the Board that there is an ability to modify the fuel modification zone with the Fire Department because it has been done before to allow development throughout the Santa Monica Mountains. Upon hearing the additional testimony from Applicant and Regional Planning, the Board repeated that the SMMLCP was not adopted to prevent development of housing, but it ensures orderly development that also protects the safety of the unique region, which features very sensitive biological habitat and significant risk of wildfire. The Board recognized the efforts of the Staff throughout the years, which included ample meetings with Applicant's team, and various attempts to urge Applicant to redesign the Project to one that is viable and respects the SMMLCP. However, the Board indicated that Applicant here has chosen to ignore the guidance of Regional Planning to comply with SMMLCP, while also requesting an unprecedented number of variances to develop the Related Projects without regard to the County's rules and processes, and has refused yet again at the Project's public hearing to redesign the Project to meet SMMLCP requirements. The Board then closed the public hearing, denied the appeal, and voted in favor of upholding the Commission's denial of the Project.
24. The Board finds that the Project is not consistent with the LUP. The Rural Land 20 land use designation is intended for single-family residential uses, as well as other resource-dependent uses, on relatively large lots. Although a single-family residence is specifically listed as a principal permitted use under this designation, the Project's overall size and proposed plans, which include a building site area of 8,647 square feet, are not consistent with the policies of the LUP, as identified in the subsections hereunder. The Project's large square footage and footprint would result in development that would extend into the H1 Quiet Zone, as well as fuel modification and brush clearance that would extend into H1 Habitat (oak woodland) and the H1 Habitat Buffer. Additionally, the Project's large footprint

and square footage result in a design that is not protective of surrounding landforms by failing to preserve H1 Habitat areas in a more natural state, which is inconsistent with policies regarding the protection of Scenic Resource Areas, as well as those prioritizing protection of sensitive habitats, natural vegetation, and natural resources over development. Finally, when paired with its proximity to Piuma Road, which is a designated scenic route, the Project also results in unnecessary visual impacts to the surrounding area. The Project is not consistent with the following policies of the LUP:

A. Conservation and Open Space Element:

- i. Policy CO-41 – New non-resource-dependent development shall be prohibited in H1 Habitat areas to protect these most sensitive environmental resource areas from disruption of habitat values. The only exception is that two uses may be approved in H1 Habitat other than wetlands in very limited circumstances, as follows: (1) Public Works projects required to repair or protect existing public roads when there is no feasible alternative, as long as impacts to H1 Habitat are avoided to the maximum extent feasible, and unavoidable impacts are minimized and mitigated; and (2) an access road to a lawfully-permitted use outside H1 Habitat when there is no other feasible alternative to provide access to public recreation areas or development on a legal parcel, as long as impacts to H1 Habitat are avoided to the maximum extent feasible, and unavoidable impacts are minimized and mitigated. Any new development approved for one of these two uses within woodland or savannah habitat shall protect native trees in accordance with Policy CO-99. The County shall not approve the development of any non-resource dependent use other than these two uses within H1 Habitat, unless such use has first been considered in an SMMLCP amendment that is certified by the Coastal Commission. The Project's large square footage and footprint would result in fuel modification and brush clearance that would extend into H1 Habitat (oak woodland).ii. Policy CO-57 - New non-resource-dependent development shall also provide an additional 100-foot "Quiet Zone" from H1 Habitat where feasible (measured from the outer edge of the 100-foot H1 Habitat Buffer required above). New development is not permitted in the H1 Habitat Quiet Zone except resource-dependent uses, non-irrigated fuel modification required by the Fire Department for lawfully-established structures, and the following other uses in very limited circumstances: (1) Public Works projects required to protect existing public roads when there is no feasible alternative, as long as impacts to H1 Habitat and the H1 Buffer are avoided to the maximum extent feasible, and unavoidable impacts are minimized and mitigated; (2) an access road to a lawfully-permitted use when there is no other feasible alternative to provide access to public recreation areas or development on a legal parcel,

as long as impacts to H1 Habitat and H1 Buffer are avoided to the maximum extent feasible, and unavoidable impacts are minimized and mitigated; and (3) a development on a lawfully-created parcel that is the minimum development necessary to provide a reasonable economic use of the property and where there is no feasible alternative, as long as impacts to H1 Habitat and H1 Buffer are avoided to the maximum extent feasible, and unavoidable impacts are minimized and mitigated. The Project's large square footage and footprint would result in development that would extend into the H1 Quiet Zone, as well as fuel modification and brush clearance that would extend into the H1 Habitat Buffer. It has not been demonstrated that such development is necessary to provide a reasonable economic use of this property, or that there is no feasible alternative to develop the site.

- iii. Policy CO-63 – New development adjoining parklands, where the purpose of the park is to protect the natural environment and SERAs, shall be sited and designed to minimize impacts to habitat and recreational opportunities to the maximum extent feasible. Natural vegetation buffer areas shall be provided around parklands. Buffers shall be of a sufficient size to prevent impacts to parkland resources, but in no case shall they be less than 100 feet in width. Variances or modifications to the required H1 Habitat Buffer width shall not be granted, except for a permitted use included in Policy CO-56. New development permitted adjacent to parklands shall include open space conservation easements over the habitat areas outside the approved development site to ensure that impacts to the H1 and H2 habitats, H1 Habitat Buffer, or parkland buffer are avoided.
- iv. Policy CO-66 – Protection of H1 and H2 Habitat and public access shall take priority over other development standards, and where there is any conflict between general/other development standards and the biological resource and/or public access protection provisions, the standards that are most protective of H1 and H2 Habitats and public access shall have precedence. The Project's large footprint and square footage result in a design that is not protective of surrounding landforms by failing to preserve H1 and H2 Habitat areas in a more natural state.
- v. Policy CO-109 – Site and design new development to protect natural features, and minimize removal of natural vegetation. The Project's large footprint and square footage result in a design that does not prioritize protection of sensitive habitats, natural vegetation, and natural resources over development.

- vi. Policy CO-114 – New development shall be sited and designed to minimize the height and length of manufactured cut and fill slopes, and minimize the height and length of retaining walls. Graded slopes shall blend with the natural contours of the land and shall utilize landform grading.
- vii. Policy CO-124 – The Santa Monica Mountains contain scenic resources of regional and national importance. The scenic and visual qualities of these resources shall be protected and, where feasible, enhanced. The Project's large footprint and square footage result in a design that is not protective of surrounding landforms by failing to preserve H1 Habitat areas in a more natural state, which is inconsistent with policies regarding the protection of Scenic Resource Areas.
- viii. Policy CO-125 – Protect public views within Scenic Areas and throughout the Coastal Zone. Places on, along, within, or visible from Scenic Routes, public parklands, public trails, beaches, and state waters that offer scenic vistas of the mountains, canyons, coastline, beaches, and other unique natural features are considered Scenic Resource Areas. Scenic Resource Areas do not include areas that are largely developed such as existing, predominantly built-out residential subdivisions. Scenic Resource Areas also include the scenic resources [identified on Map 3 of the LUP] and consist of Scenic Elements, Significant Ridgelines, and Scenic Routes as well as public parkland and recreation areas [identified on Map 4 of the LUP]. The Project's large footprint and square footage result in a design that is not protective of surrounding landforms by failing to preserve H1 Habitat areas in a more natural state, which is inconsistent with policies regarding the protection of Scenic Resource Areas.
- ix. Policy CO-131 – Site and design new development to minimize adverse impacts on scenic resources to the maximum extent feasible. If there is no feasible building site location on the proposed project site where development would not be visible, then the development shall be sited and designed to minimize impacts on scenic areas through measures that may include, but not be limited to, siting development in the least visible portion of the site, breaking up the mass of new structures, designing structures to blend into the natural hillside setting, restricting the building maximum size, reducing maximum height, clustering development, minimizing grading, incorporating landscape and building material screening elements, and where appropriate, berming. The Project's large footprint and square footage result in a design that is not protective of surrounding landforms by failing to preserve H1 Habitat areas in a more natural state, which is inconsistent with

policies regarding the protection of Scenic Resource Areas. Development is not sited in the least visible portion of the site, nor is development clustered or building size restricted.

- x. Policy CO-147 – Limit the height of structures above existing grade to minimize impacts to visual resources. Within scenic areas, the maximum allowable height shall be 18 feet above existing or finished grade, whichever is lower. Chimneys, rooftop solar equipment and non-visually obstructing rooftop antennas may be permitted to extend above the allowable height of the structure, but shall not extend more than six feet above the maximum allowable height.

B. Land Use Element:

Policy LU-33 – Require that new developments be compatible with the rural character of the area and the surrounding natural environment. The Project's large square footage and footprint would result in development that would extend into the H1 Habitat Buffer and H1 Quiet Zone, as well as fuel modification and brush clearance that would extend into H1 Habitat (oak woodland). The Project's large footprint and square footage, as well as an OWTS within 50 feet of an oak tree, result in a design that is not protective of surrounding landforms by failing to preserve H1 Habitat areas in a more natural state. This would also not be consistent with policies regarding the protection of Scenic Resource Areas. The Project's design, when paired with its proximity to Piuma Road, a designated scenic route, would result in unnecessary visual impacts to the surrounding area.

- 25. The Board finds that the Project's large square footage and footprint would result in development that would extend into the H1 Habitat Buffer and H1 Quiet Zone, as well as fuel modification and brush clearance that would extend into H1 Habitat (oak woodland and riparian canopy). The Project's design, as well as its location less than 100 feet from parklands to the south, result in a design that is not protective of surrounding landforms by failing to preserve H1 Habitat areas in a more natural state. This would also not be consistent with policies regarding the protection of Scenic Resource Areas. The Project's design, when paired with its location less than 100 feet from parklands to the south, its partial view from the Backbone Trail, and its proximity to Piuma Road, a designated scenic route, would result in unnecessary visual impacts to the surrounding area.
- 26. The Board finds that the Project Site is designated as H1 Habitat and H3 Habitat by the LUP. While all construction would occur within H3 Habitat, impacts from the development would be located within the H1 Quiet Zone and H1 Habitat Buffer. The Project would also result in required fuel modification and brush clearance within H1 Habitat. Per the requirements of the LIP, no development, except for access driveways and resource-dependent uses, is permitted in H1 Habitat (County Code Section 22.44.1890.C). Because habitable structures

are proposed less than 100 feet from H1 Habitat (oak woodland and riparian canopy) to the east, fuel modification is required within this area by the approved fuel modification plan. Therefore, the Project design is not compatible with surrounding environmental resources, as it would result in development of H1 Habitat.

27. The Board finds that the Project impermissibly proposes development within the H1 Habitat Buffer and H1 Quiet Zone. The Project proposes a 4,675-square-foot single-family residence. Reducing the square footage of the proposed residence would provide a greater buffer between development and the H1 Habitat area. Thus, the development is not the minimum necessary development for the site, as required within an H1 Quiet Zone or H1 Habitat Buffer by the LIP. Therefore, the findings in County Code Sections 22.44.1890D.8.b and 22.44.1890E.12.b cannot be met.
28. The Board finds that a variance is required for new structures less than 100 feet from parklands, per County Code Section 22.44.1900.C. Due to California State Parks open space immediately to the south, a large portion of the residence, as well as hardscape and retaining walls proposed for the Project Site would extend into the required 100-foot parkland buffer. The Applicant has not submitted a variance application, and thus the Project would not comply with this section of the LIP.
29. The Board finds that a variance is required for structures greater than 18 feet above grade and retaining walls taller than six feet within Scenic Resource Areas, per County Code Sections 22.44.1250.C and 22.44.2040.A.11.c, respectively. The Project, due to its proximity to parklands, Piuma Road, and the Backbone Trail, is within a Scenic Resource Area. The residence would have a maximum structural height of 23 feet, 10 inches and eight-foot-tall retaining walls. No variance has been requested, and thus the Project would not comply with these sections of the LIP.
30. The Board finds that a variance is required for a new driveway or access road longer than 300 feet, per County Code Section 22.44.1920.C. The proposed driveway for the Project would have a length of 350 feet. No variance has been requested, and thus the Project would not comply with this section of the LIP.
31. The Board finds that the proposed development is not in conformity with the certified local coastal program. As proposed, the Project would not comply with all applicable development standards for residences in the SMMLCP, which includes the LUP and LIP, specifically those standards related to habitat categories, Scenic Resource Areas, and parkland buffers.
32. The Board finds that any development located between the nearest public road and the 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.

33. The Board finds that CEQA does not apply to the Project pursuant to sections 15061 and 15270 of the State CEQA Guidelines (Title 14, Cal. Code Regs., Chapter 3, §§ 15000-15387), because CEQA does not apply to projects that a public agency rejects or disapproves.
34. The Board finds that pursuant to County Code Section 22.44.990, the community was properly notified of the Board's public hearing of the Project by mail, newspaper (Los Angeles Bulletin), and property posting. Additionally, the Project was noticed, and case materials were available on the Regional Planning's website. On August 17, 2023, a total of 134 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.
35. The location of the documents and other materials constituting the record of proceedings upon which the Hearing Officer's decision is based in this matter is at the 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 Project is not in conformity with the SMMLCP.

THEREFORE, THE BOARD OF SUPERVISORS:

1. Finds that the Project is exempt from CEQA, pursuant to State CEQA Guidelines sections 15061 and 15270 (projects which are rejected or disapproved);
2. Denies the appeal of the Project; and
3. Denies Minor CDP No. RPPL2019-004677-(3).

**FINDINGS OF THE BOARD OF SUPERVISORS
AND ORDER
PROJECT NO. 2019-000686-(3)
MINOR COASTAL DEVELOPMENT PERMIT NO. RPPL2019-004678-(3)**

1. The Los Angeles County ("County") Board of Supervisors ("Board") conducted a duly-noticed public hearing on September 19, 2023, in the matter of Project No. 2019-000686-(3), Minor Coastal Development Permit ("CDP") No. RPPL20190-004678-(3) (the "Minor CDP"). The Board held the public hearing in conjunction with Applicant's 14 other related and similar minor CDP and variance applications to build 15 single-family residences on 16 lots that adjoin and/or are in close proximity to one another in the Monte Nido Rural Village within the Santa Monica Mountains Coastal Zone (hereinafter referred to as the "Related Projects" comprised of minor CDP nos. RPPL2019-002073-(3), RPPL2019-002474-(3), RPPL2019-002479-(3), RPPL2019-002885-(3), RPPL2019-002887-(3), RPPL2019-001222-(3), RPPL2019-003431-(3), RPPL2019-003435-(3), RPPL2019-003852-(3), RPPL2019-003854-(3); RPPL2019-004230-(3), RPPL2019-004232-(3), RPPL2019-004674-(3), and RPPL2019-004677-(3), and variance nos. RPPL2019-002475-(3), RPPL2019-002480-(3), RPPL2019-002886-(3), RPPL2019-002888-(3), RPPL2019-001224-(3), RPPL2019-003432-(3), RPPL2019-003436-(3), RPPL2019-003853-(3), RPPL2019-003855-(3); RPPL2019-004231-(3), RPPL2019-002074-(3), and RPPL2019-004675-(3)). The County Regional Planning Commission ("Commission") previously conducted a duly-noticed public hearing on the Minor CDP on April 26, 2003. Prior to the Commission's hearing, a public hearing was also held before the County Department of Regional Planning ("Regional Planning") Hearing Officer ("Hearing Officer") on October 4, 2022, which was continued to November 1, 2022, and again to February 7, 2023.
2. The applicant, California Pacific Homes ("Applicant"), requests the Minor CDP to authorize the construction of a 4,309-square-foot single-family residence and an onsite wastewater treatment system ("OWTS") ("Project") on a 1.25-acre property located on the south side of Piuma Road (Assessor's Parcel Number 4456-038-022) in the Santa Monica Mountains Coastal Zone ("Project Site"). A total of 676 cubic yards of earth (676 cubic yards cut, all exported) would be graded. The Project would result in development within H1 Habitat, H1 Habitat Buffer, and H1 Quiet Zone and fuel modification or brush clearance within the protected zones of 44 oak trees. Seepage pits for an OWTS are proposed on an adjacent lot immediately to the south (Assessor's Parcel Number 4456-038-019).
3. The Project requires a coastal development permit to construct a single-family residence and an OWTS in the R-C-20 (Rural Coastal—20-Acre Minimum Required Lot Area) Zone, pursuant to Los Angeles County Code ("County Code") Section 22.44.810, and a minor CDP is required for any project that requires Environmental Review Board ("ERB") review (County Code Sections 22.44.860 and 22.44.940). The Project requires ERB review because as proposed the

residence would result in development less than 200 feet from H1 Habitat. Additionally, a minor CDP is also required for any project that results in the encroachment into the protected zone of any oak tree, pursuant to County Code Section 22.44.950. As currently proposed, the Project requires fuel modification or brush clearance would occur within the protected zones of 44 oak trees.

4. The Project Site is located within the RL20 (Rural Land—One dwelling unit/20 acres maximum) land use designation of the Santa Monica Mountains Local Coastal Program ("SMMLCP") Land Use Policy Map, a component of the General Plan. The Project Site is located in the Malibu Zoned District and is zoned R-C-20. Pursuant to County Code Section 22.44.1750, a single-family residence is a principal permitted use within the R-C Zone.
5. Surrounding zoning within a 500-foot radius of the Project Site includes:
 - North: R-C-20, R-C-1 (Rural Coastal—One Acre Minimum Required Lot Area), R-C-10,000 (Rural Coastal—10,000-square-foot Minimum Required Area);
 - South: O S-P (Open Space—Parks);
 - East: R-C-20, O-S-P; and
 - West: R-C-1 and R-C-20.
6. Surrounding land uses within a 500-foot radius of the Project Site include:
 - North: Single-family residences, vacant land;
 - South: Open space;
 - East: Vacant land, open space; and
 - West: Single-family residences and vacant land.
7. The Project Site is 1.25 gross acres in size and consists of one legal lot, which is generally rectangular in shape and consists of generally level terrain on the southern portion of the lot and downward slopes on its northern portion. An existing graded pad of approximately 12,000 square feet and drainage structures are located on the southern portion of the of the lot. These were legally developed with CDP No. 5-83-004, which was approved with the underlying tract map in 1987 (Tract Map No. 38931). The northern and central portions of the lot are mapped as H1 Habitat (riparian zone), with the remainder mapped as H3 Habitat in the Santa Monica Mountains Local Coastal Program Land Use Plan ("LUP"). The entirety of the Project Site is within 100 feet of H1 Habitat to the west, which places it within the H1 Habitat Buffer (0-100 feet away). Other than the oaks, the Project Site contains mostly native and non-native grasses, shrubs, and native and non-native trees.
8. The Project Site would be accessed from Piuma Road, a 65-foot-wide public road and designated scenic route, immediately to the north of the Project Site.
9. The site plan shows the construction of a 4,309-square-foot single-family residence, including a 722-square-foot basement, and a 614-square-foot

attached garage on the southern portion of the 1.25-acre Project Site. The residence would have a maximum height of 18 feet above grade. A total of 676 cubic yards of earth (676 cubic yards cut, all exported) would be graded. The Project would also include hardscape, retaining walls, and other appurtenant facilities on a total building site of 7,721 square feet within the existing graded pad. The building would be accessed by a 270-foot-long paved driveway, which would access Piuma Road to the north. Development from brush clearance and fuel modification would also encroach into the protected zones of 44 coast live oaks. The northern and central portions of the Project Site are mapped as H1 Habitat, which places the entirety of the site within the H1 Habitat Buffer (0-100 feet away). The residence is proposed for a location on the southern portion of the Project Site within the H1 Habitat Buffer. Seepage pits for an OWTS are proposed on an adjacent lot immediately to the south. The Project is partially visible from the Backbone Trail to the south. The Project Site has a linear street frontage of 214 feet and a linear development frontage of 90 feet.

10. The case history shows that an earlier version of the Project was submitted as a plot plan, along with plot plans for the Related Projects, prior to the County's adoption of the SMMLCP. These plot plans entailed ministerial reviews that were approved in concept, as the lack of an approved local coastal program meant that the necessary coastal development permits to develop the residences would still have to have been obtained from the California Coastal Commission ("Coastal Commission"). Taken together, the Project and the Related Projects did not qualify for an exemption under the California Environmental Quality Act (Public Resources Code section 21000 et seq.) ("CEQA"), resulting in Environmental Assessment No. 201200258 comprised of a Mitigated Negative Declaration ("MND") and Mitigation Monitoring and Reporting Program ("MMRP"). The MND and MMRP were initially approved but subsequently appealed to both the Commission and the Board, which upheld the appeal and invalidated the MND and MMRP on September 22, 2015.
11. On August 7, 2019, the Project, along with the Related Projects, was submitted to Regional Planning in its current form. Thereafter, from 2019 to 2011, Regional Planning staff ("Staff") met with the Applicant 11 times to discuss the Project, with a focus on how to resolve issues related to it as submitted by Applicant. Staff requested that the Project be redesigned to eliminate inconsistencies with LIP standards and reasons for needing variances for the Related Projects. On August 8, 2021, the ERB reviewed the Project and requested that it be returned with a more comprehensive overview of the Project in conjunction with the Related Projects, including a more detailed analysis of the oak woodlands, and generally a greater effort to be consistent with the LIP. On April 14, 2022, Staff sent a letter to Applicant requesting several specific changes to the Project and indicated that if the changes were not made, the Project would be scheduled for public hearing with a Staff recommendation of denial. The requested changes reducing the size and/or changing the location of several of the main residences, relocating the OWTS, and in conjunction with the Related Projects, proposing fewer residences as a whole by merging some of the lots.

12. On May 13, 2022, Applicant responded to Staff in writing that it would not make additional changes to the Project and Related Projects. The Project thereafter proceeded to hearing before the Hearing Officer on June 7, 2022, as an item for discussion and possible action, at which time the Hearing Officer scheduled a public hearing for the Project on October 4, 2022.
13. Staff consulted with various County departments about the Project and received the following recommendations:
 - A. County Department of Parks and Recreation recommended clearance to public hearing with no conditions through the County's electronic consultation system ("EPIC-LA") on September 29, 2020.
 - B. County Fire Department ("Fire Department") recommended clearance to public hearing with no conditions through EPIC-LA on September 30, 2020.
 - C. County Department of Public Works ("Public Works") recommended denial of the Project due to lack of documentation regarding road boundaries, road improvements, lines of sight, and earthmoving details in a letter dated November 10, 2020.
 - D. County Department of Public Health ("Public Health") recommended denial of the Project due to the location of OWTS seepage pits on a separate lot in a letter dated October 27, 2020.
 - E. ERB took no action regarding the Project at a meeting held on August 16, 2021, but recommended that it return with a comprehensive plan and biological assessment, as well as a redesign to be more consistent with the LIP.
14. Because CEQA does not apply to projects which a public agency rejects or disapproves, pursuant to sections 15061 and 15270 of the State CEQA Guidelines (Title 14, Cal. Code Regs., Chapter 3, §§ 15000-15387), there has been no CEQA analysis performed on the Project.
15. A duly-noticed public hearing was held before the Hearing Officer on October 4, 2022, which was continued to November 1, 2022, to allow the Hearing Officer to conduct a site visit and thoroughly review all documents. At the November 1, 2022, continued public hearing, Staff provided an overview and recommended denial of the Project, and Applicant's representative spoke in favor of the Project. The Hearing Officer indicated her intent to deny the Project because it failed to meet the development standards of the LIP and continued the hearing to February 7, 2023, to allow Staff to incorporate directed edits to the denial findings. At the continued hearing on February 7, 2023, the Hearing Officer found that there was nothing preventing Applicant from redesigning the Project to comply with LIP standards and that, as proposed, the Project did not meet the

goals and policies of the LUP. Accordingly, the Hearing Officer closed the public hearing and denied the Project.

16. The Hearing Officer's decision was timely appealed to the Commission by the Applicant on February 13, 2023. A duly-noticed public hearing was held before the Commission on April 26, 2023, to consider the appeal of the Hearing Officer's denial of the Project. Staff presented the Project in conjunction with the Related Projects, and recommended denial thereof for failure to comply with development standards of the LIP, conflicting with the goals and policies of the LUP, and failing to meet the burden of proof the requested variances for the Related Projects. Staff emphasized that the Project could be redesigned in a manner to comply with the LIP and LUP, and explained that it had ample meetings with Applicant on numerous occasions throughout the Project's history where that message was conveyed. Staff pointed out that Applicant has never submitted any revised plans. Applicant spoke at the public hearing by way of its land use attorney, Michael Shonafelt, who argued that the applicable portions of the LIP and LUP make it impossible to build on any portion of the Project Site. Applicant did acknowledge that there were good faith efforts between Applicant and the County and its various departments, including many well-attended meetings, to find a feasible path forward to develop the Project and Related Projects. However, Applicant concluded that the 200-foot fuel modification radius required by the Fire Department would result in vegetation removal within H1 Habitat, which is prohibited by the LIP. Applicant summarized its position by asserting that the Project Site is essentially unbuildable, as even building a "broom closet" would result in impacts on H1 Habitat due to the fuel modification requirement.
17. At the Commission's public hearing, there was public comment opposing the Project. A total of four constituents voiced their opposition based primarily on the Project's lack of compliance with the SMMLCP and allegations that Applicant was trying to skirt County requirements to build "mega-mansions" in violation of the SMMLCP. The public comments urged the Commission to uphold the Hearing Officer's denial of the Project. Upon conclusion of public comment, the Commission asked Staff to clarify the categories of variances for the Related Projects being requested, and the total count thereof. Staff clarified that for all 15 minor CDP requests by Applicant across 16 lots, including the Project, there are six categories of variance requests, and a total of 12 variance requests. The Commission generally commented that such an amount of variance requests was irregular and unprecedented. It recognized the efforts of both the Applicant and Staff over the year to meet and confer to resolve the issues, but indicated that the Project does not meet the standards required by the SMMLCP as proposed, and then moved to close the public hearing and denied the Project (and Related Projects).
18. The Commission's denial of the Project was timely appealed by Applicant on April 28, 2023. The Board held its duly-noticed public hearing on the appeal of the Commission's decision on September 19, 2023, and, like the Commission, held it in conjunction with Applicant's Related Projects for 14 other similar minor

CDP and variance applications to build 15 single-family residences on 16 lots that adjoin and/or are in close proximity to one another in the Monte Nido Rural Village within the Santa Monica Mountains Coastal Zone. Regional Planning submitted a written statement to the Board indicating that the Commission's denial of the Project should be upheld because as proposed, the Project does not comply with the development standards required by the LIP, the goals and policies of the LUP. Additionally, the Director of Regional Planning, Amy Bodek ("Director") was present and provided some additional background for the Board. She indicated that the Project has been around for a while and predates the County's adoption of the SMMLCP. She explained that since 2018, she has been involved with trying to move the Project along in a collaborative way with the Applicant, as the Project and Related Projects are being proposed on topographically challenging and environmentally sensitive lots that include H1 Habitat, H1 Buffer Zones, buffer zones for oak trees, National Parkland, and streams, in addition to street frontage requirements. She elaborated that Regional Planning has worked closely with Applicant to find a way for development to occur on each lot in a manner compliant with the SMMLCP and believes there is such a way to do so, which has been conveyed to the Applicant on numerous occasions and involves reducing the size of the Project's proposed single-family residence and its location on the site. The Director explained that a stalemate was reached a couple of years ago, and the Applicant was and is not willing to make any additional changes to the Project. Since that time, numerous indications to Applicant were made that Regional Planning would have to recommend denial of the Project unless changes were incorporated, but Applicant has elected not to modify the Project, signifying that Applicant has accepted proceeding to denial of the Project. Accordingly, the Director requested that the Board uphold the Commission's denial of the Project, and reiterated to the Board that there is economic use of the Project Site with a redesign that is consistent with SMMLCP.

19. After the Director spoke at the Board's public hearing, Attorney for Applicant, Michael Shonafelt, was given the opportunity to speak. Mr. Shonafelt, who also appeared for Applicant at the Commission's public hearing, mostly repeated what he presented at that prior public hearing, the primary point being that due to the 200-foot radius for fuel modification required by the Fire Department and the fact that such a radius would impede into H1 Habitat, development of the Project Site and Related Projects, it is not feasible. Per Mr. Shonafelt, "you could build a broom closet... and it is going to touch H1." In sum, it was his position that the SMMLCP effectively takes away the Applicant's properties, including the Project Site, as it is Applicant's position that nothing can be built on the lots even though they are zoned for residential use. Mr. Shonafelt also wanted to make clear that Applicant's team did do their "homework" and refutes any allegation that Applicant has been uncooperative, as he and the Applicant team have met with County Staff on numerous occasions to try and resolve the issues preventing approval. However, Applicant indicated that they heard from the Fire Department that they would not allow modifications to the fuel modification radius for H1, and

decided it was futile to try and redesign the project because doing so takes a lot of time and money.

20. There was ample public comment at the Board's public hearing of the Project. Of 15 total public comments, 13 were in opposition to the Project, and two were seemingly neutral but questioned the governmental process for approval of projects involving the SMMLCP. The comments in opposition to the Project mostly centered on how the Project and Related Projects simply fun afoul of the SMMLCP requirements, and pointed out how unique the Santa Monica Mountains are and that development therein must comply with SMMLCP, which was the byproduct of a long process that involved ample community input and which is tailored to address the specific needs of the region. The opponents also emphasized that development could occur if the projects would simply reduce the size of the proposed primary residences, which should be achievable since they are "mega mansions." Additionally, there was praise for the Staff for doing their best to work with Applicant, and for the Commission in upholding the requirements of the SMMLCP.

21. After hearing from Regional Planning, Applicant, and the public, the Board addressed the Project and emphasized that the SMMLCP prevents development of the Project and Related Projects as proposed, and repeated that the Director has indicated that housing can be developed on the Project Site. The Board indicated that SMMLCP is intended to protect the safety of the region, especially in light of the fire tragedies in the area. In response to Applicant's claim that nothing can be built on the lots, the Board then specifically asked Applicant if it is interested in revisiting a redesign of the Project and the Related Projects in light of the testimony to the contrary heard before the Board; to which, Mr. Shonafelt responded once again that due to fuel modification requirements, not even a "broom closet" could be built on the Project Site. He concluded that any such attempt would be futile as it would not be allowed under the SMMLCP. The Board then turned to the Director, who refuted the repeated contention that the fuel modification zone cannot be modified, as it has been modified in the Coastal Zone before, and that economic value for each of Applicant's lots can be achieved. She reminded the Board that the proposed homes (for the Project and Related Projects) are very large, ranging from 4,500 to 6,400 square feet in size, for an average of 5,300 square feet; therefore, a reduction in their size would allow for the construction of something larger than a "broom closet" and smaller than 5,300 square feet. Finally, she assured the Board that there is an ability to modify the fuel modification zone with the Fire Department because it has been done before to allow development throughout the Santa Monica Mountains. Upon hearing the additional testimony from Applicant and Regional Planning, the Board repeated that the SMMLCP was not adopted to prevent development of housing, but it ensures orderly development that also protects the safety of the unique region, which features very sensitive biological habitat and significant risk of wildfire. The Board recognized the efforts of the Staff throughout the years, which included ample meetings with Applicant's team, and various attempts to urge Applicant to redesign the Project to one that is viable and respects the

SMMLCP. However, the Board indicated that Applicant here has chosen to ignore the guidance of Regional Planning to comply with SMMLCP, while also requesting an unprecedented number of variances to develop the Related Projects without regard to the County's rules and processes, and has refused yet again at the Project's public hearing to redesign the Project to meet SMMLCP requirements. The Board then closed the public hearing, denied the appeal, and voted in favor of upholding the Commission's denial of the Project.

22. The Board finds that the Project is not consistent with the LUP. The Rural Land 20 land use designation is intended for single-family residential uses, as well as other resource-dependent uses, on relatively large lots. Although a single-family residence is specifically listed as a principal permitted use under this designation, the Project's overall size and proposed plans, which include a building site area of 7,721 square feet, are not consistent with the policies of the LUP, as identified in the subsections hereunder. The Project's large square footage and footprint would result in development that would extend into the H1 Quiet Zone, as well as fuel modification and brush clearance that would extend into H1 Habitat (oak woodland) and the H1 Habitat Buffer. Additionally, the Project's large footprint and square footage result in a design that is not protective of surrounding landforms by failing to preserve H1 Habitat areas in a more natural state, which is inconsistent with policies regarding the protection of Scenic Resource Areas, as well as those prioritizing protection of sensitive habitats, natural vegetation, and natural resources over development. Finally, when paired with its proximity to Piuma Road, which is a designated scenic route, the Project also results in unnecessary visual impacts to the surrounding area. The Project is not consistent with the following policies of the LUP:

A. Conservation and Open Space Element:

- i. Policy CO-41 – New non-resource-dependent development shall be prohibited in H1 Habitat areas to protect these most sensitive environmental resource areas from disruption of habitat values. The only exception is that two uses may be approved in H1 Habitat other than wetlands in very limited circumstances, as follows: (1) Public Works projects required to repair or protect existing public roads when there is no feasible alternative, as long as impacts to H1 Habitat are avoided to the maximum extent feasible, and unavoidable impacts are minimized and mitigated; and (2) an access road to a lawfully-permitted use outside H1 Habitat when there is no other feasible alternative to provide access to public recreation areas or development on a legal parcel, as long as impacts to H1 Habitat are avoided to the maximum extent feasible, and unavoidable impacts are minimized and mitigated. Any new development approved for one of these two uses within woodland or savannah habitat shall protect native trees in accordance with Policy CO-99. The County shall not approve the development of any non-resource dependent use other than these two uses within

H1 Habitat, unless such use has first been considered in an SMMLCP amendment that is certified by the Coastal Commission. The Project's large square footage and footprint would result in fuel modification and brush clearance that would extend into H1 Habitat (oak woodland).

- ii. Policy CO-57 – New non-resource-dependent development shall also provide an additional 100-foot "Quiet Zone" from H1 Habitat where feasible (measured from the outer edge of the 100-foot H1 Habitat Buffer required above). New development is not permitted in the H1 Habitat Quiet Zone except resource-dependent uses, non-irrigated fuel modification required by the Fire Department for lawfully-established structures, and the following other uses in very limited circumstances: (1) Public Works projects required to protect existing public roads when there is no feasible alternative, as long as impacts to H1 Habitat and the H1 Buffer are avoided to the maximum extent feasible, and unavoidable impacts are minimized and mitigated; (2) an access road to a lawfully-permitted use when there is no other feasible alternative to provide access to public recreation areas or development on a legal parcel, as long as impacts to H1 Habitat and H1 Buffer are avoided to the maximum extent feasible, and unavoidable impacts are minimized and mitigated; and (3) a development on a lawfully-created parcel that is the minimum development necessary to provide a reasonable economic use of the property and where there is no feasible alternative, as long as impacts to H1 Habitat and H1 Buffer are avoided to the maximum extent feasible, and unavoidable impacts are minimized and mitigated. The Project's large square footage and footprint would result in development that would extend into the H1 Quiet Zone, as well as fuel modification and brush clearance that would extend into the H1 Habitat Buffer. It has not been demonstrated that such development is necessary to provide a reasonable economic use of this property, or that there is no feasible alternative to develop the site.
- iii. Policy CO-66 – Protection of H1 and H2 Habitats and public access shall take priority over other development standards, and where there is any conflict between general/other development standards and the biological resource and/or public access protection provisions, the standards that are most protective of H1 and H2 Habitats and public access shall have precedence. The Project's large footprint and square footage result in a design that is not protective of surrounding landforms by failing to preserve H1 and H2 Habitat areas in a more natural state.
- iv. Policy CO-109 – Site and design new development to protect natural features, and minimize removal of natural vegetation. The

Project's large footprint and square footage result in a design that does not prioritize protection of sensitive habitats, natural vegetation, and natural resources over development.

- v. Policy CO-124 – The Santa Monica Mountains contain scenic resources of regional and national importance. The scenic and visual qualities of these resources shall be protected and, where feasible, enhanced. The Project's large footprint and square footage result in a design that is not protective of surrounding landforms by failing to preserve H1 Habitat areas in a more natural state, which is inconsistent with policies regarding the protection of Scenic Resource Areas.
- vi. Policy CO-125 – Protect public views within Scenic Areas and throughout the Coastal Zone. Places on, along, within, or visible from Scenic Routes, public parklands, public trails, beaches, and state waters that offer scenic vistas of the mountains, canyons, coastline, beaches, and other unique natural features are considered Scenic Resource Areas. Scenic Resource Areas do not include areas that are largely developed such as existing, predominantly built-out residential subdivisions. Scenic Resource Areas also include scenic resources [identified on Map 3 of the LUP] and consist of Scenic Elements, Significant Ridgelines, and Scenic Routes as well as public parkland and recreation areas [identified on Map 4]. The Project's large footprint and square footage result in a design that is not protective of surrounding landforms by failing to preserve H1 Habitat areas in a more natural state, which is inconsistent with policies regarding the protection of Scenic Resource Areas.
- vii. Policy CO-126 – Maintain and enhance the quality of vistas along identified Scenic Routes. The Project violates this policy as the Project's two-story primary residence would degrade the quality of vistas along Piuma Road, which is a Scenic Route.
- viii. Policy CO-131 – Site and design new development to minimize adverse impacts on scenic resources to the maximum extent feasible. If there is no feasible building site location on the proposed project site where development would not be visible, then the development shall be sited and designed to minimize impacts on scenic areas through measures that may include, but not be limited to, siting development in the least visible portion of the site, breaking up the mass of new structures, designing structures to blend into the natural hillside setting, restricting the building maximum size, reducing maximum height, clustering development, minimizing grading, incorporating landscape and building material screening elements, and where appropriate, berming. The

Project's large footprint and square footage result in a design that is not protective of surrounding landforms by failing to preserve H1 Habitat areas in a more natural state, which is inconsistent with policies regarding the protection of Scenic Resource Areas. Development is not sited in the least visible portion of the site, nor is development clustered or building size restricted.

B. Land Use Element:

Policy LU-33 – Require that new developments be compatible with the rural character of the area and the surrounding natural environment. The Project's large square footage and footprint would result in development that would extend into the H1 Habitat Buffer and H1 Quiet Zone, as well as fuel modification and brush clearance that would extend into H1 Habitat (oak woodland). The Project's large footprint and square footage, as well as an OWTS within 50 feet of an oak tree, result in a design that is not protective of surrounding landforms by failing to preserve H1 Habitat areas in a more natural state. This would also not be consistent with policies regarding the protection of Scenic Resource Areas. The Project's design, when paired with its proximity to Piuma Road, a designated scenic route, would result in unnecessary visual impacts to the surrounding area.

23. The Board finds that the Project's large square footage and footprint would result in development that would extend into the H1 Habitat and H1 Habitat Buffer. The Project's large footprint and square footage result in a design that is not protective of surrounding landforms by failing to preserve H1 Habitat areas in a more natural state. This would also not be consistent with policies regarding the protection of Scenic Resource Areas. The Project's design, when paired with its location less than 100 feet from parklands to the south, its partial view from the Backbone Trail, and its proximity to Piuma Road, a designated scenic route, would result in unnecessary visual impacts to the surrounding area.
24. The Board finds that the Project Site is designated as H1 Habitat and H3 Habitat by the LUP. Construction would occur within mapped H1 Habitat and H3 Habitat and impacts from the development would be located within the H1 Habitat and H1 Habitat Buffer. Per the requirements of the LIP, no development, except for access driveways and resource-dependent uses, is permitted in H1 Habitat (County Code Section 22.44.1890.C). Habitable structures are proposed within H1 Habitat (riparian zone) and the H1 Habitat Buffer. Therefore, the Project design is not compatible with surrounding environmental resources, as it would result in development of H1 Habitat.
25. The Board finds that the Project impermissibly proposes development within the H1 Habitat Buffer and H1 Quiet Zone. The Project proposes a 4,309-square-foot single-family residence. Reducing the square footage of the proposed residence and relocating it outside of H1 Habitat would increase the buffer between the Project and H1 Habitat. Thus, the development is not the minimum necessary

development for the site, as required within an H1 Quiet Zone or H1 Habitat Buffer by the LIP. Therefore, the findings in County Code Sections 22.44.1890.D.8.b and 22.44.1890.E.12.b cannot be met.

26. The Board finds that the Project would not meet County OWTS standards, as its seepage pits are proposed on an adjacent lot to the south. Public Health will not approve any portion of an OWTS on a separate lot from the structure it serves.
27. The Board finds that the proposed development is not in conformity with the certified local coastal program. As proposed, the Project would not comply with all applicable development standards for residences in the SMMLCP, which includes the LUP and LIP, specifically those standards related to habitat categories.
28. The Board finds that any development located between the nearest public road and the 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.
29. The Board finds that CEQA does not apply to the Project pursuant to sections 15061 and 15270 of the State CEQA Guidelines (Title 14, Cal. Code Regs., Chapter 3, §§ 15000-15387), because CEQA does not apply to projects that a public agency rejects or disapproves.
30. The Board finds that pursuant to County Code Section 22.44.990, the community was properly notified of the Board's public hearing of the Project by mail, newspaper (Los Angeles Bulletin), and property posting. Additionally, the Project was noticed, and case materials were available on the Regional Planning's website. On August 17, 2023, a total of 134 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.
31. The location of the documents and other materials constituting the record of proceedings upon which the Hearing Officer's decision is based in this matter is at the 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 Project is not in conformity with the SMMCLP.

THEREFORE, THE BOARD OF SUPERVISORS:

1. Finds that the Project is exempt from CEQA, pursuant to State CEQA Guidelines sections 15061 and 15270 (projects which are rejected or disapproved);
2. Denies the appeal of the Project; and
3. Denies Minor CDP No. RPPL2019-004678-(3).