

April 29, 2025

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

Dear Supervisors:

**PROJECT NO. R2014-00461-(3)  
MAJOR COASTAL DEVELOPMENT PERMIT NO. 201500099  
VARIANCE NO. 201500100  
APPLICANT: SCHMITZ AND ASSOCIATES, INC.  
PROJECT LOCATION: 3300 KANAN DUME ROAD  
SANTA MONICA MOUNTAINS PLANNING AREA  
(THIRD SUPERVISORIAL DISTRICT) (3-VOTES)**

**SUBJECT**

This item is an appeal of the Regional Planning Commission's (Commission) decision to deny a Major Coastal Development Permit (Major CDP) and Variance to authorize a single-family residence and associated development (Project) at 3300 Kanan Dume Road (Project Site) in the Santa Monica Mountains Planning Area. The Commission denied the Conditional Use Permit (CUP) and Variance on October 16, 2024, and this appeal of the Commission's decision was filed by the Applicant (Appellant) on October 18, 2024.

**IT IS RECOMMENDED THAT THE BOARD AFTER THE PUBLIC HEARING,**

1. Close the public hearing for Project No. R2014-00461-(3), consisting of Major CDP No. 201500099 and Variance No. 201500100.
2. Find that the Project is statutorily exempt from the California Environmental Quality Act (CEQA) for the reasons stated in this Board of Supervisor's (Board) letter and in the record of the Project.

3. Indicate its intent to deny the appeal of the Commission's denial of the Project and to uphold the Commission's denial of the Project.
4. Instruct County Counsel to prepare the necessary Findings to uphold the Commission's denial of the Project.

**PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION**

The Project is a single-family residence and associated development on a 9,715-square-foot building site in the R-C-20 (Rural Coastal – 20-Acre Minimum Required Lot Area) Zone. The Major CDP is required for the following development pursuant to the Santa Monica Mountains Local Coastal Program's (SMMLCP) Local Implementation Program (LIP) Sections 22.44.1260 (Grading), 22.44.1750 (R-C Zone), and 22.44.1800 et seq. (Biological Resources):

1. 5,800 cubic yards of grading.
2. Construction of a 4,412-square-foot, 18-foot-tall, two-story, single-family residence.
3. Construction of a 2,030-square-foot, 18-foot-tall, two-story, detached auxiliary building, which includes a guest house and a 907-square-foot garage.
4. Construction of associated infrastructure, including a 1,550-foot-long driveway, a motor court, landscaping, hardscaping, retaining walls, an Onsite Wastewater Treatment System (OWTS), roof-mounted solar panels, two water wells, and two water tanks.
5. Removal of three native trees, consisting of one oak tree, one black walnut tree, and one toyon tree.
6. Encroachments into the protected zones of 193 native trees, consisting of 190 oak trees, one bigpod ceanothus, one big-leaf maple tree, and one toyon tree.

The Variance is required for the following development pursuant to LIP Section 22.44.1150 (Variances):

1. Construction of a 1,550-foot driveway, which exceeds the 300-foot limitation set forth in LIP Section 22.44.1920.C (Development Standards for Access Roads and Trails).
2. Construction of an OWTS within the dripline of an oak tree, which does not meet the required 50-foot setback from the driplines of existing native trees, including oak trees, as set forth in LIP Section 22.44.1340.B.3.c (Water Resources).

On October 16, 2024, the Commission denied the Project based on its inconsistency with applicable policies of the SMMLCP's Land Use Plan (LUP), and applicable development

standards and procedures of the SMMLCP's LIP, as set forth in the attached Commission Denial Findings.

The Appellant cites three reasons for the appeal:

1. The building site is not visible from the Project Site.
2. All Transfer of Development Credit (TDC) procedures are to take place after Project approval and not before.
3. They did in fact work with Department of Regional Planning staff (Staff) to provide sufficient materials related to, among other things, the alternative location proposed by Staff.

Regarding the Appellant's first reason for the appeal, prior to the Commission's public hearing on October 17, 2018, Staff observed and documented that the story poles erected within the proposed building site were visible from the Project Site. In response to this documentation, the Appellant reduced the overall height of the proposed development to 18 feet, as required by the SMMLCP. However, the Appellant refused additional requests to reduce the likely visual impact of the proposed development and declined to erect story poles prior to the Commission's public hearing on October 16, 2024. The erection of story poles at least 30 days prior to the public hearing date is required by LIP Section 22.44.1440.A.1.

Regarding the Appellant's second reason for the appeal, the LIP does in fact require various actions related to TDCs required for a guest house to be taken prior to Project approval. Specifically, LIP Section 22.44.1230.F.1 required the Appellant to submit the following as part of the Major CDP application: (1) a calculation of the number of TDCs that need to be retired to accommodate the Project; (2) a list of Assessor's Parcel Numbers of the donor lots proposed to be retired; (3) a map showing the location of the proposed donor lots; (4) a discussion of how the donor lots meet the qualifying criteria for retiring lots in donor areas; and (5) maps showing the proposed donor lots and building sites, existing topographic contours, and both slope and area calculations. Staff never received these required application materials and therefore could not do the following, all of which is required by LIP Section 22.44.1230.F.2: (1) verify the Appellant's calculations for the number of lots to be retired; (2) verify that the proposed donor lots meet the lot retirement criteria; and (3) include information in the Staff report to the Commission related to the precise number of lots that need to be retired if the Project were to be approved.

Regarding the Appellant's third reason for the appeal, although the Appellant claims they submitted sufficient documentation regarding the Project and possible alternatives, the version of the Project presented to the Commission at its public hearing on October 16, 2024, does not meet the applicable policies of the LUP or the development standards and procedures of the LIP, as set forth in the attached Commission Denial Findings. Although the Appellant could

have continued to work with Staff to identify a Project scope that Staff could recommend for approval, the Appellant declined to do so and instead requested that the Project be presented to the Commission at a public hearing with the understanding that Staff would recommend denial.

### **Implementation of Strategic Plan Goals**

The recommended actions are consistent with County Strategic Plan North Star 2 – Foster Vibrant and Resilient Communities, Focus Area D – Sustainability, Strategy III – Natural Resources. The Guiding Principle of the LUP’s Land Use Element states, in pertinent part, “The pattern of land use within the Santa Monica Mountains should...preserve and protect significant environmental resources...(and)...protect coastal resources, including public access, habitat, and scenic and visual qualities” and the LIP implements the LUP, including this Guiding Principle. The Commission’s decision was based on evidence that the Project was inconsistent with various policies of the LUP, and applicable development standards and procedures of the LIP, related to the pattern and character of development, development siting and design, and clustering of development. The recommended actions address these policies, standards, and procedures by preventing adverse impacts to natural resources.

### **FISCAL IMPACT/FINANCING**

The recommended actions may result in significant costs to the County. On October 16, 2024, the Commission denied the Project. The Board’s decision to deny the appeal and uphold the Commission’s action would deny the Major CDP and Variance. The Board’s decision to grant the appeal would approve the Major CDP and Variance. If the Board denies the appeal, its decision would be final and not appealable to the California Coastal Commission, would not be subject to further administrative action, and would not require additional reviews or case processing by Staff. However, if the Board denies the appeal, the property owners may initiate litigation against the County based on a claim of potential taking of property rights. This litigation may result in significant costs to the County. If the Board grants the appeal, its decision would be subject to a further potential appeal to the California Coastal Commission pursuant to LIP Section 22.44.1050. If the Board’s decision is appealed to the California Coastal Commission, Staff would be required to complete further administrative actions, including preparation and transmittal of the administrative record to the California Coastal Commission pursuant to LIP Section 22.44.1060.

### **FACTS AND PROVISIONS/LEGAL REQUIREMENTS**

On September 9, 2015, the Appellant submitted applications for the Major CDP and Variance. After reviewing the Project, Staff met with the Appellant and informed them that Staff could not support the proposal as designed and that Staff would recommend denial unless the Project was redesigned to meet the requirements of the SMMLCP. Staff cited the height of the proposed single-family residence and the impacts to sensitive habitat, including H1 Habitat, as

the main reasons why they could not support the Project. The exceedingly long driveway was also discussed, and Staff asked the Appellant to find another option for access to the property. The Appellant asked that the Biological Assessment be reviewed by Staff Biologist, and that the Project be presented to the Environmental Review Board (ERB), before Staff scheduled the Project for a public hearing with a recommendation for denial.

On October 17, 2018, the Commission conducted a duly noticed public hearing regarding the Project. Staff presented the Project, stated it was inconsistent with many policies of the SMMLCP, and recommended denial. Staff explained that the Appellant requested a Variance because the driveway exceeded the 300-foot limitation in the SMMLCP, the proposed structure height exceeded the 18-foot height limit for new development in Scenic Resource Areas, and the location of the proposed OWTS was within the protected zone of an oak tree. Staff stated that less impactful alternatives were available that would be more consistent with the SMMLCP. Staff also referenced the California Coastal Commission's submitted comment letter, dated October 16, 2018, which indicated the Project was inconsistent with the SMMLCP as it relates to biological resource standards, scenic resource standards, and landform alteration standards. The California Coastal Commission's comment letter also stated that the required Variance findings could not be made because feasible siting and design alternatives exist that would be consistent with the SMMLCP.

Commissioner Shell, appointee from the Third Supervisorial District, asked about the alternative locations and if Staff had recommended any alternatives or redesigns to the Appellant. Staff responded they had discussed alternatives and redesigns with the Appellant in multiple meetings. Staff explained that the Appellant did relocate the proposed single-family residence at the request of the ERB, but the ERB still found the Project to be inconsistent with the SMMLCP's policies, goals, and requirements related to biological resource protection standards.

Don Schmitz, a representative of the Appellant, provided the following reasons why the recommendation of denial was not warranted:

1. The driveway location was downslope from the Project Site so the driveway and grading would not be visible.
2. Staff's alternative proposal for an 18-foot-tall residence on top of a knoll would have visual impacts.
3. The Project would retain 99.9% of the 191 oak trees onsite with 515 total mitigation tree plantings.
4. The fuel modification impacts to H1 Habitat are unavoidable. He cited a comment from the ERB that the Project cannot avoid H1 Habitat and the Appellant's proposed building site is the best location on the Project Site to build the Project.

5. The California Coastal Commission has approved five new single-family residences outside H1 Habitat with fuel modification in H1 Habitat.
6. Staff's alternative building site would not work because it would: (1) result in impacts to H1 Habitat; (2) be visible from the Scenic Route although the building would only be 18 feet tall; and (3) result in significant grading impacts and the placement of retaining walls on steep slopes.
7. Selective thinning under the oak woodlands in the area would actually improve the health of the oak woodlands and make them more survivable in a wildfire. He further stated selective thinning under the oak woodlands and within H1 Habitat is consistent with the SMMLCP.

Stanley Lamport, a representative of the property owners, added the following statements:

1. No structure could be built if fuel modification under the County's fire standards would occur in areas designated as H1 Habitat in the SMMLCP.
2. There are no locations on the Project Site where a residence or any other structure could be located that would avoid fuel modification in H1 Habitat areas. Therefore, no structure can be built on the Project Site at all and the SMMLCP requires the property to remain undeveloped open space.

Five members of the public provided testimony in support of the Project and voiced their opinions on four overarching issues. First, in agreement with the Appellant's presentation, testimony generally stated that the implementation of fuel modification in the outer fuel modification zones (i.e., those fuel modification zones furthest from the proposed habitable structures) will have negligible impacts on oak trees in H1 Habitat and that, in fact, those fuel modification activities may actually improve the survivability of those trees during drought and wildfire events. Second, additional testimony expressed concern that if the Variance for the driveway was not granted for the Project, other currently vacant properties attempting to take access from that roadway, through the utilization of active access easements, would no longer be able to do so. Third, general concerns were expressed related to the perceived conflict between the SMMLCP and the County Fire Department's (County Fire) fuel modification requirements. Specifically, testimony generally indicated fuel modification was important to wildfire prevention and containment and that these goals may not be consistent with the biological resource protection standards in the SMMLCP. Fourth, members of the public generally opined that, if the Project could not be approved in the Santa Monica Mountains Coastal Zone, then no one would be able to build in this area.

After Commissioner Louie, Commissioner Shell, Commissioner Modugno, and Commissioner Smith asked questions of Staff, the County Fire representative, and the County Counsel

representative, Commissioner Shell suggested taking the item off calendar if the Appellant was willing to meet with Staff and consider a redesigned Project at other locations that may be feasible and minimize impacts. This would provide sufficient time for the Appellant to revise the Project to conform to the applicable policies, goals, and requirements of the SMMLCP. The other Commissioners agreed with Commissioner Shell's suggestion and the Commission unanimously voted to take the item off calendar.

After the Commission public hearing on October 17, 2018, the Appellant submitted additional revisions to Staff. Staff informed the Appellant that the newly proposed detached auxiliary building met the definition of a Habitable Accessory Structure (i.e., a guest house), per LIP Section 22.44.630, because it is a detached accessory structure located on the same property as the single-family residence and includes sanitation facilities but not a kitchen or kitchen facilities. Staff informed the Applicant that the proposed Habitable Accessory Structure did not meet the required standards in the LIP and was inconsistent with the SMMLCP. As noted above, a TDC is required pursuant to LIP Section 22.44.1230 and the Appellant did not provide an eligible TDC. Moreover, the Project was still proposed in the same location previously presented to the Commission on October 17, 2018, and the Appellant rejected Staff's recommended alternative location. Staff asked the Appellant to further revise the Project to address Staff's comments and to bring the Project into compliance with the SMMLCP. The Appellant declined Staff's request and asked that the Project be scheduled for a public hearing.

On October 16, 2024, the Commission conducted a duly noticed public hearing regarding the Project. Staff presented the Project, stated it was inconsistent with many policies and development standards of the SMMLCP, and recommended denial. Staff explained that the Appellant requested a Variance because the driveway exceeded the 300-foot limitation in the SMMLCP and the location of the proposed OWTS was within the protected zone of an oak tree. Staff stated less impactful alternatives may be available that would be more consistent with the SMMLCP and that the alternatives needed to be explored.

Don Schmitz, a representative of the Appellant, provided the following reasons why the recommendation of denial was not warranted:

1. The building site and driveway are downslope from the Project Site so they would not be visible.
2. Staff's alternative proposal for an 18-foot-tall residence on top of a knoll would have visual impacts.
3. The Project would retain 99.9% of the 191 oak trees onsite with 515 total mitigation tree plantings.
4. Post-Woolsey Fire biological conditions onsite necessitate altered habitat designations.

5. The proposed OWTS is in the only feasible location.
6. The fuel modification impacts to H1 Habitat are unavoidable. He cited a comment from the ERB that the Project cannot avoid H1 Habitat and the Appellant's proposed building site is the best location on the Project Site to build the Project.
7. Staff's alternative building site would not work because it would: (1) result in impacts to H1 Habitat; (2) be visible from the Scenic Route although the building would only be 18 feet tall; and (3) result in significant grading impacts and the placement of retaining walls on steep slopes.

Four members of the public provided testimony in support of the Project and voiced their opinions on two overarching issues. First, members of the public generally opined that, if the Project could not be approved in the Santa Monica Mountains Coastal Zone, then no one would be able to build in this area. Second, members of the public expressed concern that if the Variance for the driveway was not granted for the Project, other currently vacant properties attempting to take access from that roadway, through the utilization of active access easements, would no longer be able to do so.

The Commission asked Staff questions generally related to weighing scenic resource impacts against other impacts, including biological impacts; the Woolsey Fire and its effect on underlying habitat values onsite; and the ERB's role in the land use and zoning entitlement process. In response, Staff stated that the avoidance of biological resource impacts takes precedence over other development standards, including those related to visual impacts. Moreover, Staff stated that the Woolsey Fire did not, in and of itself, result in changes to the underlying habitat values existing prior to the Woolsey Fire. Furthermore, Staff stated the ERB's role is to comment on a project's consistency with the biological resource standards of the SMMLCP. The Commission also asked County Counsel about potential taking of property rights, and, in response, County Counsel stated Staff's presentation and materials appropriately addressed the Project in relation to the SMMLCP. After hearing all testimony, the Commission closed the public hearing and denied the Project.

### **ENVIRONMENTAL DOCUMENTATION**

On October 16, 2024, the Commission found the Project qualified for a Statutory Exemption pursuant to CEQA Guidelines Section 15270 (Projects Which Are Disapproved) because CEQA does not apply to projects a public agency rejects or disapproves.

### **IMPACT ON CURRENT SERVICES (OR PROJECTS)**

The approval or denial of the appeal should not result in any significant impacts on current services or projects. However, as noted above, if the Board denies the appeal, the property



The Honorable Board of Supervisors

April 29, 2025

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owners may initiate litigation against the County based on a claim of potential taking of property rights. This litigation may result in significant costs to the County.

For further information, please contact Nathan M. Merrick of the Coastal Development Services Section at (213) 974-0051 or [NMerrick@planning.lacounty.gov](mailto:NMerrick@planning.lacounty.gov).

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Amy Bodek", with a horizontal line extending to the right.

AMY J. BODEK, AICP  
Director of Regional Planning

AJB:DD:MG:RG:NMM:Im

Attachments:

1. Project Appeal Form
2. Denial Findings
3. Commission Staff Reports
4. Correspondence

c: Executive Office, Board of Supervisors  
Assessor  
Chief Executive Office  
County Counsel  
Public Works

S\_CP\_04292025\_BL\_PROJECT\_NO\_ R2014-00461\_BL

**APPLICANT**

Date October 18, 2024

Public Hearing/Zoning Section  
Los Angeles County Board of Supervisors  
Room 383, Kenneth Hahn  
Hall of Administration  
500 West Temple Street  
Los Angeles, California 90012

**PROJECT NO.:** R2014-00461-(3)

**APPLICANT:** Nicole Farnoush, Schmitz and Associates

**LOCATION:** 3300 Kanan Rd. Agoura Hills, CA 91301

**Zoned District:**

**Related zoning matters:**

**CUP(s) or VARIANCE No.** Variance No. RCDP-201500100

**Change of Zone Case No.**

**Subdivision Project:** YES \_\_\_\_\_ NO X

This is an appeal on the decision of the Regional Planning Commission in the subject case. This form is to be presented in person with a check or money order, made payable to the "Board of Supervisors" (check or money order must be presented with personal identification), during regular business hours of 8:00 a.m. to 5:00 p.m. prior to the appeal deadline at the above address. (Appeal fees subject to change). Contact the Public Hearing/Zoning section of the Board of Supervisors for more information: (213) 974-1426.

This is to appeal: (Check one)

\_\_\_\_\_ The Denial of this request \$11,362\* OR

\_\_\_\_\_ 2 or less conditions of the Project to be listed below: \$1,142\*

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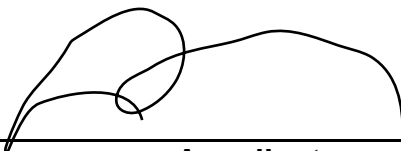
\*For Subdivisions \$260.00 of this amount is to cover the cost of the hearing by the Board of Supervisors

**Briefly, explain the reason for this appeal (attach additional information if necessary):**

Staff cited that the building site and the story poles erected by the applicant are visible from Kanan Dume Road and, therefore, the Project is within a Scenic Resource Area. The building site and story poles are not visible from Kanan Dume Road.

Staff cited that a Transfer of Development Credit ("TDC") is required pursuant to LIP Section 22.44.1230 and predicated the denial on providing an eligible TDC. TDCs are a condition of approval, not a requirement for the approval of a project.

Staff made multiple references in the Hearing Package noting that they asked the applicant to revise the project further to address Staff's comments, but that the applicant declined. They also noted the applicant rejected Staff's recommended alternative location. There were many revisions to the project, including the preparation of an expansive alternatives analysis (for the County-proposed alternative location), which included plans and reports, which were never mentioned in the Hearing Package.

<b>x</b>	
<b>(Signed)</b>	<b>Appellant</b>
	Nicole Farnoush
	<b>Print Name</b>
	28230 Agoura Rd. Ste 200
	<b>Street Address</b>
	Agoura Hills, CA 91301
	<b>City/Zip</b>
	818-338-3636
	<b>Day Time Telephone Number</b>
	NFARNOUSH@SCHMITZANDASSOCIATES.NET
	<b>E-mail Address</b>

October 21, 2024

Schmitz & Associates, Inc.  
28230 Agoura Road, Suite 200  
Agoura Hills, CA 91301

PROJECT NO. R2014-00461-(3)  
MAJOR COASTAL DEVELOPMENT PERMIT NO. 201500099 & VARIANCE NO. 201500100  
3300 KANAN DUME ROAD, UNINCORPORATED MALIBU (APN: 4465-002-023)

Dear Applicant,

The Regional Planning Commission (“Commission”), by its action of **October 16, 2024**, has denied the above-referenced project. Enclosed are the Commission’s Findings.

**Appeals:** The applicant or any other interested persons may appeal the Commission’s decision. The appeal period for this project will end at 5:00 p.m. on **October 30, 2024**. Appeals must be submitted to [appeal@planning.lacounty.gov](mailto:appeal@planning.lacounty.gov) before the end of the appeal period.

For questions or for additional information, please contact Nathan M. Merrick of the Coastal Development Services Section at (213) 974-0051, or [NMerrick@planning.lacounty.gov](mailto:NMerrick@planning.lacounty.gov).

Sincerely,

AMY J. BODEK, AICP  
Director of Regional Planning



Robert Glaser, Supervising Regional Planner  
Coastal Development Services Section

RG:NMM

Enclosures: Findings

c: Board of Supervisors  
DPW (Building and Safety)  
Zoning Enforcement

LOS ANGELES COUNTY  
DEPARTMENT OF REGIONAL PLANNING  
FINDINGS OF THE REGIONAL PLANNING COMMISSION  
AND ORDER  
PROJECT NO. R2014-00461-(3)  
MAJOR COASTAL DEVELOPMENT PERMIT NO. 201500099  
VARIANCE NO. 201500100

**RECITALS**

1. **HEARING DATE(S).** The Los Angeles County (“County”) Regional Planning Commission (“Commission”) conducted a duly noticed public hearing on October 16, 2024, in the matter of Project No. R2014-00461-(3), consisting of Major Coastal Development Permit (“CDP”) No. 201500099 and Variance No. 201500100. The Major CDP and Variance are referred to collectively as the “Project Permits.” The Commission previously conducted a public hearing on October 17, 2018. The Commission voted to take the item off calendar at the conclusion of the previous public hearing.
  
2. **ENTITLEMENT(S) REQUESTED.** The applicant, Schmitz & Associates, Inc. (“Applicant”), requests the Project Permits to authorize 5,800 cubic yards of grading and the following development on a 9,715-square-foot building site area, referred to collectively as the “Project,” on a property located at Assessor’s Parcel Number (“APN”) 4465-002-023, also known as 3300 Kanan Dume Road, in the unincorporated community of Malibu (“Project Site”):
  - Construction of a 4,412-square-foot, 18-foot-tall, two-story, single-family residence.
  - Construction of a 2,030-square-foot, 18-foot-tall, two-story, detached auxiliary building, which includes a guest house and a 907-square-foot garage.
  - Construction of associated infrastructure, including a 1,550-foot-long driveway, a motor court, landscaping, hardscaping, retaining walls, an onsite wastewater treatment system (“OWTS”), roof-mounted solar panels, two water wells, and two water tanks.
  - Removal of three native trees, consisting of one oak tree, one black walnut tree, and one toyon tree.
  - Encroachments into the protected zones of 193 native trees, consisting of 190 oaks, one bigpod ceanothus, one big-leaf maple tree, and one toyon tree.
  
3. **ENTITLEMENT(S) REQUIRED.** The Major CDP is a request to authorize 5,800 cubic yards of grading and the following development on a 9,715-square-foot building site in the R-C-20 (Rural Coastal – 20-Acre Minimum Required Lot Area) Zone pursuant to the Santa Monica Mountains Local Coastal Program’s (“SMMLCP”) Local Implementation Program (“LIP”) Sections 22.44.1260 (Grading), 22.44.1750 (R-C Zone), and 22.44.1800 et seq. (Biological Resources):
  - Construction of a 4,412-square-foot, 18-foot-tall, two-story, single-family residence.

- Construction of a 2,030-square-foot, 18-foot-tall, two-story, detached auxiliary building, which includes a guest house and a 907-square-foot garage.
  - Construction of associated infrastructure, including a 1,550-foot-long driveway, a motor court, landscaping, hardscaping, retaining walls, an OWTS, roof-mounted solar panels, two water wells, and two water tanks.
  - Removal of three native trees, consisting of one oak tree, one black walnut tree, and one toyon tree.
  - Encroachments into the protected zones of 193 native trees, consisting of 190 oaks, one bigpod ceanothus, one big-leaf maple tree, and one toyon tree.
4. **ENTITLEMENT(S) REQUIRED.** The Variance is a related request for the following development pursuant to LIP Section 22.44.1150 (Variances):
- Construction of a 1,550-foot driveway, which exceeds the 300-foot limitation set forth in LIP Section 22.44.1920.C (Development Standards for Access Roads and Trails)
  - Construction of an OWTS within the dripline of an oak tree, which does not meet the required 50-foot setback from the driplines of existing native trees, including oak trees, as set forth in LIP Section 22.44.1340.B.3.c (Water Resources).
5. **PREVIOUS ENTITLEMENT(S).** The Project Site has a Certificate of Compliance (RCOC-200600592) recorded February 26, 2007.
6. **PREVIOUS APPLICATION.** On February 20, 2014, the Applicant submitted applications for a Plot Plan Approval in Concept (Case No. RPP 201400174) and an Oak Tree Permit (Case No. ROAK201400012) to the County Department of Regional Planning (“LA County Planning”) to authorize construction of a single-family residence (“2014 Project”). Pursuant to Policy No. 88 of the Malibu Land Use Plan, which was in effect at the time, the 2014 Project would have also required a Conditional Use Permit for a driveway length in excess of 300 feet.
- This application submittal occurred before the California Coastal Commission (“Coastal Commission”) certified the SMMLCP on October 10, 2014. When the SMMLCP was certified, the County was given CDP issuing authority. As a result, the Applicant could only submit a CDP application to the Coastal Commission if the County had previously approved the Plot Plan Approval in Concept, Oak Tree Permit, and Conditional Use Permit for the 2014 Project. Since the County did not approve these applications and the Applicant did not file an application with the Coastal Commission prior to the certification of the SMMLCP, the Applicant could no longer submit a CDP application to the Coastal Commission. Therefore, on September 9, 2015, the Applicant withdrew the Plot Plan Approval in Concept and Oak Tree Permit applications and submitted applications for the Project Permits.
7. **LAND USE DESIGNATION.** The Project Site is located within the RL20 (Rural Lands 20) land use designation of the SMMLCP – Land Use Plan (“Land Use Plan”) Land Use Policy Map.

8. **ZONING.** The Project Site is in the Malibu Zoned District and is currently zoned R-C-20. Pursuant to LIP Sections 22.44.1260 (Grading), 22.44.1750 (R-C-Zone), and 22.44.1800 et seq. (Biological Resources), a Major CDP is required for grading exceeding 5,000 cubic yards, the construction of a single-family residence with appurtenant infrastructure, and the removal of native trees and encroachments into the protected zones of native trees. Pursuant to LIP Sections 22.44.1150 (Variances), 22.44.1920.C (Development Standards for Access Roads and Trails), and 22.44.1340.B.3.c (Water Resources), a Variance is required for a driveway length of 1,550 feet and for locating an OWTS within 50 feet of the dripline of native trees.

**9. SURROUNDING LAND USES AND ZONING**

<b>LOCATION</b>	<b>LAND USE PLAN LAND USE POLICY</b>	<b>ZONING</b>	<b>EXISTING USES</b>
NORTH	RL20	R-C-20	Adult Residential Facility, Single-Family Residences
EAST	RL20	R-C-20	Vacant Land
SOUTH	OS-P (Open Space – Parks)	O-S-P (Open Space – Parks)	Parkland
WEST	OS-P	O-S-P	Parkland

**10. PROJECT AND SITE PLAN DESCRIPTION.**

A. Existing Site Conditions

The Project Site is 6.61 gross acres (3.45 net acres) in size and consists of one legal lot. The discrepancy between the gross and net areas is due to associated slope and drainage easements. The Project Site is irregular in shape with sloping topography and is currently undeveloped except for an existing unpaved private access road.

B. Site Access

The Project Site is accessible via a 1,550-foot-long driveway within an access easement that crosses the property to the east (APN 4465-002-028). The required improvements to the driveway necessitate the removal of one oak tree and the encroachment into the protected zones of 190 oak trees.

C. Site Plan

The site plan depicts a single-family residence, a detached auxiliary building, an OWTS, a driveway, and water tanks on a variably sloped Project Site. The Project Site is accessed via a 1,550-foot-long private driveway within an access easement that crosses the property to the east (APN 4465-002-028). The site plan depicts a proposed 4,412-square-foot, 18-foot-tall, two-story, single-family residence. The first floor consists of 2,364 square feet and the second floor consists of 2,048 square feet. The proposed OWTS is located to the northeast of the single-family residence.

The site plan also depicts a proposed 2,030-square-foot, 18-foot tall, two-story detached auxiliary building situated to the northwest of the single-family residence. The first floor consists of a 907-square-foot garage, a laundry room, and a mudroom with restroom plumbing totaling 384 square feet. The second floor consists of a 739-square-foot guest bedroom and gym. A Transfer of Development Credit (“TDC”) is required for the guest house portion of the detached auxiliary building but no TDC has been provided or proposed as part of the Project, which is inconsistent with the SMMLCP’s LIP. The proposed residence, auxiliary building, and garage total 6,442 square feet.

The Project also includes 5,800 cubic yards of grading, a motor court, landscaping, hardscaping, retaining walls, roof-mounted solar panels, two water wells, two water tanks, and native tree impacts, including the removal of one oak tree, one black walnut tree, and one toyon tree, and encroachments into the protected zones of 193 native trees consisting of 190 oak trees, one bigpod ceanothus, one big-leaf maple tree, and one toyon tree. The removals of one black walnut tree and one toyon tree, as well as the encroachments into the protected zones of one bigpod ceanothus, one big-leaf maple tree, and one toyon tree, are required to construct the proposed building site area and motor court. The removal of one oak tree and the encroachment into the protected zones of 190 oak trees are required for the construction and improvement of the driveway. The 5,800 cubic yards of grading consists of 3,300 cubic yards of cut and 2,500 cubic yards of fill, necessitating 800 cubic yards of export. Of this amount, 750 cubic yards of cut and 2,450 cubic yards of fill are required for the construction and improvement of the driveway, and 2,550 cubic yards of cut and 50 cubic yards of fill are required for the building site area.

The proposed 9,715-square-foot building site area is in the eastern area of the Project Site at the end of the 1,550-foot-long driveway and just east of the proposed motor court. The building site area is located in mapped H2 Habitat and the areas subject to required fuel modification and offsite brush clearance are located in mapped H1, H2, and H3 Habitats. The habitat mapping for the Project Site is generally consistent with the findings of the field surveys conducted by the Applicant’s biologist. The Applicant’s biologist has proposed minor changes to the habitat mapping, which have been verified by LA County Planning’s staff biologist (“Staff Biologist”) and the County Environmental Review Board (“ERB”).

The Project’s total amount of ground disturbance includes the following:

- The proposed area of development (10,058 square feet).
- The area of the proposed driveway (approximately 31,000 square feet).
- The area of the proposed brush clearance on both sides of the proposed driveway (approximately 31,000 square feet).
- The areas to be disturbed as part of required fuel modification activities within fuel modification zones A, B, and C (generally a total of 200 feet out from the outer extent of all proposed habitable structures).



11. **PUBLIC COMMENTS.** LA County Planning staff (“Staff”) has received one public comment since the previous public hearing on October 17, 2018, which was submitted by Mr. Stanley W. Lamport on March 29, 2023. Mr. Stanley W. Lamport represents the subject property owners and his letter generally indicates his opinion that the proposed alternative building site in the northwest portion of the property is an infeasible alternative due to the cost associated with developing that alternative site.

**12. AGENCY RECOMMENDATIONS.**

A. County Department Comments and Recommendations

As this Project is not consistent with applicable policies and land use development standards, the Project was not routed for consultation to other County agencies involved in land development.

B. Other Agency Comments and Recommendations

After reviewing the Project at its meetings on May 15, 2017, and June 19, 2017, the ERB recommended the Applicant move the residence to the north and west. In response, the Applicant revised the Project to increase the house’s overall height and habitable area and to move the house approximately 40 feet to the north and approximately 20 feet to the west. At its meeting on August 28, 2017, after reviewing the revised plans, the ERB recommended that the Project, as designed, is not consistent with the SMMLCP’s biological resource protection policies and development standards.

13. **CEQA DETERMINATION.** Prior to the Commission’s public hearing on the Project, Staff determined the Project qualifies as a Statutory Exemption pursuant to CEQA Guidelines Section 15270 (Projects Which Are Disapproved) because CEQA does not apply to projects a public agency rejects or disapproves.

14. **SITE VISIT.** Staff conducted a site visit on March 29, 2018, and found that the building site and the story poles are clearly visible from Kanan Dume Road. Kanan Dume Road is a designated Scenic Route pursuant to SMMLCP Land Use Plan Policy CO-126 and LIP Section 22.44.2040. Staff conducted a second site visit on September 25, 2024, and found that the Project has been appropriately posted onsite.

**LAND USE PLAN CONSISTENCY FINDINGS**

15. **LAND USE POLICY.** The Commission finds the Project Site is located within the Land Use Plan’s RL20 land use designation. Areas within the RL20 land use designation consist of rolling hills, steep slopes, and remote mountain land with difficult or no access. Rural lands may contain some concentrations of development but are also surrounded by large areas of undisturbed land. The principal permitted use in the RL20 land use designation is single-family residences. Other low impact uses are also allowed, including confined animal facilities, retreats, public recreation areas, campgrounds, and trails that are sensitively located and consistent with all development standards. The Project is a request to authorize the construction of a new single-family residence, guest house, driveway, motor court, landscaping, hardscaping, retaining walls, an OWTS, water wells, and water tanks. Therefore, the

proposed uses are consistent with the intended uses of the underlying RL20 land use designation. However, while the Project is consistent with these intended uses, it is inconsistent with the Land Use Plan's guiding principle and numerous policies as discussed in the findings below.

16. **GUIDING PRINCIPLE.** The Commission finds the Project is inconsistent with the Land Use Plan's guiding principle. Due to the Project's size (approximately 9,715 square feet of building site area) and location within the Project Site, the Project will result in significant impacts to existing coastal biological resources. These impacts would result from, but are not limited to, landform alteration for the building pad and access road and vegetation removal for fuel modification and brush clearance. In total, the Project is anticipated to affect an area of approximately 6.5 acres, both on and off the Project Site. Given the size of the proposed single-family residence and the associated amount of ground disturbance, the Project is not consistent with the guiding principle.
17. **GOALS AND POLICIES.** The Commission finds the Project is inconsistent with applicable Land Use and Housing policies of the Land Use Plan, including Policy LU-14. The Project is inconsistent with this policy because the project does not propose, and the Applicant has not sought, a TDC. The Project requires a TDC because a second residential unit, as that term is further clarified throughout the Land Use Plan (for example, see Policy LU-24 that particularly describes the term second residential units to include guest houses), is being proposed within the auxiliary building. Additionally, pursuant to LIP Section 22.44.1370.B, all proposed habitable accessory structures are required to retire one TDC in compliance with LIP Section 22.44.1230. Given no TDC is being proposed, the Project is inconsistent with Policy LU-14.
18. **GOALS AND POLICIES.** The Commission finds the Project is inconsistent with applicable Land Use and Housing policies of the Land Use Plan, including Policy LU-23. The Project is inconsistent with this policy because the Project does not propose, and the Applicant has not sought, a TDC. The Project requires a TDC because a second residential unit, as that term is further clarified throughout the Land Use Plan (for example, see Policy LU-24 that particularly describes the term second residential units to include guest houses), is being proposed within the auxiliary building. Additionally, pursuant to LIP Section 22.44.1370.B, all proposed habitable accessory structures are required to retire one TDC in compliance with LIP Section 22.44.1230. Given no TDC is being proposed, the Project is inconsistent with Policy LU-23.
19. **GOALS AND POLICIES.** The Commission finds the Project is inconsistent with applicable Conservation and Open Space policies of the Land Use Plan, including Policy CO-41. Only two non-resource dependent uses may be approved in H1 Habitat: (1) Public Works projects; and (2) access roads to lawfully permitted uses outside H1 Habitat when there is no other feasible alternative to provide access to 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. While the Project Site is a legal parcel, the development proposes fuel modification in identified H1 Habitat, both onsite and on the adjoining parcel. Vegetation clearance in order to create a defensible space in the event of a fire is not one of the two uses that may be approved

in H1 Habitat. Additionally, the Project's motor court is not the minimum turnaround size required for vehicular access to the proposed single-family residence and its development unnecessarily impacts H1 Habitat. This impact is inconsistent with Policy CO-41. Therefore, the Project is inconsistent with Policy CO-41.

**20. GOALS AND POLICIES.** The Commission finds the Project is inconsistent with applicable Conservation and Open Space policies of the Land Use Plan, including Policy CO-44. The proposed development is located on a Project Site with H1, H2, and H3 Habitat. The building site area and portions of the Project's required fuel modification area are within H1 and H2 Habitat, whereas the lower priority H3 Habitat on the Project Site will only be minimally impacted. Therefore, the Project is inconsistent with the order of priority laid out in Policy CO-44 and is therefore inconsistent with Policy CO-44.

**21. GOALS AND POLICIES.** The Commission finds the Project is inconsistent with applicable Conservation and Open Space policies of the Land Use Plan, including Policy CO-66. The Project requests a Variance from development standards relating to driveway length to the detriment of H1 and H2 Habitat areas. The Project does not prioritize protection of this habitat and instead prioritizes the development of a 4,412-square-foot, 18-foot-tall, two-story, single-family residence with a detached auxiliary building totaling 2,030 square feet, which consists of a 907-square-foot garage and a 384-square-foot laundry room and mudroom with restroom plumbing on the first floor, and a 739-square-foot guest house and gym on the second floor. The proposed residence and auxiliary building totals 6,442 square feet. The Project includes associated infrastructure including a 1,550-foot-long driveway, a motor court, landscaping, hardscaping, retaining walls, an OWTS, two water wells, two water tanks, 5,800 cubic yards of grading, and the Project results in native tree impacts including the removal of three trees and encroachments into the protected zones of 193 trees. Accordingly, the Project is inconsistent with Policy CO-66 as there exist alternatives that better preserve H1 and H2 Habitat areas.

**22. GOALS AND POLICIES.** The Commission finds the Project is inconsistent with applicable Conservation and Open Space policies of the Land Use Plan, including Policy CO-65. The Project requires a Variance because the length of the driveway (1,550 feet) exceeds the 300-foot maximum driveway length allowed by Policy CO-79, which has been codified in LIP Section 22.44.1920.C.1.c. The Project also requires a Variance for the proposed OWTS's location within the dripline of an oak tree. Pursuant to LIP Section 22.44.1340.B.3.c, OWTSs shall be located 50 feet outside the driplines of existing native trees, including oak trees. Policy CO-65 does not allow Variances to be granted for impacts related to H1 or H2 Habitat, but a Variance may be granted to modify development standards to protect H1 or H2 Habitat. Here, the Project's excessive driveway length and inconsistency with the required setbacks between native trees and OWTSs do not avoid impacts to H1 Habitat, nor do they minimize impacts to H2 Habitat. Instead, these proposals result in additional impacts to H1 and H2 Habitat and, therefore, the Project is inconsistent with Policy CO-65.

**23. GOALS AND POLICIES.** The Commission finds the Project is inconsistent with applicable Conservation and Open Space policies of the Land Use Plan, including

Policy CO-99. The Project proposes native tree impacts, including the removal of one oak tree, one black walnut tree, and one toyon tree, as well as encroachments into the protected zones of 193 trees consisting of 190 oak trees, one bigpod ceanothus, one big-leaf maple tree, and one toyon tree. These proposed impacts to native trees are considerable and the Project does not preserve native trees to the maximum extent feasible. There are other areas of the Project Site that are less populated with native trees and could be explored for access and development opportunities that would reduce impacts to native trees relative to the Project and, as a result, the Project is inconsistent with Policy CO-99.

**24. GOALS AND POLICIES.** The Commission finds the Project is inconsistent with applicable Conservation and Open Space policies of the Land Use Plan, including Policy CO-10. The Project is inconsistent with this policy because the impacts of the Project's proposed grading and fuel modification are considerable and Staff's recommended alternative location and design, which would be clustered in the northwest corner of the Project Site near Kanan Dume Road and an existing disturbed building site on the adjoining parcel, would likely limit grading and provide fire protection to an even greater extent than currently proposed. The Applicant is proposing a design and layout that fails to minimize the amount of grading because it places the proposed single-family residence in a location that requires a 1,550-foot-long driveway to be constructed/improved.

The proposed building site area is approximately 9,715 square feet in size. The Project was revised from an 8,724-square-foot, 40-foot-tall, single-family residence and attached garage to a 6,442-square-foot, 18-foot-tall, single-family residence and detached auxiliary structure, which contains a proposed guest house. The Project now proposes 5,800 cubic yards of grading, consisting of 3,300 cubic yards of cut and 2,500 cubic yards of fill, necessitating 800 cubic yards of export. Of this amount, 750 cubic yards of cut and 2,450 cubic yards of fill are required for the construction and improvement of the private driveway, and 2,550 cubic yards of cut and 50 cubic yards of fill are required for the building site area. This is a reduction of 1,000 cubic yards of grading compared to the previous proposal of 6,300 cubic yards of grading, consisting of 3,050 cubic yards of cut and 3,250 cubic yards of fill. Of the previous grading amount, 750 cubic yards of cut and 3,230 cubic yards of fill were required for the construction/improvement of the private driveway, and 2,300 cubic yards of cut and 30 cubic yards of fill were required for the building site area. As currently proposed, the Project is still not the minimum footprint needed to create a building site because Staff's recommended alternative location would further reduce the Project's footprint and grading quantities. Therefore, the Project is inconsistent with Policy CO-10.

**25. GOALS AND POLICIES.** The Commission finds the Project is inconsistent with applicable Conservation and Open Space policies of the Land Use Plan, including Policy CO-128. As proposed, the Project's single-family residence is a large, 4,412-square-foot, 18-foot-tall, rectilinear steel and glass building. The Project also proposes the development of a 2,030-square-foot auxiliary building, which contains additional residential living space and a garage. The height, shape, and façade are minimally articulated and extend 170 feet in length from the east end of the main residential

building to the west end of the detached auxiliary building. The design of the structure does not conform to the topography of the Project Site, and the structure is not sited in the least visible location that a structure could be placed on the property. Impacts could be significantly reduced by reducing the footprint of the structure, and by clustering the building site area with the development on the property to the northwest. Therefore, the Project is inconsistent with Policy CO-128.

- 26. GOALS AND POLICIES.** The Commission finds the Project is inconsistent with applicable Conservation and Open Space policies of the Land Use Plan, including Policy CO-125. Pursuant to Land Use Plan Map 3, Kanan Dume Road is a designated Scenic Route. Additionally, Kanan Dume Road offers scenic views of the mountains, canyons, and other unique natural features of the area. Moreover, the Project Site is not in an area associated with large swaths of existing development. Based on these facts, if the Project's building site and proposed structures will be visible from Kanan Dume Road, the Project is within a Scenic Resource Area and the protection of the area's scenic resources is required pursuant to the SMLLCP's requirements. The building site and the story poles erected by the Applicant to approximate the building envelope of the the development proposed by the Project are visible from Kanan Dume Road and, therefore, the Project is within a Scenic Resource Area.

While one required method of reducing visual impacts in Scenic Resource Areas is the reduction in structure height to 18 feet, which is reflected in Land Use Plan Policy CO-147 and LIP Section 22.44.1250.C, additional methods of reducing visual impacts are contemplated by the SMMLCP. For example, Land Use Plan Policy CO-131 and LIP Section 22.44.2040.A.1 state impacts on scenic resources should be minimized by, among other things, breaking up the mass of new structures, designing structures to blend into the natural hillside setting, clustering development, incorporating screening elements, and restricting the maximum building size, even if restricting the maximum building size results in a reduction of the building site area to a smaller size than the maximum size generally allowed, provided it is determined that a smaller building site area would serve to avoid impacts to H1 Habitat, reduce the need for retaining features visible from scenic areas, or reduce impacts to native trees as indicated in LIP Section 22.44.1910.I. Other subsections of LIP Section 22.44.2040.A also require that new development in Scenic Resource Areas incorporate colors and exterior materials that are compatible with the surrounding landscape; provide colored concrete for new access roads to blend with the natural landscape; reduce the length of new access roads; preserve and, where feasible, restore and enhance individual native trees and native tree communities in areas containing suitable native tree habitat – especially oak, walnut, and sycamore woodlands and savannas – as important elements of the area's scenic character; and preserve large areas of natural opens space by clustering development and siting development in and near existing developed areas.

As depicted on the site plan and elevations, the Project, as revised by the Applicant, would reach a maximum height of 18 feet. However, the Project is proposed as two detached, two-story residential structures, with numerous multi-level retaining walls, a motor court, and roof decks within a 9,715-square-foot building site area. These development features associated with the Project do not break up the mass of new structures, do not blend into the natural hillside setting, do not cluster development,

and do not minimize the buildings' maximum sizes. Specifically, the Project continues to be proposed at the toe of an existing slope as opposed to being proposed in a location that would blend the Project into the existing hillside; the Project's buildings' height, shape, and façade are minimally articulated and extend 170 feet in length from the east end of the main residence building to the west end of the detached auxiliary building; the Project is not sited near existing development, including Kanan Dume Road and an existing building pad on the parcel directly north of the Project Site; and the Project continues to be proposed with a building site area of approximately 9,715 square feet, which is a mere 285 square feet less than the maximum allowed. Additionally, the Project's proposed building materials (glass, gray concretes, etc.) tend to result in an increase in scenic impacts as they do not blend in with the surrounding landscape. Moreover, the Project's driveway, which is approximately 1,550 feet in length, significantly impacts the native tree communities onsite, which are important elements of the area's scenic character. Therefore, given that the Project does not protect views within Scenic Resource Areas, the Project is inconsistent with Policy CO-125.

**27. GOALS AND POLICIES.** The Commission finds the Project is inconsistent with applicable Conservation and Open Space policies of the Land Use Plan, including Policy CO-131. Pursuant to Land Use Plan Map 3, Kanan Dume Road is a designated Scenic Route. Additionally, Kanan Dume Road offers scenic views of the mountains, canyons, and other unique natural features of the area. Moreover, the Project Site is not in an area associated with large swaths of existing development. Based on these facts, if the Project's building site and proposed structures will be visible from Kanan Dume Road, the Project is within a Scenic Resource Area and the protection of the area's scenic resources is required pursuant to the SMMLCP's requirements. The building site and the story poles erected by the Applicant to approximate the building envelope of the development proposed by the Project are visible from Kanan Dume Road and, therefore, the Project is within a Scenic Resource Area.

While one required method of reducing visual impacts in Scenic Resource Areas is the reduction in structure height to 18 feet, which is reflected in Land Use Plan Policy CO-147 and LIP Section 22.44.1250.C, this Policy CO-131, which is codified at LIP Section 22.44.2040.A.1, states impacts on scenic resources should be minimized by, among other things, breaking up the mass of new structures, designing structures to blend into the natural hillside setting, clustering development, incorporating screening elements, and restricting the maximum building size, even if restricting the maximum building size results in a reduction of the building site area to a smaller size than the maximum size generally allowed, provided it is determined that a smaller building site area would serve to avoid impacts to H1 Habitat, reduce the need for retaining features visible from scenic areas, or reduce impacts to native trees as indicated in LIP Section 22.44.1910.I.

As depicted on the site plan and elevations, the Project, as revised by the Applicant, would reach a maximum height of 18 feet. However, the Project is proposed as two detached, two-story residential structures, with numerous multi-level retaining walls, a motor court, and roof decks within a 9,715-square-foot building site area. These development features associated with the Project do not break up the mass of new

structures, do not blend into the natural hillside setting, do not cluster development, and do not minimize the buildings' maximum sizes. Specifically, the Project continues to be proposed at the toe of an existing slope as opposed to being proposed at a location that would blend the Project into the existing hillside; the Project's buildings' height, shape, and façade are minimally articulated and extend 170 feet in length from the east end of the main residence building to the west end of the detached auxiliary building; the Project is not sited near existing development, including Kanan Dume Road and an existing building pad on the parcel directly north of the Project Site; and the Project continues to be proposed with a building site area of approximately 9,715 square feet, which is a mere 285 square feet less than the maximum allowed. Therefore, given the Project does not site or design new development to minimize adverse impacts on scenic resources to the maximum extent feasible, the Project is inconsistent with Policy CO-131.

- 28. GOALS AND POLICIES.** The Commission finds the Project is inconsistent with applicable Land Use and Housing policies of the Land Use Plan, including Policy LU-40. Development of the Project's building site area would require the removal of H2 Habitat, and the Project's fuel modification plan proposes the removal of H1 Habitat. H1 and H2 habitat would also both be impacted by the proposed motor court. This motor court is not the minimum turnaround size necessary for County Fire access, nor is it required for vehicular access to the proposed single-family residence. Therefore, the development of the motor court unnecessarily impacts H1 and H2 Habitat and the Project is not protective of H1 and H2 Habitat areas.

Furthermore, the proposed development is visible from Kanan Dume Road, a designated Scenic Route and scenic resource. Accordingly, the Project is required to implement a multitude of development standards intended to protect public views and minimize adverse impacts on scenic resources to the maximum extent feasible. However, as depicted on the site plan and elevations, while the Project, as revised by the Applicant, would reach a maximum height of 18 feet, it is proposed as two detached, two-story residential structures, with numerous multi-level retaining walls, a motor court, and roof decks within a 9,715-square-foot building site area. These development features associated with the Project do not break up the mass of new structures, do not blend into the natural hillside setting, do not cluster development, and do not minimize the buildings' maximum sizes. Specifically, the Project continues to be proposed at the toe of an existing slope as opposed to a location that would blend the Project into the existing hillside; the Project's buildings' height, shape, and façade are minimally articulated and extend 170 feet in length from the east end of the main residence building to the west end of the detached auxiliary building; the Project is not sited near existing development, including Kanan Dume Road and an existing building pad on the parcel directly north of the Project Site; and the Project continues to be proposed with a building site area of approximately 9,715 square feet, which is a mere 285 square feet less than the maximum allowed. Additionally, the Project's proposed building materials (glass, gray concrete, etc.) tend to result in an increase in scenic impacts as they do not blend in with the surrounding landscape. Moreover, the Project's driveway, which is approximately 1,550 feet in length, significantly impacts the native tree communities onsite, which are important elements of the area's scenic character. Therefore, the Project does not protect scenic resources and public views.

Finally, because the building site area is not clustered with other nearby development, including Kanan Dume Road and an existing building pad on the parcel north of the Project Site, the Project cannot take advantage of the existing legal fuel modification associated with the building pad and the existing offsite brush clearance associated with Kanan Dume Road. Therefore, the Project does not minimize the overall vegetation clearance needed for fire protection. This impact, along with the proposed impacts to H1 Habitat, H2 Habitat, scenic resources, and public views, results in the Project being inconsistent with Policy LU-40.

### **ZONING CODE CONSISTENCY FINDINGS**

**29. HABITABLE ACCESSORY STRUCTURES.** The Commission finds the Project is inconsistent with the standards identified in LIP Sections 22.44.1230 (Transfer of Development Credit Program) and 22.44.1370 (Accessory Dwelling Units and Habitable Accessory Structures). Pursuant to LIP Section 22.44.1370.B, all proposed habitable accessory structures are required to retire one TDC in compliance with LIP Section 22.44.1230. Additionally, under LIP Section 22.44.1370.D, all habitable accessory structures must, among other things, have an OWTS separate from the primary residence. As proposed, the Project contemplates the development of a habitable accessory structure, which is a part of the larger auxiliary building. However, the Project does not propose, and the Applicant has not sought, a TDC. Additionally, the proposed habitable accessory structure does not have its own OWTS and instead proposes to utilize the OWTS associated with the single-family residence. Consequently, the Project is inconsistent with the requirements and development standards associated with habitable accessory structures.

**30. BIOLOGICAL RESOURCE STANDARDS.** The Commission finds the Project is inconsistent with the standards identified in LIP Section 22.44.1800 et seq. (Area-Specific Development Standards Biological Resources). Pursuant to the biological resource requirements of LIP Section 22.44.1800 et seq., the Applicant submitted a Biological Assessment, prepared by a qualified biologist, which was reviewed by the Staff Biologist for accuracy and adequacy. The Staff Biologist determined the Biological Assessment was sufficient.

Pursuant to LIP Section 22.44.1860, the Project and the associated Biological Assessment were reviewed by the ERB because the Project is within 200 feet of H1 and H2 Habitat. At its meeting on May 15, 2017, the ERB made several recommendations to minimize potential resource impacts. At its meeting on June 19, 2017, the ERB made additional recommendations, including that the Applicant move the residence to the north and west. While the Applicant did move the proposed single-family residence approximately 40 feet to the north and approximately 20 feet to the west, the ERB determined, at its August 28, 2017, meeting, that the Project was still not consistent with the SMMLCP's biological resource protection policies and development standards and the ERB memorialized that determination through a unanimous motion. The minutes of all three ERB meetings are attached. The revised Project's building site area is located in substantially the same location previously



considered by the ERB, with only adjustments made to the building footprints occurring within the building site area.

LIP Section 22.44.1890.C identifies the various uses and development activities permitted within the various habitat areas of the Santa Monica Mountains Coastal Zone and states that development is prohibited within H1 Habitat areas except for resource dependent uses, Public Works projects, and access roads to a lawfully permitted use where the access road and the use meet five specific criteria found in LIP Section 22.44.1890.C.2.b. The Project includes three development activities within H1 Habitat areas, including the proposed driveway and various fuel modification and brush clearance activities. The Project's proposed driveway, which is considered an access road in this context, meets the literal criteria in that it is a use permitted in H1 Habitat. However, the Project's proposed driveway is not consistent with the intent of this Section within the context of the previously discussed policies aiming to ensure that proposed development is designed to minimize disturbance to H1 Habitat and within the context of the LIP requirements limiting the length of the access road to 300 feet.

Furthermore, the Project also proposes brush clearance for fuel modification purposes within H1 Habitat. Brush clearance for fuel modification purposes meets the definition of development found in LIP Section 22.44.630, but it is not a kind or type of development allowed within H1 Habitat. Additionally, the motor court is proposed partly within H1 Habitat. This motor court is not the minimum turnaround size necessary for County Fire access, nor is it the minimum amount of paving required for vehicular access to the proposed single-family residence, and the development of the motor court is therefore not an allowed use within H1 Habitat pursuant to LIP Section 22.44.1890.C. Therefore, the Project is inconsistent with the biological resource protection requirements of LIP Sections 22.44.1800 et seq.

LIP Section 22.44.1910.A states, "New non-resource dependent development shall be prohibited in areas designated H1 Habitat to protect these most sensitive environmental resource areas from disruption of habitat values, unless otherwise provided in LIP Section 22.44.1890." As discussed above, fuel modification and brush clearance activities are not the types of development allowed in H1 Habitat, nor is the proposed motor court. Therefore, the Project's proposed impacts to H1 Habitat are not allowed and the Project is inconsistent with the requirements of LIP Section 22.44.1910.A.

LIP Section 22.44.1910.C requires that "[n]ew development shall be sited in a manner that avoids the most biologically-sensitive habitat on site where feasible, in the following order of priority: H1, H2 High Scrutiny, H2, then H3 – while not conflicting with other SMMLCP policies. Priority shall be given to siting development in H3 Habitat." The proposed development is located on a Project Site with H1, H2 and H3 Habitat. The Project's building site area, and portions of the required fuel modification area and brush clearance activities, are within H1 and H2 Habitat. By contrast, the H3 Habitat on the Project Site will be minimally impacted by the Project. The Project is inconsistent with the order of priority for habitat impacts and is therefore inconsistent with LIP Section 22.44.1910.C.

LIP Section 22.44.1910.D states development standards related to the “protection of H1 and H2 Habitat and public access shall take priority over other development standards, and if there is any conflict between the biological resource and/or public access protection standards and other development standards, the standards most protective of H1 and H2 Habitat and public access, as determined by the County, shall have precedence.” The Project does not prioritize protection of H1 and H2 Habitat. Instead, the Project prioritizes the development of a 4,412-square-foot, 18-foot-tall, single-family residence with a 2,030-square-foot detached auxiliary building including a guest house and garage, and associated infrastructure including a 1,550-foot-long driveway, a motor court, landscaping, hardscaping, retaining walls, an OWTS, two water wells, two water tanks, and 5,800 cubic yards of grading. In addition to the required Major CDP, the Project requests variances from the development standards relating to driveway length and native tree buffers. The Variance requests are not related to relief from development standards to preserve sensitive habitat and would in fact result in additional impacts to sensitive habitat, including vegetation removal and native tree impacts such as the removal of three trees as well as encroachments into the protected zones of 125 trees, along with an OWTS within 50 feet of native trees. Therefore, the Project is inconsistent with LIP Section 22.44.1910.D.

LIP Section 22.44.1920.C.1.c limits the length of new access roads or driveways to a maximum of 300 feet. The Project proposes a 1,550-foot-long driveway, which is inconsistent with this requirement. LIP Section 22.44.1920.K states, “New development shall be sited and designed to preserve native oak, walnut, sycamore, bay, or other native trees, that have at least one trunk measuring six inches or more in diameter, or a combination of any two trunks measuring a total of eight inches or more in diameter, measured at four and one-half feet above natural grade, to the maximum extent feasible. Removal of native trees shall be prohibited except where no other feasible alternative exists to allow a principal permitted use that is the minimum necessary to provide a reasonable economic use of the property. Development shall be sited to prevent any encroachment into the protected zone of individual native trees to the maximum extent feasible.”

The scope of the Project includes the construction of a 4,412-square-foot, 18-foot-tall, two-story, single-family residence with a detached auxiliary building totaling 2,030 square feet, which consists of a 907-square-foot garage and a 384-square-foot laundry room and mudroom with restroom plumbing on the first floor, and a 739-square-foot guest bedroom and gym on the second floor, which makes this building a guest house. The proposed residence and auxiliary building totals 6,442 square feet. The Project includes associated infrastructure including a 1,550-foot-long driveway, a motor court, landscaping, hardscaping, retaining walls, an OWTS, two water wells, two water tanks, and 5,800 cubic yards of grading. As designed, the scope of the Project far exceeds the minimum necessary to provide a reasonable economic use of the property. Furthermore, the Project’s native tree impacts are substantial and include the removal of one oak tree, one black walnut tree, and one toyon tree, as well as encroachments into the protected zones of 190 oak trees, one bigpod ceanothus, one big-leaf maple tree, and one toyon tree. The Applicant has not demonstrated that the Project, as designed, is the design that minimizes impacts to native trees, and has not demonstrated that the Project is sited “to prevent any encroachment into the protected

zone of individual native trees to the maximum extent feasible.” For these reasons, the Project is inconsistent with LIP Section 22.44.1920.K.

31. **VARIANCES.** The Commission finds the Project is inconsistent with the standards identified in LIP Section 22.44.1150 (Variances). Pursuant to LIP Section 22.44.1150, the Project requires a Variance because the length of the driveway (1,550 feet) exceeds the 300-foot maximum driveway length allowed by LIP Section 22.44.1920.C. A Variance is also required for the location of the proposed OWTS within the dripline of an oak tree. Pursuant to LIP Section 22.44.1340.B.3.c, OWTSs shall be located 50 feet outside the driplines of existing native trees, including oak trees. Since the previous hearing, the Project has been redesigned with a maximum height of 18 feet so a Variance for height is no longer required.

Land Use Plan Policy CO-65 does not allow Variances to be granted for impacts related to H1 or H2 Habitat, but Variances may be granted to modify development standards to protect H1 and H2 Habitat. LIP Section 22.44.1150.D requires applications for Variances to include information substantiating certain facts to the satisfaction of your Commission, including that the granting of the Variance will not be materially detrimental to the Santa Monica Mountains’ coastal resources. As opposed to redesigning the Project, the Applicant instead requests a Variance to allow a driveway and an OWTS within an H1 Habitat Buffer, which potentially may be materially detrimental to coastal resources. Staff’s recommended alternative location, which would be clustered in the northwest corner of the Project Site near Kanan Dume Road and an existing disturbed building site on the adjoining parcel to the north, would not require a Variance for driveway length and could also avoid the need for a Variance for the OWTS. The recommended alternative location is more consistent with the LIP. Because the Applicant rejected Staff’s recommended alternative location and continues to request a Variance that would allow a driveway and an OWTS that impact H1 and H2 Habitat, the Project is inconsistent with LIP Section 22.44.1150.

32. **RURAL COASTAL ZONE DEVELOPMENT STANDARDS.** The Commission finds the Project is inconsistent with the standards identified in LIP Section 22.44.1750 (R-C Rural-Coastal Zone). Pursuant to LIP Section 22.44.1750, the R-C Zone permits single-family residences and accessory uses and structures, including but not limited to: garages, grading, landscaping features and gardens, OWTSs, and required County Fire turnarounds. The Project proposes the construction of a 4,412-square-foot, 18-foot-tall, single-family residence, a 2,030-square-foot detached auxiliary building with a guest house and garage, and associated infrastructure including a 1,550-foot-long driveway, a motor court, landscaping, hardscaping, retaining walls, an OWTS, two water wells, two water tanks, and 5,800 cubic yards of grading. As such, the Project is a use permitted in the R-C Zone.

The development standards for premises in the R-C Zone are the same as those for the R-1 Zone, as provided in LIP Section 22.44.1710, which includes requirements regarding roofing, siding, yard setbacks, parking, and the minimum required area of a single-family residence. LIP Section 22.44.1710.E.3 also requires development in R-1 and R-C Zones to comply with “all applicable development standards within this LIP, including the Community-Wide Development Standards in LIP Section 22.44.1220 et

seq., and any of the applicable Area-Specific Development Standards in LIP Section 22.44.1800 et seq.” As outlined herein, the Project is inconsistent with many of the applicable development standards within the LIP. Therefore, the Project is inconsistent with the development standards of the R-C Zone.

**33. SCENIC RESOURCE STANDARDS.** The Commission finds the Project is inconsistent with the standards identified in LIP Sections 22.44.1250 (Height Limits), 22.44.1440 (Visual resource Protection), 22.44.2000 (Identification of Scenic Resource Areas), and 22.44.2040 (Scenic Resource Area Development Standards). Pursuant to LIP Section 22.44.2000.B, Scenic Resource Areas include “places on, along, 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.” According to Land Use Plan Map 3 and LIP Section 22.44.2040, Kanan Dume Road is a designated Scenic Route. Additionally, Kanan Dume Road offers scenic views of the mountains, canyons, and other unique natural features of the area. Moreover, the Project Site is not in an area associated with large swaths of existing development. Based on these facts, if the Project’s building site and proposed structures will be visible from Kanan Dume Road, the Project is within a Scenic Resource Area and the protection of the area’s scenic resources is required pursuant to the SMMLCP’s requirements. The building site and the story poles erected by the Applicant to approximate the building envelope of the development proposed by the Project are visible from Kanan Dume Road and, therefore, the Project is within a Scenic Resource Area.

Pursuant to LIP Section 22.44.1250.C, “Every residence and every other building or structure in a Scenic Resource Area shall have a height not to exceed 18 feet above natural or finished grade, whichever is lower.” Since the previous hearing, the Project’s structures have been redesigned to be 18 feet in height and the Project is now consistent with the height limit requirement in LIP Section 22.44.1250.

LIP Sections 22.44.1440.E.2 and 3 require projects to minimize adverse visual impacts to existing scenic resources to the maximum extent feasible, ensure development is subordinate to the natural setting and character of the area, and ensure all impacts on scenic resources are eliminated to the maximum extent feasible.

As proposed, the Project’s single-family residence is a large, 4,412-square-foot, 18-foot-tall, rectilinear steel and glass building. The Project also proposes the development of a 2,030-square-foot auxiliary building, which contains additional residential living space and a garage. The height, shape, and façade are minimally articulated and extend 170 feet in length from the east end of the main residential building to the west end of the detached auxiliary building. The design of the structure does not conform to the topography of the Project Site, and the structure is not sited in the least visible location that a structure could be placed on the property. Impacts could be significantly reduced by reducing the footprint of the structure, and by clustering the building site area with the development on the property to the northwest.

While one required method of reducing visual impacts in Scenic Resource Areas is the reduction in structure height to 18 feet, which is reflected in Land Use Plan Policy CO-

147 and LIP Section 22.44.1250.C, additional methods of reducing visual impacts are contemplated by the SMMLCP. For example, Land Use Plan Policy CO-131 and LIP Section 22.44.2040.A.1 state impacts on scenic resources should be minimized by, among other things, breaking up the mass of new structures, designing structures to blend into the natural hillside setting, clustering development, incorporating screening elements, and restricting the maximum building size, even if restricting the maximum building size results in a reduction of the building site area to a smaller size than the maximum size generally allowed, provided it is determined that a smaller building site area would serve to avoid impacts to H1 Habitat, reduce the need for retaining features visible from scenic areas, or reduce impacts to native trees as indicated in LIP Section 22.44.1910.I. Other subsections of LIP Section 22.44.2040.A also require that new development in Scenic Resource Areas incorporate colors and exterior materials that are compatible with the surrounding landscape; provide colored concrete for new access roads to blend with the natural landscape; reduce the length of new access roads; preserve and, where feasible, restore and enhance individual native trees and native tree communities in areas containing suitable native tree habitat – especially oak, walnut, and sycamore woodlands and savannas – as important elements of the area’s scenic character; and preserve large areas of natural opens space by clustering development and siting development in and near existing developed areas.

As depicted on the site plan and elevations, the Project, as revised by the Applicant, would reach a maximum height of 18 feet. However, the Project is proposed as two detached, two-story residential structures, with numerous multi-level retaining walls, a motor court, and roof decks within a 9,715-square-foot building site area. These development features associated with the Project do not break up the mass of new structures, do not blend into the natural hillside setting, do not cluster development, and do not minimize the buildings’ maximum sizes. Specifically, the Project continues to be proposed at the toe of an existing slope as opposed to a location that would blend the Project into the existing hillside; the Project’s buildings’ height, shape, and façade are minimally articulated and extend 170 feet in length from the east end of the main residence building to the west end of the detached auxiliary building; the Project is not sited near existing development, including Kanan Dume Road and an existing building pad on the parcel directly north of the Project Site; and the Project continues to be proposed with a building site area of approximately 9,715 square feet, which is a mere 285 square feet less than the maximum allowed. Additionally, the Project’s proposed building materials (glass, gray concretes, etc.) tend to result in an increase in scenic impacts as they do not blend in with the surrounding landscape. Moreover, the Project’s driveway, which is approximately 1,550 feet in length, significantly impacts the native tree communities onsite, which are important elements of the area’s scenic character. Therefore, the Project is inconsistent with the visual resource protection standards of LIP Section 22.44.1440.

LIP Section 22.44.2040.A.1 states, “If there is no feasible building site location on the proposed project site where development would not be visible from a Scenic Resource Area, 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.” As depicted on the site plan and elevations, the Project, as revised by the Applicant, would reach a maximum height of 18 feet. However, the Project is proposed as two detached, two-story residential structures, with numerous multi-level retaining walls, a motor court, and roof decks within a 9,715-square-foot building site area. These development features associated with the Project do not break up the mass of new structures, do not blend into the natural hillside setting, do not cluster development, and do not minimize the buildings’ maximum sizes. Specifically, the Project continues to be proposed at the toe of an existing slope as opposed to a location that would blend the Project into the existing hillside; the Project’s buildings’ height, shape, and façade are minimally articulated and extend 170 feet in length from the east end of the main residence building to the west end of the detached auxiliary building; the Project is not sited near existing development, including Kanan Dume Road and an existing building pad on the parcel directly north of the Project Site; and the Project continues to be proposed with a building site area of approximately 9,715 square feet, which is a mere 285 square feet less than the maximum allowed.

Other subsections of LIP Section 22.44.2040.A also require that new development in Scenic Resource Areas incorporate colors and exterior materials that are compatible with the surrounding landscape; provide colored concrete for new access roads to blend with the natural landscape; reduce the length of new access roads; preserve and, where feasible, restore and enhance individual native trees and native tree communities in areas containing suitable native tree habitat – especially oak, walnut, and sycamore woodlands and savannas – as important elements of the area’s scenic character; and preserve large areas of natural opens space by clustering development and siting development in and near existing developed areas. Here, the Project’s proposed building materials (glass, gray concretes, etc.) tend to result in an increase in scenic impacts as they do not blend in with the surrounding landscape. Moreover, the Project’s driveway, which is approximately 1,550 feet in length, significantly impacts the native tree communities onsite, which are important elements of the area’s scenic character.

Moreover, LIP Section 22.44.2040.A.11.c requires that, “The height and length of retaining walls shall be minimized. Retaining walls shall not exceed six feet in height. As depicted on the site plan and elevations, the proposed single-family residence is designed in a rectilinear form with little to no façade or height articulation or other elements to minimize massing and conform to existing topographic features. Moreover, multiple portions of the tiered retaining walls exceed six feet in height.

Therefore, the Project is inconsistent with LIP Section 22.44.2040.

34. **GRADING.** The Commission finds the Project is consistent with the standards identified in LIP Section 22.44.1260 (Grading). Pursuant to LIP Section 22.44.1260.C.3, a Major CDP is required because the Project involves grading in excess of 5,000 cubic yards of total cut plus total fill material. The Project proposes 5,800 cubic yards of total cut plus total fill.

While grading is generally not allowed in areas that have a slope of 50% or greater, LIP Section 22.44.1260.J does allow grading in such areas when the grading would be more protective of coastal resources, including scenic and biological resources. Therefore, portions of the Project Site with steep slopes could still be considered for development if such development would reduce the impacts to scenic and/or biological resources.

35. **HAZARD STANDARDS.** The Commission finds the Project is inconsistent with the standards identified in LIP Section 22.44.2050 et seq. (Hazards Areas). The Project Site is not within a liquefaction zone or a Federal Emergency Management Agency flood zone. The Project Site is within a mapped landslide hazard zone and a Very High Fire Hazard Severity Zone. Prior to a public hearing, proposed projects are generally reviewed and cleared for a public hearing by four County departments including the Department of Public Works and Fire. Their review and requirements serve to mitigate hazardous conditions like these. Since the Project does not comply with relevant development standards and therefore cannot be approved, the Project was not circulated to those departments for review.

#### **COASTAL DEVELOPMENT FINDINGS**

36. **The Commission finds the proposed development is not in conformity with the certified local coastal program.** The Project Site is located within the Land Use Plan's RL20 (Rural Lands 20) land use designation. While the Project is consistent with the intended uses of the RL20 land use designation, including single-family residences, it is not consistent with the Land Use Plan's guiding principle (resource protection has priority over development) and various policies related to habitable accessory structure, resource protection, limiting grading, buffers and setbacks from sensitive habitats, limiting the need for variances or modifications to development standards, limiting impacts to native trees, limiting scenic resource impacts, limiting vegetation clearance, and limiting building site area.
37. **The Commission 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 Commission finds the Project Site is in an inland portion of the Santa Monica Mountains and is not located between the first public road and the sea or shoreline of any body of water within the coastal zone.

#### **VARIANCE FINDINGS**

38. **The Commission does not find there are 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 Project Site is affected by similar circumstances as surrounding properties with steep slopes, a variety of H1, H2, and H3 Habitat, and native vegetation. The Applicant

has not adequately proven that Staff's recommended alternative location, which would be clustered in the northwest corner of the Project Site near Kanan Dume Road and an existing disturbed building site on the adjoining parcel, cannot achieve the minimum reasonable economic use while avoiding the need for variances. A Variance for driveway length would most likely no longer be required if the residence were sited nearer to Kanan Dume Road. While grading is generally not allowed in areas that have a slope of 50% or greater, LIP Section 22.44.1260.J does allow grading in such areas where such grading would be more protective of coastal resources, including scenic resources and biological resources. Therefore, portions of the Project Site with steep slopes could still be considered for development, as such development would reduce the impacts to scenic resources and/or biological resources because they are located outside of H1 Habitat and H1 Habitat Buffer areas and near the existing disturbed right-of-way, thereby reducing the required driveway length. The Applicant's rejection of Staff's suggested alternative is not consistent with the LIP because the Applicant's Project would impact H1 and/or H2 Habitat rather than develop on portions of slopes exceeding 50%. LIP Section 22.44.1910.G requires new development to be located as close as possible to existing roadways, services, and other developments to minimize impacts to H2 Habitat areas. Because the Applicant rejects alternatives that do not require a Variance, there is no special circumstance that would be applicable to the Project Site compared to the surrounding vicinity, which exhibits similar topography, scenic resources, and biological resources.

- 39. The Commission does not find such variance is necessary 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 Project's excessive driveway length and the proximity of the OWTS to native trees require a Variance that would allow the driveway and the OWTS within the H1 Habitat Buffer, which would potentially be materially detrimental to coastal resources as a result. The Applicant has not adequately proven that development of the principle permitted use cannot be achieved at Staff's recommended alternative location, which would be clustered in the northwest corner of the Project Site near Kanan Dume Road and an existing disturbed building site on the adjoining parcel. This location would not require a Variance for driveway length and potentially would not require a Variance for the OWTS. The alternative location is more consistent with the LIP, as previously described in the above findings. Because the Applicant rejects Staff's recommended alternative location and continues to request a Variance that would allow driveway and OWTS impacts in H1 or H2 Habitat, the Variance is not necessary to preserve the same uses such as those in the same vicinity and zone as the Project.
- 40. The Commission 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 Project does not prioritize protection of H1 and H2 Habitat. Instead, the Project prioritizes the development of a 4,412-square-foot, two-story single-family residence, a detached 2,030-square-foot auxiliary building, and associated infrastructure including a 1,550-foot-long driveway, a motor court, landscaping, hardscaping, retaining walls, an OWTS, two water wells, two water tanks, 5,800 cubic yards of grading, and related fuel modification and brush clearance activities in H1 and H2 Habitat. The Project requests variances from development



standards relating to driveway length and native tree buffers. The Variance requests are not related to relief from development standards that are necessary to preserve sensitive habitat and would instead result in additional impacts to sensitive habitat, such as vegetation removal, native tree impacts including the removal of three trees and encroachments into the protected zones of 190 trees, and the placement of an OWTS within 50 feet of native trees. Because the Variance is a request to allow impacts to H1 and H2 Habitat at the expense of those sensitive habitats, natural topography, and native trees, it may be detrimental to the public welfare and of similar improvements in the same vicinity and zone.

41. **The Commission finds the granting of the Variance will be materially detrimental to coastal resources.** A Variance is required for the proposed location of the OWTS, which is within the dripline of an oak tree. Pursuant to LIP Section 22.44.1340.B.3.c, OWTSs shall be located 50 feet outside of the dripline of existing native trees, including oak trees. Land Use Plan Policy CO-65 does not allow Variances to be granted for impacts related to H1 or H2 Habitat, but Variances may be granted to modify development standards to protect H1 or H2 Habitat. LIP Section 22.44.1150.D requires that applications for Variances include information that substantiates certain facts to the satisfaction of the Commission, including that the granting of the Variance will not be materially detrimental to coastal resources, which includes biological and scenic resources. As described in the above findings, the Project's excessive driveway length and associated fuel modification impacts, as well as the proximity of the OWTS to native trees, are materially detrimental to the Santa Monica Mountains' coastal resources.

### **ENVIRONMENTAL FINDINGS**

42. The Commission finds the Project qualifies as a Statutory Exemption pursuant to CEQA Guidelines Section 15270 (Projects Which Are Disapproved) because CEQA does not apply to projects which a public agency rejects or disapproves.

### **ADMINISTRATIVE FINDINGS**

43. **HEARING PROCEEDINGS.** On October 17, 2018, the Commission conducted a duly noticed public hearing regarding the Project.

#### Staff Presentation

Staff presented the Project, stated it was inconsistent with many policies of the SMMLCP, and recommended denial. Staff explained the Applicant requested a Variance because the driveway exceeded the 300-foot limitation in the SMMLCP, the proposed structure height exceeded the 18-foot height limit for new development in Scenic Resource Areas, and the location of the proposed OWTS was within the protected zone of an oak tree. Staff stated less impactful alternatives were available that would be more consistent with the SMMLCP. Staff also referenced the Coastal Commission's submitted comment letter, dated October 16, 2018, which indicated the Project was inconsistent with the SMMLCP as it relates to biological resource standards, scenic resource standards, and landform alteration standards. The Coastal Commission's comment letter also stated the

required Variance findings could not be made because feasible siting and design alternatives exist that would be consistent with the SMMLCP.

Commissioner Shell asked about the alternative locations and if Staff had recommended any alternatives or redesigns to the Applicant. Staff responded they had discussed alternatives and redesigns with the Applicant in multiple meetings. Staff explained the Applicant did relocate the proposed single-family residence approximately 40 feet to the north and approximately 20 feet to the west at the request of the ERB, but the ERB still found the Project to be inconsistent with the SMMLCP's policies, goals, and requirements related to biological resource protection standards.

#### Applicant Presentation

Don Schmitz, a representative of the Applicant, stated several reasons why the recommendation of denial was not warranted, as follows:

- The driveway location was downslope from Kanan Dume Road so the driveway and grading would not be visible.
- Staff's alternative proposal for an 18-foot-tall residence on top of a knoll would have visual impacts.
- The Project would retain 99.9% of the 191 oak trees onsite with 515 total mitigation tree plantings.
- The fuel modification impacts to H1 Habitat are unavoidable. He cited a comment from the ERB that the Project cannot avoid H1 Habitat and the Applicant's proposed building site is the best location on the Project Site to build the Project.
- The Coastal Commission has approved five new single-family residences outside H1 Habitat with fuel modification in H1 Habitat.
- Staff's alternative building site would not work because it would: (1) result in impacts to H1 Habitat; (2) be visible from the Scenic Route although the building would only be 18 feet tall; and (3) result in significant grading impacts and place retaining walls on steep slopes.
- Selective thinning under the oak woodlands in the area would actually improve the health of the oak woodlands and make them more survivable in a wildfire. He further stated selective thinning under the oak woodlands and within H1 Habitat is consistent with the SMMLCP.

Stanley Lamport, a representative of the property owners, added the following statements:

- No structure could be built if fuel modification under the County's fire standards would occur in areas designated as H1 Habitat in the SMMLCP.
- There are no locations on the Project Site where a residence or any other structure could be located that would avoid fuel modification in H1 Habitat areas. Therefore, no structure can be built on the Project Site at all and the SMMLCP requires the property to remain undeveloped open space.

Mr. Schmitz then requested that the Commission provide direction to Staff and the Applicant regarding SMMLCP interpretations related to selective thinning under oak woodlands as well as height limitations in Scenic Resource Areas.

#### Public Testimony

Five members of the public provided testimony in support of the Project and voiced their opinions on four overarching issues, as follows:

- First, in agreement with the Applicant's presentation, testimony generally stated the implementation of fuel modification in the outer fuel modification zones (i.e., those fuel modification zones furthest from the proposed habitable structures) will have negligible impacts on oak trees in H1 Habitat and that, in fact, those fuel modification activities may actually improve the survivability of those trees during drought and wildfire events.
- Second, additional testimony expressed concern that if the Variance for the driveway was not granted for the Project, other currently vacant properties attempting to take access from that roadway, through the utilization of active access easements, would no longer be able to do so.
- Third, general concerns were expressed related to the perceived conflict between the SMMLCP and the County Fire Department's ("County Fire's") fuel modification requirements. Specifically, testimony generally indicated fuel modification was important to wildfire prevention and containment and that these goals may not be consistent with the biological resource protection standards in the SMMLCP.
- Fourth, members of the public generally opined that, if the Project could not be approved in the Santa Monica Mountains Coastal Zone, then no one would be able to build in this area.

#### Commission Questions

Commissioner Louie asked the County Fire representative to comment on the fuel modification issues. The County Fire representative stated fuel modification requirements are determined on a case-by-case basis by the Forestry Division and the intent of these requirements is to provide for defensible space around structures for firefighter evacuation purposes. The representative further stated fuel modification is generally triggered by development and they would look at the SMMLCP's requirements for projects and try to incorporate them into their approvals.

Commissioner Shell asked Staff the following questions:

- The number of CDPs for residential land uses approved since the certification of the SMMLCP. Staff responded 54 CDPs for residential land uses, including five CDPs for new single-family residences, and hundreds of LIP Exemptions, had been approved since the certification of the SMMLCP.
- Clarification on the alternative building location Staff that was recommending. Staff responded that they were not recommending the Applicant's proposed design. Specifically, Staff was recommending the

Applicant find a location along Kanan Dume Road that is not within a slope easement, and then design the structures so they are set at or below road grade, which would be the least impactful building location from a visual resource perspective.

- Responses to the fuel modification issues and impacts related to the development of the access road. Staff stated the SMMLCP requires them to find the least impactful location for the proposed development and that, currently, the proposed driveway location does not appear to be the least impactful location. Additionally, with respect to fuel modification, Staff stated the ERB found that, while removing vegetation near existing oak trees may benefit those oak trees, such vegetation removal does not benefit the habitat as a whole.
- Additional impacts to H1 Habitat besides those associated with the access road. Staff responded there are other proposed impacts to H1 Habitat, such as impacts related to fuel modification activities and impacts related to the proposed development of the motor court. Staff further stated that the impacts to H1 Habitat associated with the access road itself may be allowable under the SMMLCP but the SMMLCP does not allow for the H1 Habitat impacts related to the proposed fuel modification activities and the proposed development of the motor court.

Commissioner Shell asked County Counsel if the Commission could issue the Variance based on the facts presented. County Counsel stated the Staff report was accurate and indicated agreement with Staff, and also mentioned that the Coastal Commission submitted a letter indicating the Project did not comply with several policies in the SMMLCP. Lastly, County Counsel stated the Coastal Commission is allowed to balance certain parts of the California Coastal Act and may be able to allow for development in H1 Habitat, but the County has a different level of authority and, outside of a few exceptions, development is not allowed in H1 Habitat.

Commissioner Modugno asked Staff the following questions:

- Whether there is another site along the approved access road that would allow for the development of at least a 1,000-square-foot home. Staff responded that the majority of the access road is actually located offsite.
- If anything can be built on the Project Site that would comply with applicable County Code requirements, including those related to structure height and OWTS siting. Staff responded they would not be able to recommend approval of the Project as currently proposed given SMMLCP constraints, but alternatives exists that could be approved. Staff did indicate that the single-family residence would need to be notably reduced in size and the Applicant would need to continue working with County Fire to ensure any alternative proposal was safe from fire risks because the SMMLCP states that when development is proposed in the H1 Habitat Buffer (i.e., property within 100 feet of H1 Habitat) or in the H1 Quiet Zone (i.e., property within 200 feet of H1 Habitat), only a development with the minimum size

necessary to provide a reasonable economic use of the property could be allowed.

Commissioner Smith asked Staff for clarification on its position regarding Project alternatives. Specifically, Commissioner Smith asked whether Staff agreed with the Applicant that even if Staff's alternative was chosen and proposed, H1 Habitat impacts would still exist as a result of required fuel modification activities. Staff disagreed and indicated it is possible to avoid new fuel modification by siting the proposed development in the recommended alternative building location. Specifically, given the prior existence of habitable structures in the southwest corner of the parcel directly north of the Project Site, given that the County Code generally requires 200 feet of fuel modification and offsite brush clearance around such structures, and given that existing areas of legal fuel modification and offsite brush clearance are by definition not H1 Habitat, the Project may be able to take advantage of existing development near the recommended alternative building location and avoid impacts to H1 Habitat. Furthermore, Staff stated offsite brush clearance is also required along both sides of Kanan Dume Road, a 100-foot-wide easement, and it may be possible to work with County Fire to get a modified fuel modification plan approval that would not require new fuel modification in these areas as well.

#### Conclusion

Commissioner Shell suggested taking the item off calendar if the Applicant was willing to meet with Staff and consider a redesigned Project at other locations that may be feasible and minimize impacts. This would provide sufficient time for the Applicant to revise the Project to conform to the applicable policies, goals, and requirements of the SMMLCP. The other Commissioners agreed with Commissioner Shell's suggestion and the Commission unanimously voted to take the item off calendar.

On October 16, 2024, the Commission conducted a duly noticed public hearing regarding the Project.

#### Staff Presentation

Staff presented the Project, stated it was inconsistent with many policies and development standards of the SMMLCP, and recommended denial. Staff explained the Applicant requested a Variance because the driveway exceeded the 300-foot limitation in the SMMLCP and the location of the proposed OWTS was within the protected zone of an oak tree. Staff stated less impactful alternatives may be available that would be more consistent with the SMMLCP and that the alternatives need to be explored.

#### Applicant Presentation

Don Schmitz, a representative of the Applicant, stated several reasons why the recommendation of denial was not warranted, as follows:

- The building site and driveway are downslope from Kanan Dume Road so they would not be visible.

- Staff's alternative proposal for an 18-foot-tall residence on top of a knoll would have visual impacts.
- The Project would retain 99.9% of the 191 oak trees onsite with 515 total mitigation tree plantings.
- Post-Woolsey Fire biological conditions onsite necessitate altered habitat designations.
- The proposed OWTS is in the only feasible location.
- The fuel modification impacts to H1 Habitat are unavoidable. He cited a comment from the ERB that the Project cannot avoid H1 Habitat and the Applicant's proposed building site is the best location on the Project Site to build the Project.
- Staff's alternative building site would not work because it would: (1) result in impacts to H1 Habitat; (2) be visible from the Scenic Route although the building would only be 18 feet tall; and (3) result in significant grading impacts and place retaining walls on steep slopes.

#### Public Testimony

Four members of the public provided testimony in support of the Project and voiced their opinions on the following issues:

- Members of the public generally opined that, if the Project could not be approved in the Santa Monica Mountains Coastal Zone, then no one would be able to build in this area.
- Testimony expressed concern that if the Variance for the driveway was not granted for the Project, other currently vacant properties attempting to take access from that roadway, through the utilization of active access easements, would no longer be able to do so.

#### Commission Questions

The Commission asked Staff questions generally related to weighing scenic resource impacts against other impacts, including biological impacts; the Woolsey Fire and its effect on underlying habitat values onsite; and the ERB's role in the land use and zoning entitlement process. In response, Staff indicated the avoidance of biological resource impacts takes precedence over other development standards, including those related to visual impacts. Moreover, Staff indicated the Woolsey Fire did not, in and of itself, result in changes to the underlying habitat values existing prior to the Woolsey Fire. Furthermore, Staff stated the ERB's role is to comment on a project's consistency with the biological resource standards of the SMMLCP. The Commission also asked County Counsel about takings and, in response, County Counsel stated Staff's presentation and materials appropriately addressed the Project in relation to the SMMLCP.

#### Conclusion

After hearing all testimony, the Commission closed the public hearing and denied the Project Permits.

**44. LEGAL NOTIFICATION.** The Commission finds, pursuant to LIP Sections 22.44.970 and 22.44.990, the community was properly notified of the public hearing by mail,

newspaper (Malibu Times), and property posting. Additionally, the Project was noticed and case materials were available on LA County Planning's website. On September 4, 2024, a total of 12 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, as well as 18 notices to those on the courtesy mailing list for the Malibu Zoned District and to any additional interested parties.

**45. LOCATION OF DOCUMENTS.** The location of the documents and other materials constituting the record of proceedings upon which the Commission's decision is based in this matter is at LA County 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, LA County Planning.

**BASED ON THE FOREGOING, THE REGIONAL PLANNING COMMISSION CONCLUDES THAT:**

Regarding the Coastal Development Permit:

- A. The proposed development is not in conformity with the SMMLCP; and
- B. The proposed development is in conformity with the public access and public recreation policies of Chapter 3 of Division 20 of the Public Resources Code.

Regarding the Variance:

- C. There are no special circumstances or exceptional characteristics applicable to the property, that under the strict application of the Code deprives such property of privileges enjoys by other property in the vicinity and under identical zoning classification; and
- D. The adjustment authorized will constitute a grant of special privilege inconsistent with the limitation upon other properties in the vicinity and zone in which the property is situated; and
- E. Strict application of zoning regulations as they apply to such property will not result in practical difficulties or unnecessary hardships inconsistent with the general purpose of such regulations and standards; and
- F. Such adjustment will be detrimental to the public health, safety, or general welfare; or the use, enjoyment, or valuation of property of other persons located in the vicinity; and
- G. Granting of the Variance will be materially detrimental to coastal resources.

**THEREFORE, THE REGIONAL PLANNING COMMISSION:**

1. Finds the Project is exempt from CEQA pursuant to State CEQA Guidelines Section 15270 (Projects Which Are Disapproved);

2. Denies **MAJOR COASTAL DEVELOPMENT PERMIT NO. 201500099**; and
3. Denies **VARIANCE NO. 201500100**.

**ACTION DATE: October 16, 2024**

**VOTE: 5:0:0:0**

Concurring: Duarte-White, Louie, O'Connor, Moon, Hastings

Dissenting: 0

Abstaining: 0

Absent: 0

MG:RG:NMM

October 21, 2024

c: Each Commissioner, Zoning Enforcement, Building and Safety



## REPORT TO THE REGIONAL PLANNING COMMISSION

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DATE ISSUED: October 3, 2024

HEARING DATE: October 16, 2024 AGENDA ITEM: 8

PROJECT NUMBER: R2014-00461-(3)

PERMIT NUMBER(S): Major Coastal Development Permit (“CDP”) No. 201500099  
Variance No. 201500100

SUPERVISORIAL DISTRICT: 3

PROJECT LOCATION: 3300 Kanan Dume Road, Unincorporated Malibu  
(Assessor’s Parcel Number (“APN”) 4465-002-023)

OWNER: Gregory and Susan Kay Trust

APPLICANT: Schmitz & Associates, Inc.

CASE PLANNER: Nathan M. Merrick, Principal Regional Planner  
NMerrick@planning.lacounty.gov

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### RECOMMENDATION

*The following recommendation is made prior to the public hearing and is subject to change based upon testimony and/or documentary evidence presented at the public hearing:*

LA County Planning staff (“Staff”) recommends **DENIAL** of Project Number R2014-00461-(3), Major CDP No. 201500099 and Variance No. 201500100, based on the Findings (Exhibit C – Findings) contained within this report.

Staff recommends the following motions:

### **CEQA:**

I MOVE THAT THE REGIONAL PLANNING COMMISSION CLOSE THE PUBLIC HEARING AND FIND THAT THE PROJECT IS STATUTORILY EXEMPT PURSUANT TO STATE AND LOCAL CEQA GUIDELINES.

### **ENTITLEMENTS:**

I MOVE THAT THE REGIONAL PLANNING COMMISSION DENY MAJOR CDP NO. 201500099 AND VARIANCE NO. 201500100 SUBJECT TO THE ATTACHED FINDINGS.

## **PROJECT DESCRIPTION**

### **A. Entitlements Requested**

#### Major CDP

A Major CDP for 5,800 cubic yards of grading and the following development on a 9,715-square-foot building site area ("Project") at APN 4465-002-023, also known as 3300 Kanan Dume Road ("Project Site"), in the R-C-20 (Rural Coastal – 20-Acre Minimum Required Lot Area) Zone pursuant to Santa Monica Mountains Local Implementation Program ("LIP") Sections 22.44.1260 (Grading), 22.44.1750 (R-C Zone), and 22.44.1800 et seq. (Biological Resources):

- Construction of a 4,412-square-foot, 18-foot-tall, two-story, single-family residence.
- Construction of a 2,030-square-foot, 18-foot-tall, two-story, detached auxiliary building, which includes a guest house and a 907-square-foot garage.
- Construction of associated infrastructure, including a 1,550-foot-long driveway, a motor court, landscaping, hardscaping, retaining walls, an onsite wastewater treatment system ("OWTS"), roof-mounted solar panels, two water wells, and two water tanks.
- Removal of three native trees, consisting of one oak tree, one black walnut tree, and one toyon tree.
- Encroachments into the protected zones of 193 native trees, consisting of 190 oak trees, one bigpod ceanothus, one big-leaf maple tree, and one toyon tree.

The Major CDP also requests a modification to the Santa Monica Mountains Local Coastal Program's ("SMMLCP's") habitat mapping categories.

#### Variance

A Variance for the following development pursuant to LIP Section 22.44.1150 (Variances):

- Construction of a 1,550-foot driveway, which exceeds the 300-foot limitation set forth in LIP Section 22.44.1920.C (Development Standards for Access Roads and Trails).
- Construction of an OWTS within the dripline of an oak tree, which does not meet the required 50-foot setback from the driplines of existing native trees, including oak trees, as set forth in LIP Section 22.44.1340.B.3.c (Water Resources).

### **B. Project**

The Project includes 5,800 cubic yards of grading and the following development on a 9,715-square-foot building site area in the R-C-20 Zone:

- Construction of a 4,412-square-foot, 18-foot-tall, two-story, single-family residence. The first floor consists of 2,364 square feet and the second floor consists of 2,048 square feet.
- Construction of a 2,030-square-foot, 18-foot-tall, two-story, detached auxiliary building. The first floor consists of a laundry room and a mudroom with restroom plumbing totaling 384 square feet and a 907-square-foot garage. The second floor consists of a 739-square-foot guest house and gym.

- Construction of associated infrastructure, including a 1,550-foot-long driveway, a motor court, landscaping, hardscaping, retaining walls, an OWTS, roof-mounted solar panels, two water wells, and two water tanks.
- Removal of three native trees, consisting of one oak tree, one black walnut tree, and one toyon tree.
- Encroachments into the protected zones of 193 native trees, consisting of 190 oak trees, one bigpod ceanothus, one big-leaf maple tree, and one toyon tree.

#### Tree Removals and Encroachments

The removals of one black walnut tree and one toyon tree, as well as the encroachments into the protected zones of one bigpod ceanothus, one big-leaf maple tree, and one toyon tree, are required to construct the proposed building site area and motor court. The removal of one oak tree and the encroachment into the protected zones of 190 oak trees are required for the construction and improvement of the driveway.

#### Grading

The 5,800 cubic yards of grading consists of 3,300 cubic yards of cut and 2,500 cubic yards of fill, necessitating 800 cubic yards of export. Of this amount, 750 cubic yards of cut and 2,450 cubic yards of fill are required for the construction and improvement of the driveway, and 2,550 cubic yards of cut and 50 cubic yards of fill are required for the building site area.

#### Building Site Area and Habitat Mapping

The building site area is proposed in the eastern area of the Project Site at the end of the 1,550-foot-long driveway and just east of the proposed motor court. The building site area is located in mapped H2 Habitat and the areas subject to required fuel modification and offsite brush clearance are located in mapped H1, H2, and H3 Habitats. The habitat mapping for the Project Site is generally consistent with the findings of the field surveys conducted by the applicant's biologist. The applicant's biologist has proposed minor changes to the habitat mapping, which have been verified by LA County Planning's staff biologist ("Staff Biologist") and the County Environmental Review Board ("ERB").

#### Ground Disturbance

The Project's total amount of ground disturbance includes the following:

- The proposed area of development (10,058 square feet).
- The area of the proposed driveway (approximately 31,000 square feet).
- The area of the proposed brush clearance on both sides of the proposed driveway (approximately 31,000 square feet).
- The areas to be disturbed as part of required fuel modification activities within fuel modification zones A, B, and C (generally a total of 200 feet out from the outer extent of all proposed habitable structures).

### Site Plan

The site plan depicts a single-family residence, a detached auxiliary building, an OWTS, a driveway, and water tanks on a variably sloped Project Site. The Project Site is accessed via a 1,550-foot-long private driveway within an access easement that crosses the property to the east (APN 4465-002-028). The detached auxiliary building, which contains the garage, laundry room, mudroom, guest house, and gym, is located to the northwest of the single-family residence. The OWTS is located to the northeast of the single-family residence.

## **C. Project Background**

### Previous Project

On February 20, 2014, the applicant submitted applications for a Plot Plan Approval in Concept (Case No. RPP 201400174) and an Oak Tree Permit (Case No. ROAK201400012) to authorize construction of a single-family residence (“2014 Project”). Pursuant to Policy No. 88 of the Malibu Land Use Plan, which was in effect at the time, the 2014 Project would have also required a Conditional Use Permit for a driveway length in excess of 300 feet.

This application submittal occurred before the California Coastal Commission (“Coastal Commission”) certified the SMMLCP on October 10, 2014. When the SMMLCP was certified, the County was given CDP issuing authority. As a result, the applicant could only submit a CDP application to the Coastal Commission if the County had previously approved the Plot Plan Approval in Concept, Oak Tree Permit, and Conditional Use Permit for the 2014 Project. Since the County did not approve these applications and the applicant did not file an application with the Coastal Commission prior to the certification of the SMMLCP, the applicant could no longer submit a CDP application to the Coastal Commission. Therefore, on September 9, 2015, the applicant withdrew the Plot Plan Approval in Concept and Oak Tree Permit applications and submitted applications for the Major CDP and Variance currently at issue.

### Initial Project Review

After reviewing the Project, Staff met with the applicant and informed them that Staff could not support the proposal as designed and that Staff would recommend denial unless the Project were redesigned to meet the requirements of the SMMLCP. Staff cited the height of the proposed single-family residence and the impacts to sensitive habitat, including H1 Habitat, as the main reasons why Staff could not support the Project. The exceedingly long driveway was also discussed, and Staff asked the applicant to find another option for access to the property. The applicant asked that the Biological Assessment be reviewed by a Staff Biologist, and that the Project be presented to the ERB, before Staff scheduled the Project for a public hearing with a recommendation for denial. Staff committed to presenting the Project to the ERB for their review, which subsequently occurred on May 15, 2017, June 19, 2017, and August 28, 2017, as described below.

#### ERB Review

The ERB asked the applicant to redesign the Project to minimize its impacts by moving it to the north and west. While the applicant did move the proposed single-family residence approximately 40 feet to the north and approximately 20 feet to the west, the ERB determined the Project was still not consistent with the biological resource protection policies and development standards of the SMMLCP and the ERB memorialized that determination through a unanimous motion.

#### Additional Project Review

After the ERB meetings, Staff continued to meet with the applicant and continued to ask for the Project to be redesigned to meet the requirements of the SMMLCP. Numerous issues with the Project persisted, including inconsistency with biological resource standards, landform alteration standards, OWTS siting standards, and driveway length standards. Moreover, Staff repeatedly identified the Project as being within a Scenic Resource Area, but the applicant insisted the Project would not be visible from Kanan Dume Road. In response, Staff asked the applicant to install story poles. The applicant agreed and the story poles were erected in March 2018. On March 29, 2018, Staff visited the Project Site and observed that the story poles were clearly visible from Kanan Dume Road. The Project is required to comply with an 18-foot height limit because Kanan Dume Road is a designated Scenic Route on the Santa Monica Mountains Land Use Plan's ("LUP's") Scenic Resources Map 3. All places visible from Scenic Routes that offer scenic vistas of the mountains, canyons, or other unique natural features are designated Scenic Resource Areas, and all structures in Scenic Resource Areas must have a maximum height of 18 feet pursuant to LUP Policy CO-147 and LIP Section 22.44.1250.C. However, even after the Project Site visit, and after a request from Staff to redesign the Project to, among other things, come into consistency with SMMLCP height standards, the applicant did not do so and ultimately asked Staff to schedule the Project for a public hearing, even if it meant Staff would recommend denial.

#### Previous Public Hearing

On October 17, 2018, your Commission conducted a duly noticed public hearing regarding the Project.

#### Staff Presentation

Staff presented the Project, stated it was inconsistent with many policies of the SMMLCP, and recommended denial. Staff explained the applicant requested a Variance because the driveway exceeded the 300-foot limitation in the SMMLCP, the proposed structure height exceeded the 18-foot height limit for new development in Scenic Resource Areas, and the location of the proposed OWTS was within the protected zone of an oak tree. Staff stated less impactful alternatives were available that would be more consistent with the SMMLCP. Staff also referenced the Coastal Commission's submitted comment letter, dated October 16, 2018, which indicated the Project was inconsistent with the SMMLCP as it relates to biological resource standards, scenic resource standards, and landform alteration standards. The Coastal Commission's comment letter also stated the required Variance findings could not be

made because feasible siting and design alternatives exist that would be consistent with the SMMLCP.

Commissioner Shell asked about the alternative locations and if Staff had recommended any alternatives or redesigns to the applicant. Staff responded they had discussed alternatives and redesigns with the applicant in multiple meetings. Staff explained the applicant did relocate the proposed single-family residence approximately 40 feet to the north and approximately 20 feet to the west at the request of the ERB, but the ERB still found the Project to be inconsistent with the SMMLCP's policies, goals, and requirements related to biological resource protection standards.

#### Applicant Presentation

Don Schmitz, a representative of the applicant, stated several reasons why the recommendation of denial was not warranted, as follows:

- The driveway location was downslope from Kanan Dume Road so the driveway and grading would not be visible.
- Staff's alternative proposal for an 18-foot-tall residence on top of a knoll would have visual impacts.
- The Project would retain 99.9% of the 191 oak trees onsite with 515 total mitigation tree plantings.
- The fuel modification impacts to H1 Habitat are unavoidable. He cited a comment from the ERB that the Project cannot avoid H1 Habitat and the applicant's proposed building site is the best location on the Project Site to build the Project.
- The Coastal Commission has approved five new single-family residences outside H1 Habitat with fuel modification in H1 Habitat.
- Staff's alternative building site would not work because it would: (1) result in impacts to H1 Habitat; (2) be visible from the Scenic Route although the building would only be 18 feet tall; and (3) result in significant grading impacts and placement of retaining walls on steep slopes.
- Selective thinning under the oak woodlands in the area would actually improve the health of the oak woodlands and make them more survivable in a wildfire. He further stated selective thinning under the oak woodlands and within H1 Habitat is consistent with the SMMLCP.

Stanley Lamport, a representative of the property owners, added the following statements:

- No structure could be built if fuel modification under the County's fire standards would occur in areas designated as H1 Habitat in the SMMLCP.
- There are no locations on the Project Site where a residence or any other structure could be located that would avoid fuel modification in H1 Habitat areas. Therefore, no structure can be built on the Project Site at all and the SMMLCP requires the property to remain undeveloped open space.

Mr. Schmitz then requested that the Commission provide direction to Staff and the applicant regarding SMMLCP interpretations related to selective thinning under oak woodlands as well as height limitations in Scenic Resource Areas.

#### Public Testimony

Five members of the public provided testimony in support of the Project and voiced their opinions on four overarching issues, as follows:

- First, in agreement with the applicant's presentation, testimony generally stated the implementation of fuel modification in the outer fuel modification zones (i.e., those fuel modification zones furthest from the proposed habitable structures) will have negligible impacts on oak trees in H1 Habitat and that, in fact, those fuel modification activities may actually improve the survivability of those trees during drought and wildfire events.
- Second, additional testimony expressed concern that if the Variance for the driveway was not granted for the Project, other currently vacant properties attempting to take access from that roadway, through the utilization of active access easements, would no longer be able to do so.
- Third, general concerns were expressed related to the perceived conflict between the SMMLCP and the County Fire Department's ("County Fire's") fuel modification requirements. Specifically, testimony generally indicated fuel modification was important to wildfire prevention and containment and that these goals may not be consistent with the biological resource protection standards in the SMMLCP.
- Fourth, members of the public generally opined that, if the Project could not be approved in the Santa Monica Mountains Coastal Zone, then no one would be able to build in this area.

#### Commission Questions

Commissioner Louie asked the County Fire representative to comment on the fuel modification issues. The County Fire representative stated fuel modification requirements are determined on a case-by-case basis by the Forestry Division and the intent of these requirements is to provide for defensible space around structures for firefighter evacuation purposes. The representative further stated fuel modification is generally triggered by development and they would look at the SMMLCP's requirements for projects and try to incorporate them into their approvals.

Commissioner Shell asked Staff the following questions:

- The number of CDPs for residential land uses approved since the certification of the SMMLCP. Staff responded 54 CDPs for residential land uses, including five CDPs for new single-family residences, and hundreds of LIP Exemptions, had been approved since the certification of the SMMLCP.
- Clarification on the alternative building location that Staff was recommending. Staff responded that they were not recommending the applicant's proposed

design. Specifically, Staff was recommending the applicant find a location along Kanan Dume Road that is not within a slope easement and then design the structures so they are set at or below road grade, which would be the least impactful building location from a visual resource perspective.

- Responses to the fuel modification issues and impacts related to the development of the access road. Staff stated the SMMLCP requires them to find the least impactful location for the proposed development and that, currently, the proposed driveway location does not appear to be the least impactful location. Additionally, with respect to fuel modification, Staff stated the ERB found that, while removing vegetation near existing oak trees may benefit those oak trees, such vegetation removal does not benefit the habitat as a whole.
- Additional impacts to H1 Habitat besides those associated with the access road. Staff responded there are other proposed impacts to H1 Habitat, such as impacts related to fuel modification activities and impacts related to the proposed development of the motor court. Staff further stated that the impacts to H1 Habitat associated with the access road itself may be allowable under the SMMLCP but the SMMLCP does not allow for the H1 Habitat impacts related to the proposed fuel modification activities and the proposed development of the motor court.

Commissioner Shell asked County Counsel if the Commission could issue the Variance based on the facts presented. County Counsel stated the Staff report was accurate and indicated agreement with Staff, and also mentioned that the Coastal Commission submitted a letter indicating the Project did not comply with several policies in the SMMLCP. Lastly, County Counsel stated the Coastal Commission is allowed to balance certain parts of the California Coastal Act and may be able to allow for development in H1 Habitat, but the County has a different level of authority and, outside of a few exceptions, development is not allowed in H1 Habitat.

Commissioner Modugno asked Staff the following questions:

- Whether there is another site along the approved access road that would allow for the development of at least a 1,000-square-foot home. Staff responded that the majority of the access road is actually located offsite.
- If anything can be built on the Project Site that would comply with applicable County Code requirements, including those related to structure height and OWTS siting. Staff responded they would not be able to recommend approval of the Project as currently proposed given SMMLCP constraints, but alternatives exist that could be approved. Staff did indicate that the single-family residence would need to be notably reduced in size and the applicant would need to continue working with County Fire to ensure any alternative proposal was safe from fire risks because the SMMLCP states that when development is proposed in the H1 Habitat Buffer (i.e., property within 100 feet of H1 Habitat) or in the H1 Quiet Zone (i.e., property within 200 feet of H1 Habitat), only a



development with the minimum size necessary to provide a reasonable economic use of the property could be allowed.

Commissioner Smith asked Staff for clarification on its position regarding Project alternatives. Specifically, Commissioner Smith asked whether Staff agreed with the applicant that even if Staff's alternative was chosen and proposed, H1 Habitat impacts would still exist a result of required fuel modification activities. Staff disagreed and indicated it is possible to avoid new fuel modification by siting the proposed development in the recommended alternative building location. Specifically, given the prior existence of habitable structures in the southwest corner of the parcel directly north of the Project Site, given that the County Code generally requires 200 feet of fuel modification and offsite brush clearance around such structures, and given that existing areas of legal fuel modification and offsite brush clearance are by definition not H1 Habitat, the Project may be able to take advantage of existing development near the recommended alternative building location and avoid impacts to H1 Habitat. Furthermore, Staff stated offsite brush clearance is also required along both sides of Kanan Dume Road, a 100-foot-wide easement, and it may be possible to work with County Fire to get a modified fuel modification plan approval that would not require new fuel modification in these areas as well.

#### Conclusion

Commissioner Shell suggested taking the item off calendar if the applicant was willing to meet with Staff and consider a redesigned Project at other locations that may be feasible and minimize impacts. This would provide sufficient time for the applicant to revise the Project to conform to the applicable policies, goals, and requirements of the SMMLCP. The other Commissioners agreed with Commissioner Shell's suggestion and the Commission unanimously voted to take the item off calendar.

#### Revised Project

Since the previous hearing, the applicant has submitted additional revisions, including:

- A newly proposed guest house and gym within the previously proposed garage, laundry room, and mudroom auxiliary building.
- An approximately 200-square-foot reduction to the building site area.
- An approximately 1,300-square-foot reduction to the size of the single-family residence.
- A reduction in height to 18 feet.

Staff informed the applicant that the newly proposed detached auxiliary building meets the definition of a Habitable Accessory Structure (i.e., a guest house), per LIP Section 22.44.630, because it is a detached accessory structure located on the same property as the single-family residence and includes sanitation facilities but not a kitchen or kitchen facilities and, for the reasons set forth below, the proposed Habitable Accessory Structure does not meet the required standards in the LIP and is inconsistent with the SMMLCP. All Habitable Accessory Structures must comply with the requirements of LIP Section 22.44.1370.D, which includes a maximum size of 750 square feet. LIP Section 22.44.1370.C.d requires Habitable Accessory

Structures to also have an OWTS separate from the OWTS for the primary single-family residence, which the Project does not include. Furthermore, LIP Section 22.44.1370.C.g prohibits Habitable Accessory Structures in H1 Habitat, H1 Habitat Buffers, and in the H1 Quiet Zone, yet the Project's proposed Habitable Structure is in the H1 Habitat Buffer and is therefore prohibited. Additionally, under LIP Section 22.44.1370.B, which references LIP Section 22.44.1230, A Transfer of Development Credit ("TDC") is also required pursuant to LIP Section 22.44.1230. The Project is not providing an eligible TDC.

Moreover, the Project is still proposed in the same location previously presented to your Commission on October 17, 2018, and the applicant rejected Staff's recommended alternative location on the following basis:

- Staff's recommended alternative location would result in more impacts to H2 Habitat. Specifically, the applicant submitted a letter and accompanying exhibit from SWCA Environmental Consultants, dated August 6, 2018, opining on potential habitat impacts related to Staff's recommended alternative location. This letter and exhibit evaluated Staff's recommended alternative location clustered in the northwest corner of the Project Site near Kanan Dume Road and an existing disturbed building site on the adjoining parcel to the north. The letter and exhibit stated Staff's suggested location would reduce impacts to H1 Habitat and result in more impacts to H2 Habitat. The applicant believes the letter substantiates their continued assertion that Staff's recommended alternative location is not feasible because it would potentially impact more H2 Habitat.
- The Project Site, based on post-Woolsey Fire conditions, does not contain as much H1 Habitat as existed prior to the Woolsey Fire. Specifically, the applicant submitted a technical memorandum, dated August 27, 2019, containing an updated biological survey report, and an updated native tree report, dated July 11, 2019, reflecting Project Site conditions following the Woolsey Fire. The applicant commissioned these studies to support the claim that post-Woolsey Fire conditions resulted in altered habitat conditions on the Project Site, which might include less H1 Habitat.
- Staff's recommended alternative location is infeasible because it would require developing slopes of 50% or greater. Specifically, the applicant submitted a geologic and soils report prepared by Alpine Geotechnical, Inc., dated December 18, 2018, which indicates Staff's recommended alternative location contains slopes of 50% or greater and that areas of the recommended alternative location are assumed to be prone to slope instability. A letter from the property owners' attorney, Mr. Stanley W. Lamport, dated March 29, 2023, reiterates these slope stability concerns. Additionally, the applicant's August 6, 2018, letter from SWCA Environmental Consultants indicates that steep slopes exist and a large quantity of fill would be required to create a level pad for the proposed development at the recommended alternative site.

In response, Staff informed the applicant:

- Increased impacts to H2 Habitat may be allowable when eliminating prohibited impacts to H1 Habitat. While the materials submitted assert the recommended

alternative location would reduce impacts to H1 Habitat and result in more impacts to H2 Habitat, the applicant did not provide any additional evidence to corroborate this assertion (e.g., maps, renderings, measurements, etc.) and the Project, as proposed, would still result in new impacts to H1 Habitat. Those new impacts do not comport with LIP Section 22.44.1910.C, which mandates that new development shall be sited in a manner that avoids the most biologically sensitive habitat onsite in order of the following priorities: H1, H2 High Scrutiny, H2, and H3. Staff's recommended alternative location not only reduces impacts to H1 Habitat in line with LIP mandates, it also reduces impacts to mapped protected trees, which the applicant failed to acknowledge. Furthermore, no attempt appears to have been made to undertake a new habitat analysis or seek modified fuel modification plans approved by County Fire that would cluster ground disturbance near the existing neighboring building site to the north.

- A Variance for driveway length will likely be avoidable by proposing a project at the recommended alternative location. LIP Section 22.44.1910.G states new development shall be located as close as possible to existing roadways, services, and other developments to minimize impacts to H2 Habitat areas. However, the Project proposes a 1,550-foot-long driveway to access a building site and is not consistent with this section. Moreover, the request to include a 1,550-foot-long driveway necessitates a Variance to the development standard for driveway length. By siting the residence nearer to Kanan Dume Road as Staff recommends, a Variance for driveway length would most likely no longer be required.
- Wildfire events do not automatically result in changes to an underlying habitat's value. The Staff Biologist, after reviewing the updated biological materials and conducting an onsite analysis, determined post-fire conditions were more conducive to the reestablishment of native species and these conditions are allowing H1 Habitat to return due to a lack of resource competition from non-native species lost in the fire. In fact, LIP Section 22.44.1810.B states areas burned by wildfire, where there is evidence the areas consisted of a habitat meeting the definition of a particular habitat category before the fire, shall be afforded the protections of the applicable habitat category after the fire.
- Development on slopes of 50% or greater is not outright prohibited. LIP Section 22.44.1350 states new development shall be prohibited on slopes of 50% or greater unless required for safety reasons or if allowing development would be more protective of biological resources and natural topography than prohibiting it. Staff continues to recommend the Project's building site be situated in the northwest corner of the Project Site, nearer to Kanan Dume Road. While this location may include portions of slopes exceeding 50%, other portions of the building site are located within slopes less than 50% and this location can be accessed directly from Kanan Dume Road, as opposed to needing an access easement through other properties and sensitive habitats. More importantly, in contrast to the applicant's proposed location, Staff's recommended alternative location would avoid the need for numerous native tree encroachments and

avoid development in the oak woodland and riparian H1 Habitat areas. LIP Section 22.44.1910.D mandates that development standards related to public access and the protection of H1 and H2 Habitat shall take priority over other development standards, and if there is any conflict between the public access development standards and other development standards, the development standards most protective of public access and H1 and H2 Habitats, as determined by the County, shall take precedence.

- Increased grading quantities may be acceptable where required for the protection of sensitive environmental resources or the remediation of hazardous site conditions. While the applicant asserts additional grading for deeper support piles may be required for development on portions of slopes exceeding 50% at the recommended alternative location, even if accurate, this grading would likely be limited to the building footprint and surrounding support footings and would still result in less impacts to H1 Habitat. The LIP contemplates the allowance of additional grading in specific instances, such as this one, to protect H1 Habitat in lieu of reducing grading volumes (for example, see LIP Section 22.44.1260.J). LIP Section 22.44.1260.J also allows for grading on slopes of 50% or greater when required for safety reasons, including the remediation or stabilization of slope instability that threatens public health or safety. Given this, additional grading to correct any slope instability concerns at the recommended alternative location would be allowed.
- Large amounts of fill would likely not be needed to develop at the recommended alternative location. The assertion that a large quantity of fill would be required at the recommended alternative location to create a level pad is not consistent with LIP requirements related to hillside development and grading. For example, LIP Section 22.44.1260.C.5 states projects should utilize split-level or stepped pad designs on slopes and LIP Section 22.44.1350.B.3 requires that new development on sloping sites must be constructed on multilevel pads where feasible. Instead of proposing a large quantity of fill to alter the natural topography so buildings could be placed above Kanan Dume Road's grade, Staff's recommendation has consistently been to propose a design that starts at Kanan Dume Road's grade and steps down the hillside from there.

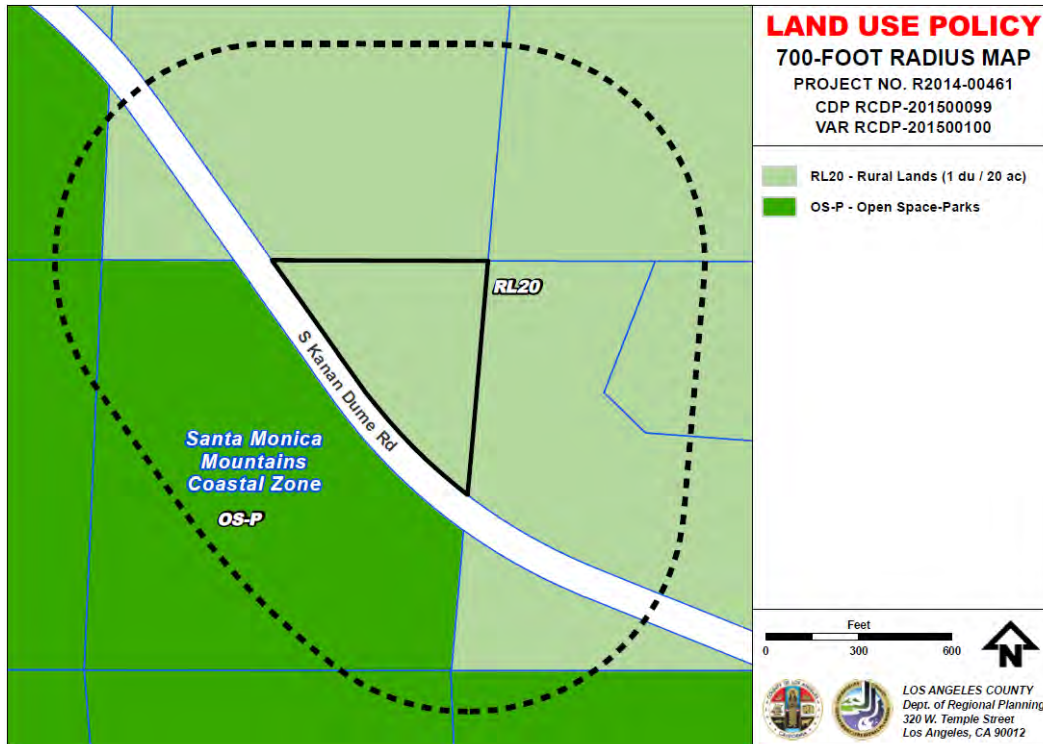
Staff asked the applicant to revise their project further to address Staff's comments and to bring the Project into compliance with the SMMLCP. The applicant declined Staff's request and asked that the Project be scheduled for a public hearing.

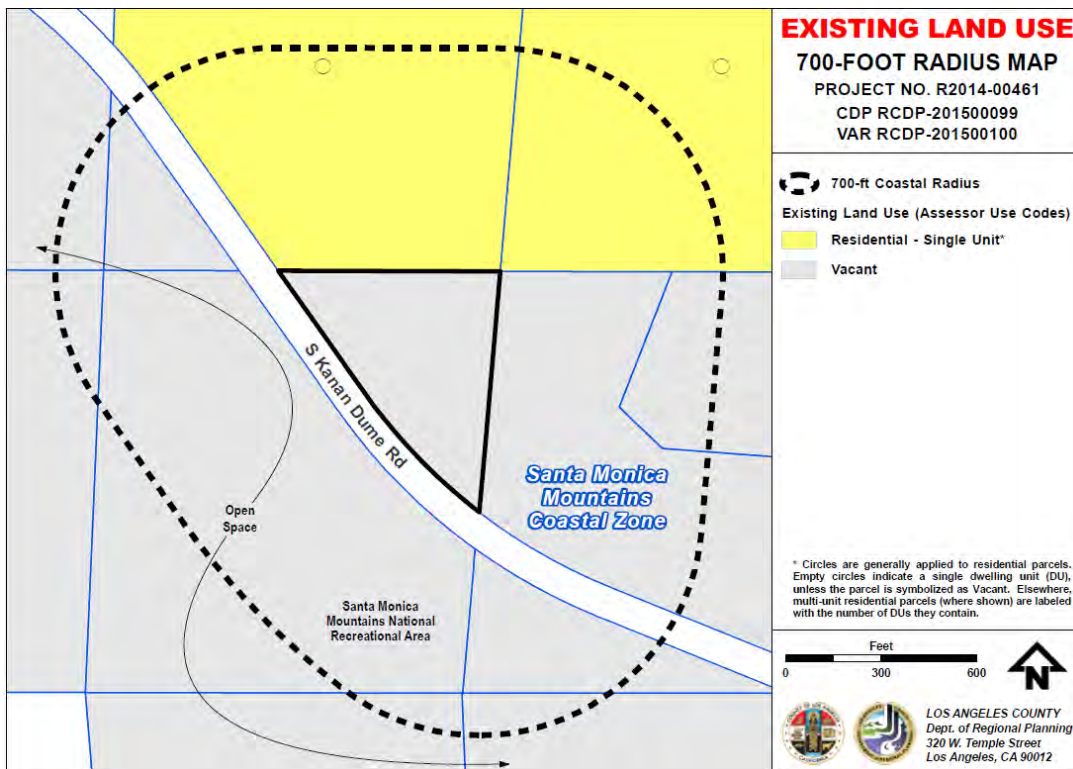
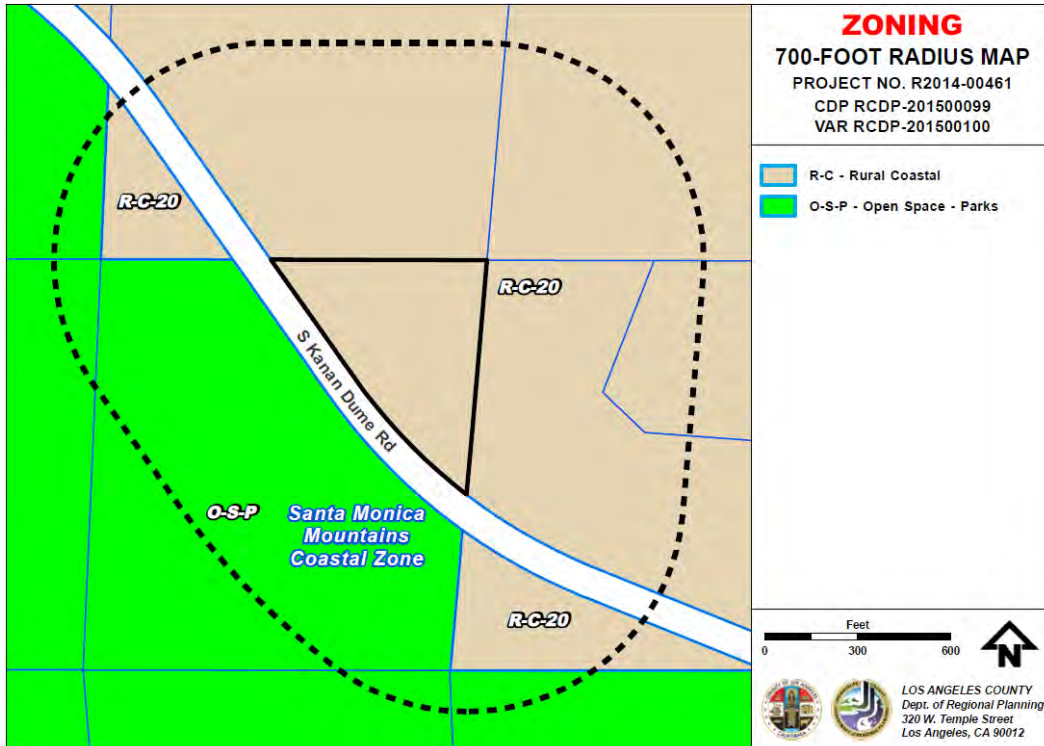
**SUBJECT PROPERTY AND SURROUNDINGS**

The following chart provides property data within a 700-foot radius:

LOCATION	LUP LAND USE POLICY	ZONING	EXISTING USES
SUBJECT PROPERTY	RL20 (Rural Lands 20)	R-C-20	Vacant

NORTH	RL20	R-C-20	Adult Residential Facility, Single-Family Residences
EAST	RL20	R-C-20	Vacant
SOUTH	OS-P (Open Space - Parks)	O-S-P (Open Space - Parks)	Parkland
WEST	OS-P	O-S-P	Parkland





**PROPERTY HISTORY**

**A. Zoning History**

ORDINANCE NO.	ZONING	DATE OF ADOPTION
2006-00009-(3)	R-C-20	October 10, 2014
7310	A-1-1 (Light Agricultural – One Acre Minimum Required Lot Area)	March 11, 1958

**B. Previous Cases**

CASE NO.	REQUEST	DATE OF ACTION
RPP 201400174	Plot Plan Approval in Concept for Single-Family Residence	Withdrawn September 9, 2015
ROAK 201400012	Oak Tree Permit	Withdrawn September 9, 2015
RCOC 200600592	Certificate of Compliance	Recorded February 26, 2007

**C. Violations**

CASE NO.	VIOLATION	CLOSED/OPEN
N/A	N/A	N/A

**ANALYSIS**

**A. Land Use Plan Compatibility**

The General Plan establishes a planning areas framework in which all community-based plans build upon countywide policies to suit specific community needs or regulatory environments. Coastal Zone land use plans, which are a form of community-based plans, are components of the General Plan to establish land use patterns and policies to guide development in the Coastal Zone. The Project Site is located within the LUP planning area. Together, the LUP and LIP make up the SMMLCP. The LIP is housed within the County Code at Sections 22.44.600 through 22.44.2190.

The Project Site is in the LUP’s RL20 (Rural Lands 20) land use designation. Areas within the RL20 land use designation consist of rolling hills, steep slopes, and remote mountain land with difficult or no access. Rural lands may contain some concentrations of development but are also surrounded by large areas of undisturbed land. The principal permitted use in the RL20 land use designation is single-family residences. Other low impact uses are also allowed, including confined animal facilities, retreats, public recreation areas, campgrounds, and trails that are sensitively located and consistent with all development standards. The Project is a request to authorize the construction of a new single-family residence, guest house, driveway, motor court, landscaping, hardscaping, retaining walls, an OWTS, water wells, and water tanks. Therefore, the proposed uses are

consistent with the intended uses of the underlying RL20 land use designation. However, while the Project is consistent with these intended uses, it is inconsistent with the LUP's guiding principle and numerous policies, as follows:

*Guiding Principle: Resource protection has priority over development.*

Due to the Project's size (approximately 9,715 square feet of building site area) and location within the Project Site, the Project will result in significant impacts to existing coastal biological resources. These impacts would result from, but are not limited to, landform alteration for the building pad and access road and vegetation removal for fuel modification and brush clearance. In total, the Project is anticipated to affect an area of approximately 6.5 acres, both on and off the Project Site. Given the size of the proposed single-family residence and the associated amount of ground disturbance, the Project is not consistent with the guiding principle. Additional information regarding inconsistency with applicable LUP policies is provided below.

*LU-14: The TDC Program shall be implemented in order to ensure that the individual and cumulative impacts of...second residential units...are minimized and mitigated through the retirement of an equivalent number of development credits from existing lots that meet the qualification criteria of the program.*

The Project requires a TDC because a second residential unit, as that term is further clarified throughout the LUP (for example, see Policy LU-24 that particularly describes the term second residential units to include guest houses), is being proposed within the auxiliary building. Additionally, pursuant to LIP Section 22.44.1370.B, all proposed habitable accessory structures are required to retire one TDC in compliance with LIP Section 22.44.1230. However, the Project does not propose, and the applicant has not sought, a TDC. Consequently, the Project is inconsistent with Policy LU-14.

*LU-23: Any coastal development permit for...the development of a second residential unit...shall be conditioned upon the retirement of development credits at a ratio of one credit per new...unit created.*

The Project requires a TDC because a second residential unit, as that term is further clarified throughout the LUP (for example, see Policy LU-24 that particularly describes the term second residential units to include guest houses), is being proposed within the auxiliary building. Additionally, pursuant to LIP Section 22.44.1370.B, all proposed habitable accessory structures are required to retire one TDC in compliance with LIP Section 22.44.1230. However, the Project does not propose, and the applicant has not sought, a TDC. Therefore, the Project is inconsistent with Policy LU-23.



*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 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 LCP amendment that is certified by the Coastal Commission.*

Only two non-resource dependent uses may be approved in H1 Habitat: (1) Public Works projects; and (2) access roads to lawfully permitted uses outside H1 Habitat when there is no other feasible alternative to provide access to 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. While the Project Site is a legal parcel, the development proposes fuel modification in identified H1 Habitat, both onsite and on the adjoining parcel. Vegetation clearance in order to create a defensible space in the event of a fire is not one of the two uses that may be approved in H1 Habitat. Additionally, the Project's motor court is not the minimum turnaround size required for vehicular access to the proposed single-family residence and its development unnecessarily impacts H1 Habitat. This impact is inconsistent with Policy CO-41. Therefore, the Project is inconsistent with Policy CO-41.

*CO-44: New development shall be sited in a manner that avoids the most biologically sensitive habitat onsite where feasible, while not conflicting with other LCP policies, in the following order of priority: H1, H2 High Scrutiny, H2, and H3. Priority shall be given to siting development in H3 Habitat, but outside of areas that contain undisturbed native vegetation that is not part of a larger contiguous habitat area. If infeasible, priority shall be given to siting new development in such H3 Habitat. If it is infeasible to site development in H3 Habitat areas, development may be sited in H2 Habitat if it is consistent with the specific limitations and standards for development in H2 Habitat and all other provisions of the LCP. New development is prohibited in H1 Habitat unless otherwise provided in Policy CO-41.*

The proposed development is located on a Project Site with H1, H2, and H3 Habitat. The building site area and portions of the Project's required fuel modification area are within the higher priority H1 and H2 Habitat, whereas the lower priority H3 Habitat on the Project Site will only be minimally impacted. Therefore, the Project is inconsistent with the order of priority laid out in Policy CO-44 and is therefore inconsistent with Policy CO-44.

*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 requests a Variance from development standards relating to driveway length to the detriment of H1 and H2 Habitat areas. The Project does not prioritize protection of this habitat and instead prioritizes the development of a 4,412-square-foot, 18-foot-tall, two-story, single-family residence with a detached auxiliary building totaling 2,030 square feet, which consists of a 907-square-foot garage and a 384-square-foot laundry room and mudroom with restroom plumbing on the first floor, and a 739-square-foot guest house and gym on the second floor. The proposed residence and auxiliary building totals 6,442 square feet. The Project includes associated infrastructure including a 1,550-foot-long driveway, a motor court, landscaping, hardscaping, retaining walls, an OWTS, two water wells, two water tanks, 5,800 cubic yards of grading, and the Project results in native tree impacts including the removal of three trees and encroachments into the protected zones of 193 trees. Accordingly, the Project is inconsistent with Policy CO-66 as there exist alternatives that better preserve H1 and H2 Habitat areas.

*CO-65: Variances or modifications to required development standards that are not related to H1 and H2 protection (street setbacks, height limits, etc.) shall be permitted where necessary to avoid impacts to H1 Habitat and to avoid or minimize impacts to H2 Habitat.*

The Project requires a Variance because the length of the driveway (1,550 feet) exceeds the 300-foot maximum driveway length allowed by Policy CO-79, which has been codified in LIP Section 22.44.1920.C.1.c. The Project also requires a Variance for the proposed OWTS's location within the dripline of an oak tree. Pursuant to LIP Section 22.44.1340.B.3.c, OWTSs shall be located 50 feet outside the driplines of existing native trees, including oak trees. Policy CO-65 does not allow Variances to be granted for impacts related to H1 or H2 Habitat, but a Variance may be granted to modify development standards to protect H1 or H2 Habitat. Here, the Project's excessive driveway length and inconsistency with required setbacks between native trees and OWTSs do not avoid impacts to H1 Habitat, nor do they minimize impacts to H2 Habitat. Instead, these proposals result in additional impacts to H1 and H2 Habitat and, therefore, the Project is inconsistent with Policy CO-65.

*CO-99: New development shall be sited and designed to preserve oak, walnut, sycamore, bay, or other native trees to the maximum extent feasible that are not otherwise protected as H1 or H2 Habitat and that have at least one trunk measuring six inches or more in diameter, or a combination of any two trunks measuring a total of eight inches or more in diameter, measured at four and one-half feet above natural grade. Removal of native trees shall be prohibited except where no other feasible alternative exists. Development shall be sited to prevent any encroachment into the protected zone of individual native trees to the maximum extent feasible, as set forth below. Protected Zone means that area within the dripline of the tree and extending at least five feet beyond the dripline, or 15 feet from the trunk of the tree, whichever is greater. Removal of native trees or encroachment in the protected zone shall be prohibited for accessory uses or structures. If there is no feasible alternative that can prevent tree removal or encroachment, then the alternative that would result in the fewest or least-significant impacts shall be selected. Adverse impacts to native trees shall be fully mitigated, with priority given to on-site mitigation. Mitigation shall not substitute for implementation of the feasible Project alternative that would avoid impacts to native trees and/or woodland habitat.*

The Project proposes native tree impacts, including the removal of one oak tree, one black walnut tree, and one toyon tree, as well as encroachments into the protected zones of 193 trees consisting of 190 oak trees, one bigpod ceanothus, one big-leaf maple tree, and one toyon tree. These proposed impacts to native trees are considerable and the Project does not preserve native trees to the maximum extent feasible. There are other areas of the Project Site that are less populated with native trees and could be explored for access and development opportunities that would reduce impacts to native trees relative to the Project and, as a result, the Project is inconsistent with Policy CO-99.

*CO-10: Limit grading, soil compaction and removal of locally indigenous vegetation to the minimum footprint needed to create a building site, allow access, and provide fire protection for the proposed development. Monitor grading projects to ensure grading conforms to approved plans.*

The Project is inconsistent with this policy because the impacts of the Project's proposed grading and fuel modification are considerable and Staff's recommended alternative location and design, which would be clustered in the northwest corner of the Project Site near Kanan Dume Road and an existing disturbed building site on the adjoining parcel, would likely limit grading and provide fire protection to an even greater extent than currently proposed. The applicant is proposing a design and layout that fails to minimize the amount of grading because it places the proposed single-family residence in a location that requires a 1,550-foot-long driveway to be constructed/improved.

The proposed building site area is approximately 9,715 square feet in size. The Project was revised from an 8,724-square-foot, 40-foot-tall, single-family residence and attached

garage to a 6,442-square-foot, 18-foot-tall, single-family residence and detached auxiliary structure, which contains a proposed guest house. The Project now proposes 5,800 cubic yards of grading, consisting of 3,300 cubic yards of cut and 2,500 cubic yards of fill, necessitating 800 cubic yards of export. Of this amount, 750 cubic yards of cut and 2,450 cubic yards of fill are required for the construction and improvement of the private driveway, and 2,550 cubic yards of cut and 50 cubic yards of fill are required for the building site area. This is a reduction of 1,000 cubic yards of grading compared to the previous proposal of 6,300 cubic yards of grading, consisting of 3,050 cubic yards of cut and 3,250 cubic yards of fill. Of the previous grading amount, 750 cubic yards of cut and 3,230 cubic yards of fill were required for the construction/improvement of the private driveway, and 2,300 cubic yards of cut and 30 cubic yards of fill were required for the building site area. As currently proposed, the Project is still not the minimum footprint needed to create a building site because Staff's recommended alternative location would further reduce the Project's footprint and grading quantities. Therefore, the Project is inconsistent with Policy CO-10.

*CO-128: New development shall be subordinate to the character of its setting.*

As proposed, the Project's single-family residence is a large, 4,412-square-foot, 18-foot-tall, rectilinear steel and glass building. The Project also proposes the development of a 2,030-square-foot auxiliary building, which contains additional residential living space and a garage. The height, shape, and façade are minimally articulated and extend 170 feet in length from the east end of the main residential building to the west end of the detached auxiliary building. The design of the structure does not conform to the topography of the Project Site, and the structure is not sited in the least visible location that a structure could be placed on the property. Impacts could be significantly reduced by reducing the footprint of the structure and by clustering the building site area with the development on the property to the northwest. Therefore, the Project is inconsistent with Policy CO-128.

*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 and consist of Scenic Elements, Significant Ridgelines, and Scenic Routes. In addition to the resources identified on Map 3, the public parkland and recreation areas identified on Map 4 are also considered Scenic Resource Areas.*

Pursuant to LUP Map 3, Kanan Dume Road is a designated Scenic Route. Additionally, Kanan Dume Road offers scenic views of the mountains, canyons, and other unique

natural features of the area. Moreover, the Project Site is not in an area associated with large swaths of existing development. Based on these facts, if the Project's building site and proposed structures will be visible from Kanan Dume Road, the Project is within a Scenic Resource Area and the protection of the area's scenic resources is required, pursuant to the SMMLCP's requirements. The building site and the story poles erected by the applicant to approximate the building envelope of the development proposed by the Project are visible from Kanan Dume Road and, therefore, the Project is within a Scenic Resource Area.

While one required method of reducing visual impacts in Scenic Resource Areas is the reduction in structure height to 18 feet, which is reflected in LUP Policy CO-147 and LIP Section 22.44.1250.C, additional methods of reducing visual impacts are contemplated by the SMMLCP. For example, LUP Policy CO-131 and LIP Section 22.44.2040.A.1 state that impacts on scenic resources should be minimized by, among other things, breaking up the mass of new structures, designing structures to blend into the natural hillside setting, clustering development, incorporating screening elements, and restricting the maximum building size, even if restricting the maximum building size results in a reduction of the building site area to a smaller size than the maximum size generally allowed, provided it is determined that a smaller building site area would serve to avoid impacts to H1 Habitat, reduce the need for retaining features visible from scenic areas, or reduce impacts to native trees as indicated in LIP Section 22.44.1910.I. Other subsections of LIP Section 22.44.2040.A also require that new development in Scenic Resource Areas incorporate colors and exterior materials that are compatible with the surrounding landscape; provide colored concrete for new access roads to blend with the natural landscape; reduce the length of new access roads; preserve and, where feasible, restore and enhance individual native trees and native tree communities in areas containing suitable native tree habitat – especially oak, walnut, and sycamore woodlands and savannas – as important elements of the area's scenic character; and preserve large areas of natural opens space by clustering development and siting development in and near existing developed areas.

As depicted on the site plan and elevations, the Project, as revised by the applicant, would reach a maximum height of 18 feet. However, the Project is proposed as two detached, two-story residential structures, with numerous multi-level retaining walls, a motor court, and roof decks within a 9,715-square-foot building site area. These development features associated with the Project do not break up the mass of new structures, do not blend into the natural hillside setting, do not cluster development, and do not minimize the buildings' maximum sizes. Specifically, the Project continues to be proposed at the toe of an existing slope as opposed to being proposed in a location that would blend the Project into the existing hillside; the Project's buildings' height, shape, and façade are minimally articulated and extend 170 feet in length from the east end of the main residence building to the west end of the detached auxiliary building; the Project is not sited near existing

development, including Kanan Dume Road and an existing building pad on the parcel directly north of the Project Site; and the Project continues to be proposed with a building site area of approximately 9,715 square feet, which is a mere 285 square feet less than the maximum allowed. Additionally, the Project's proposed building materials (glass, gray concretes, etc.) tend to result in an increase in scenic impacts as they do not blend in with the surrounding landscape. Moreover, the Project's driveway, which is approximately 1,550 feet in length, significantly impacts the native tree communities onsite, which are important elements of the area's scenic character. Therefore, given that the Project does not protect views within Scenic Resource Areas, the Project is inconsistent with Policy CO-125.

*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.*

Pursuant to the LUP's Map 3, Kanan Dume Road is a designated Scenic Route. Additionally, Kanan Dume Road offers scenic views of the mountains, canyons, and other unique natural features of the area. Moreover, the Project Site is not in an area associated with large swaths of existing development. Based on these facts, if the Project's building site and proposed structures will be visible from Kanan Dume Road, the Project is within a Scenic Resource Area and the protection of the area's scenic resources is required pursuant to the SMMLCP's requirements. The building site and the story poles erected by the applicant to approximate the building envelope of the development proposed by the Project are visible from Kanan Dume Road and, therefore, the Project is within a Scenic Resource Area.

While one required method of reducing visual impacts in Scenic Resource Areas is the reduction in structure height to 18 feet, which is reflected in LUP Policy CO-147 and LIP Section 22.44.1250.C, this Policy CO-131, which is codified at LIP Section 22.44.2040.A.1, states impacts on scenic resources should be minimized by, among other things, breaking up the mass of new structures, designing structures to blend into the natural hillside setting, clustering development, incorporating screening elements, and restricting the maximum building size, even if restricting the maximum building size results in a reduction of the building site area to a smaller size than the maximum size generally allowed, provided it is determined that a smaller building site area would serve

to avoid impacts to H1 Habitat, reduce the need for retaining features visible from scenic areas, or reduce impacts to native trees as indicated in LIP Section 22.44.1910.I.

As depicted on the site plan and elevations, the Project, as revised by the applicant, would reach a maximum height of 18 feet. However, the Project is proposed as two detached, two-story residential structures, with numerous multi-level retaining walls, a motor court, and roof decks within a 9,715-square-foot building site area. These development features associated with the Project do not break up the mass of new structures, do not blend into the natural hillside setting, do not cluster development, and do not minimize the buildings' maximum sizes. Specifically, the Project continues to be proposed at the toe of an existing slope as opposed to being proposed at a location that would blend the Project into the existing hillside; the Project's buildings' height, shape, and façade are minimally articulated and extend 170 feet in length from the east end of the main residence building to the west end of the detached auxiliary building; the Project is not sited near existing development, including Kanan Dume Road and an existing building pad on the parcel directly north of the Project Site; and the Project continues to be proposed with a building site area of approximately 9,715 square feet, which is a mere 285 square feet less than the maximum allowed. Therefore, given that the Project does not site or design new development to minimize adverse impacts on scenic resources to the maximum extent feasible, the Project is inconsistent with Policy CO-131.

*LU-40: Site and design development so as to protect life and property; protect public lands, H1 and H2 Habitat areas, dedicated open space, streams, scenic resources, public views, and other natural features and resources; maximize open space areas; and minimize the overall vegetation clearance needed for fire protection.*

Development of the Project's building site area would require the removal of H2 Habitat, and the Project's fuel modification plan proposes the removal of H1 Habitat. H1 and H2 Habitat would also both be impacted by the proposed motor court. This motor court is not the minimum turnaround size necessary for County Fire access, nor is it required for vehicular access to the proposed single-family residence. Therefore, the development of the motor court unnecessarily impacts H1 and H2 Habitat and the Project is not protective of H1 and H2 Habitat areas.

Furthermore, the proposed development is visible from Kanan Dume Road, a designated Scenic Route and scenic resource. Accordingly, the Project is required to implement a multitude of development standards intended to protect public views and minimize adverse impacts on scenic resources to the maximum extent feasible. However, as depicted on the site plan and elevations, while the Project, as revised by the applicant, would reach a maximum height of 18 feet, it is proposed as two detached, two-story residential structures, with numerous multi-level retaining walls, a motor court, and roof decks within a 9,715-square-foot building site area. These development features

associated with the Project do not break up the mass of new structures, do not blend into the natural hillside setting, do not cluster development, and do not minimize the buildings' maximum sizes. Specifically, the Project continues to be proposed at the toe of an existing slope as opposed to a location that would blend the Project into the existing hillside; the Project's buildings' height, shape, and façade are minimally articulated and extend 170 feet in length from the east end of the main residence building to the west end of the detached auxiliary building; the Project is not sited near existing development, including Kanan Dume Road and an existing building pad on the parcel directly north of the Project Site; and the Project continues to be proposed with a building site area of approximately 9,715 square feet, which is a mere 285 square feet less than the maximum allowed. Additionally, the Project's proposed building materials (glass, gray concretes, etc.) tend to result in an increase in scenic impacts as they do not blend in with the surrounding landscape. Moreover, the Project's driveway, which is approximately 1,550 feet in length, significantly impacts the native tree communities onsite, which are important elements of the area's scenic character. Therefore, the Project does not protect scenic resources and public views.

Finally, because the building site area is not clustered with other nearby development, including Kanan Dume Road and an existing building pad on the parcel north of the Project Site, the Project cannot take advantage of the existing legal fuel modification associated with the building pad and the existing offsite brush clearance associated with Kanan Dume Road. Therefore, the Project does not minimize the overall vegetation clearance needed for fire protection. This impact, along with the proposed impacts to H1 Habitat, H2 Habitat, scenic resources, and public views, results in the Project being inconsistent with Policy LU-40.

#### **B. Local Implementation Program Compatibility**

The Project does not comply with the development standards and requirements for the R-C Zone, the LIP's Area-Wide Development Standards, or the LIP's Area-Specific Development Standards, including:

- Habitable Accessory Structure Standards (LIP Sections 22.44.1230 and 22.44.1370);
- Biological Resource Standards (LIP Section 22.44.1800 et seq.);
- Variances (LIP Section 22.44.1150);
- R-C Zone Standards (LIP Section 22.44.1750);
- Scenic Resource Standards (LIP Sections 22.44.1250, 22.44.1440, 22.44.2000, and 22.44.2040);
- Grading Standards (LIP Section 22.44.1260); and
- Hazard Standards (LIP Section 22.44.2050 et seq.).



#### Habitable Accessory Structures

Pursuant to LIP Section 22.44.1370.B, all proposed habitable accessory structures are required to retire one TDC in compliance with LIP Section 22.44.1230. Additionally, under LIP Section 22.44.1370.D, all habitable accessory structures must, among other things, have an OWTS separate from the primary residence. As proposed, the Project contemplates the development of a habitable accessory structure, which is a part of the larger auxiliary building. However, the Project does not propose, and the applicant has not sought, a TDC. Additionally, the proposed habitable accessory structure does not have its own OWTS and instead proposes to utilize the OWTS associated with the single-family residence. Consequently, the Project is inconsistent with the requirements and development standards associated with habitable accessory structures.

#### Biological Resource Standards

Pursuant to the biological resource requirements of LIP Section 22.44.1800 et seq., the applicant submitted a Biological Assessment, prepared by a qualified biologist, which was reviewed by the Staff Biologist for accuracy and adequacy. The Staff Biologist determined the Biological Assessment was sufficient.

Pursuant to LIP Section 22.44.1860, the Project and the associated Biological Assessment were reviewed by the ERB because the Project is within 200 feet of H1 and H2 Habitat. At its meeting on May 15, 2017, the ERB made several recommendations to minimize potential resource impacts. At its meeting on June 19, 2017, the ERB made additional recommendations, including that the applicant move the residence to the north and west. While the applicant did move the proposed single-family residence approximately 40 feet to the north and approximately 20 feet to the west, the ERB determined, at its August 28, 2017, meeting, that the Project was still not consistent with the SMMLCP's biological resource protection policies and development standards and the ERB memorialized that determination through a unanimous motion. The minutes of all three ERB meetings are attached. The revised Project's building site area is located in substantially the same location previously considered by the ERB, with only adjustments made to the building footprints occurring within the building site area.

LIP Section 22.44.1890.C identifies the various uses and development activities permitted within the various habitat areas of the Santa Monica Mountains Coastal Zone and states that development is prohibited within H1 Habitat areas except for resource dependent uses, Public Works projects, and access roads to a lawfully permitted use where the access road and the use meet five specific criteria found in LIP Section 22.44.1890.C.2.b. The Project includes three development activities within H1 Habitat areas, including the proposed driveway and various fuel modification and brush clearance activities. The Project's proposed driveway, which is considered an access road in this context, meets the literal criteria in that it is a use permitted in H1 Habitat. However, the Project's proposed driveway is not consistent with the intent of this Section within the context of the previously discussed policies aiming to ensure that proposed development is designed to minimize disturbance to H1 Habitat and within the context of the LIP requirements limiting the length of the access road to 300 feet.

Furthermore, the Project also proposes brush clearance for fuel modification purposes within H1 Habitat. Brush clearance for fuel modification purposes meets the definition of development found in LIP Section 22.44.630, but it is not a kind or type of development allowed within H1 Habitat. Additionally, the motor court is proposed partly within H1 Habitat. This motor court is not the minimum turnaround size necessary for County Fire access, nor is it the minimum amount of paving required for vehicular access to the proposed single-family residence, and the development of the motor court is therefore not an allowed use within H1 Habitat pursuant to LIP Section 22.44.1890.C. Therefore, the Project is inconsistent with the biological resource protection requirements of LIP Sections 22.44.1800 et seq.

LIP Section 22.44.1910.A states, “New non-resource dependent development shall be prohibited in areas designated H1 Habitat to protect these most sensitive environmental resource areas from disruption of habitat values, unless otherwise provided in LIP Section 22.44.1890.” As discussed above, fuel modification and brush clearance activities are not the types of development allowed in H1 Habitat, nor is the proposed motor court. Therefore, the Project’s proposed impacts to H1 Habitat are not allowed and the Project is inconsistent with the requirements of LIP Section 22.44.1910.A.

LIP Section 22.44.1910.C requires that, “New development shall be sited in a manner that avoids the most biologically-sensitive habitat on site where feasible, in the following order of priority: H1, H2 High Scrutiny, H2, then H3 – while not conflicting with other SMMLCP policies. Priority shall be given to siting development in H3 Habitat.” The proposed development is located on a Project Site with H1, H2 and H3 Habitat. The Project’s building site area, and portions of the required fuel modification area and brush clearance activities, are within H1 and H2 Habitat. By contrast, the H3 Habitat on the Project Site will be minimally impacted by the Project. The Project is inconsistent with the order of priority for habitat impacts and is therefore inconsistent with LIP Section 22.44.1910.C.

LIP Section 22.44.1910.D states development standards related to the “protection of H1 and H2 Habitat and public access shall take priority over other development standards, and if there is any conflict between the biological resource and/or public access protection standards and other development standards, the standards most protective of H1 and H2 Habitat and public access, as determined by the County, shall have precedence.” The Project does not prioritize protection of H1 and H2 Habitat. Instead, the Project prioritizes the development of a 4,412-square-foot, 18-foot-tall, single-family residence with a 2,030-square-foot detached auxiliary building including a guest house and garage, and associated infrastructure including a 1,550-foot-long driveway, a motor court, landscaping, hardscaping, retaining walls, an OWTS, two water wells, two water tanks, and 5,800 cubic yards of grading. In addition to the required Major CDP, the Project requests variances from the development standards relating to driveway length and native tree buffers. The Variance requests are not related to relief from development standards to preserve sensitive habitat and would in fact result in additional impacts to sensitive habitat, including vegetation removal and native tree impacts, such as the removal of three trees as well as encroachments into the protected zones of 125 trees, along with an OWTS

within 50 feet of native trees. Therefore, the Project is inconsistent with LIP Section 22.44.1910.D.

LIP Section 22.44.1920.C.1.c limits the length of new access roads or driveways to a maximum of 300 feet. The Project proposes a 1,550-foot-long driveway, which is inconsistent with this requirement. LIP Section 22.44.1920.K states, “New development shall be sited and designed to preserve native oak, walnut, sycamore, bay, or other native trees, that have at least one trunk measuring six inches or more in diameter, or a combination of any two trunks measuring a total of eight inches or more in diameter, measured at four and one-half feet above natural grade, to the maximum extent feasible. Removal of native trees shall be prohibited except where no other feasible alternative exists to allow a principal permitted use that is the minimum necessary to provide a reasonable economic use of the property. Development shall be sited to prevent any encroachment into the protected zone of individual native trees to the maximum extent feasible.”

The scope of the Project includes the construction of a 4,412-square-foot, 18-foot-tall, two-story, single-family residence with a detached auxiliary building totaling 2,030 square feet, which consists of a 907-square-foot garage and a 384-square-foot laundry room and mudroom with restroom plumbing on the first floor, and a 739-square-foot guest bedroom and gym on the second floor, which makes this building a guest house. The proposed residence and auxiliary building totals 6,442 square feet. The Project includes associated infrastructure including a 1,550-foot-long driveway, a motor court, landscaping, hardscaping, retaining walls, an OWTS, two water wells, two water tanks, and 5,800 cubic yards of grading. As designed, the scope of the Project far exceeds the minimum necessary to provide a reasonable economic use of the property. Furthermore, the Project’s native tree impacts are substantial and include the removal of one oak tree, one black walnut tree, and one toyon tree, as well as encroachments into the protected zones of 190 oak trees, one bigpod ceanothus, one big-leaf maple tree, and one toyon tree. The applicant has not demonstrated that the Project, as designed, is the design that minimizes impacts to native trees, and has not demonstrated that the Project is sited “to prevent any encroachment into the protected zone of individual native trees to the maximum extent feasible.” For these reasons, the Project is inconsistent with LIP Section 22.44.1920.K.

#### Variances

Pursuant to LIP Section 22.44.1150, the Project requires a Variance because the length of the driveway (1,550 feet) exceeds the 300-foot maximum driveway length allowed by LIP Section 22.44.1920.C. A Variance is also required for the location of the proposed OWTS within the dripline of an oak tree. Pursuant to LIP Section 22.44.1340.B.3.c, OWTSs shall be located 50 feet outside the driplines of existing native trees, including oak trees. Since the previous hearing, the Project has been redesigned with a maximum height of 18 feet so a Variance for height is no longer required.

LUP Policy CO-65 does not allow Variances to be granted for impacts related to H1 or H2 Habitat, but Variances may be granted to modify development standards to protect H1 and

H2 Habitat. LIP Section 22.44.1150.D requires applications for Variances to include information substantiating certain facts to the satisfaction of your Commission, including that the granting of the Variance will not be materially detrimental to the Santa Monica Mountains' coastal resources. As opposed to redesigning the Project, the applicant instead requests a Variance to allow a driveway and an OWTS within an H1 Habitat Buffer, which potentially may be materially detrimental to coastal resources. Staff's recommended alternative location, which would be clustered in the northwest corner of the Project Site near Kanan Dume Road and an existing disturbed building site on the adjoining parcel to the north, would not require a Variance for driveway length and could also avoid the need for a Variance for the OWTS. The recommended alternative location is more consistent with the LIP. Because the applicant rejected Staff's recommended alternative location and continues to request a Variance that would allow a driveway and an OWTS that impact H1 and H2 Habitat, the Project is inconsistent with LIP Section 22.44.1150.

#### R-C Zone Standards

Pursuant to LIP Section 22.44.1750, the R-C Zone permits single-family residences and accessory uses and structures, including but not limited to: garages, grading, landscaping features and gardens, OWTSs, and required County Fire turnarounds. The Project proposes the construction of a 4,412-square-foot, 18-foot-tall, single-family residence, a 2,030-square-foot detached auxiliary building with a guest house and garage, and associated infrastructure including a 1,550-foot-long driveway, a motor court, landscaping, hardscaping, retaining walls, an OWTS, two water wells, two water tanks, and 5,800 cubic yards of grading. As such, the Project is a use permitted in the R-C Zone.

The development standards for premises in the R-C Zone are the same as those for the R-1 Zone, as provided in LIP Section 22.44.1710, which includes requirements regarding roofing, siding, yard setbacks, parking, and the minimum required area of a single-family residence. LIP Section 22.44.1710.E.3 also requires development in R-1 and R-C Zones to comply with "all applicable development standards within this LIP, including the Community-Wide Development Standards in LIP Section 22.44.1220 et seq., and any of the applicable Area-Specific Development Standards in LIP Section 22.44.1800 et seq." As outlined herein, the Project is inconsistent with many of the applicable development standards within the LIP. Therefore, the Project is inconsistent with the development standards of the R-C Zone.

#### Scenic Resource Standards

Pursuant to LIP Section 22.44.2000.B, Scenic Resource Areas include "places on, along, 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." According to the LUP's Map 3 and LIP Section 22.44.2040, Kanan Dume Road is a designated Scenic Route. Additionally, Kanan Dume Road offers scenic views of the mountains, canyons, and other unique natural features of the area. Moreover, the Project Site is not in an area associated with large swaths of existing development.

Based on these facts, if the Project's building site and proposed structures will be visible from Kanan Dume Road, the Project is within a Scenic Resource Area and the protection of the area's scenic resources is required pursuant to the SMMLCP's requirements. The building site and the story poles erected by the applicant to approximate the building envelope of the development proposed by the Project are visible from Kanan Dume Road and, therefore, the Project is within a Scenic Resource Area.

#### Height Limits

Pursuant to LIP Section 22.44.1250.C, "Every residence and every other building or structure in a Scenic Resource Area shall have a height not to exceed 18 feet above natural or finished grade, whichever is lower." Since the previous hearing, the Project's structures have been redesigned to be 18 feet in height and the Project is now consistent with the height limit requirement in LIP Section 22.44.1250.

#### Visual Resource Protection

LIP Sections 22.44.1440.E.2 and 3 require projects to minimize adverse visual impacts to existing scenic resources to the maximum extent feasible, ensure development is subordinate to the natural setting and character of the area, and ensure all impacts on scenic resources are eliminated to the maximum extent feasible.

As proposed, the Project's single-family residence is a large, 4,412-square-foot, 18-foot-tall, rectilinear steel and glass building. The Project also proposes the development of a 2,030-square-foot auxiliary building, which contains additional residential living space and a garage. The height, shape, and façade are minimally articulated and extend 170 feet in length from the east end of the main residential building to the west end of the detached auxiliary building. The design of the structure does not conform to the topography of the Project Site, and the structure is not sited in the least visible location that a structure could be placed on the property. Impacts could be significantly reduced by reducing the footprint of the structure, and by clustering the building site area with the development on the property to the northwest.

While one required method of reducing visual impacts in Scenic Resource Areas is the reduction in structure height to 18 feet, which is reflected in LUP Policy CO-147 and LIP Section 22.44.1250.C, additional methods of reducing visual impacts are contemplated by the SMMLCP. For example, LUP Policy CO-131 and LIP Section 22.44.2040.A.1 state impacts on scenic resources should be minimized by, among other things, breaking up the mass of new structures, designing structures to blend into the natural hillside setting, clustering development, incorporating screening elements, and restricting the maximum building size, even if restricting the maximum building size results in a reduction of the building site area to a smaller size than the maximum size generally allowed, provided it is determined that a smaller building site area would serve to avoid impacts to H1 Habitat, reduce the need for retaining features visible from scenic areas, or reduce impacts to

native trees as indicated in LIP Section 22.44.1910.I. Other subsections of LIP Section 22.44.2040.A also require that new development in Scenic Resource Areas incorporate colors and exterior materials that are compatible with the surrounding landscape; provide colored concrete for new access roads to blend with the natural landscape; reduce the length of new access roads; preserve and, where feasible, restore and enhance individual native trees and native tree communities in areas containing suitable native tree habitat – especially oak, walnut, and sycamore woodlands and savannas – as important elements of the area’s scenic character; and preserve large areas of natural opens space by clustering development and siting development in and near existing developed areas.

As depicted on the site plan and elevations, the Project, as revised by the applicant, would reach a maximum height of 18 feet. However, the Project is proposed as two detached, two-story residential structures, with numerous multi-level retaining walls, a motor court, and roof decks within a 9,715-square-foot building site area. These development features associated with the Project do not break up the mass of new structures, do not blend into the natural hillside setting, do not cluster development, and do not minimize the buildings’ maximum sizes. Specifically, the Project continues to be proposed at the toe of an existing slope as opposed to a location that would blend the Project into the existing hillside; the Project’s buildings’ height, shape, and façade are minimally articulated and extend 170 feet in length from the east end of the main residence building to the west end of the detached auxiliary building; the Project is not sited near existing development, including Kanan Dume Road and an existing building pad on the parcel directly north of the Project Site; and the Project continues to be proposed with a building site area of approximately 9,715 square feet, which is a mere 285 square feet less than the maximum allowed. Additionally, the Project’s proposed building materials (glass, gray concretes, etc.) tend to result in an increase in scenic impacts as they do not blend in with the surrounding landscape. Moreover, the Project’s driveway, which is approximately 1,550 feet in length, significantly impacts the native tree communities onsite, which are important elements of the area’s scenic character. Therefore, the Project is inconsistent with the visual resource protection standards of LIP Section 22.44.1440.

#### Scenic Resource Protection

LIP Section 22.44.2040.A.1 states, “If there is no feasible building site location on the proposed project site where development would not be visible from a Scenic Resource Area, 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.” As depicted on the site plan and elevations, the Project, as revised by the applicant, would reach a maximum height of 18 feet. However, the Project is proposed as two detached,

two-story residential structures, with numerous multi-level retaining walls, a motor court, and roof decks within a 9,715-square-foot building site area. These development features associated with the Project do not break up the mass of new structures, do not blend into the natural hillside setting, do not cluster development, and do not minimize the buildings' maximum sizes. Specifically, the Project continues to be proposed at the toe of an existing slope as opposed to a location that would blend the Project into the existing hillside; the Project's buildings' height, shape, and façade are minimally articulated and extend 170 feet in length from the east end of the main residence building to the west end of the detached auxiliary building; the Project is not sited near existing development, including Kanan Dume Road and an existing building pad on the parcel directly north of the Project Site; and the Project continues to be proposed with a building site area of approximately 9,715 square feet, which is a mere 285 square feet less than the maximum allowed.

Other subsections of LIP Section 22.44.2040.A also require that new development in Scenic Resource Areas incorporate colors and exterior materials that are compatible with the surrounding landscape; provide colored concrete for new access roads to blend with the natural landscape; reduce the length of new access roads; preserve and, where feasible, restore and enhance individual native trees and native tree communities in areas containing suitable native tree habitat – especially oak, walnut, and sycamore woodlands and savannas – as important elements of the area's scenic character; and preserve large areas of natural opens space by clustering development and siting development in and near existing developed areas. Here, the Project's proposed building materials (glass, gray concretes, etc.) tend to result in an increase in scenic impacts as they do not blend in with the surrounding landscape. Moreover, the Project's driveway, which is approximately 1,550 feet in length, significantly impacts the native tree communities onsite, which are important elements of the area's scenic character.

Moreover, LIP Section 22.44.2040.A.11.c requires that, "The height and length of retaining walls shall be minimized. Retaining walls shall not exceed six feet in height. As depicted on the site plan and elevations, the proposed single-family residence is designed in a rectilinear form with little to no façade or height articulation or other elements to minimize massing and conform to existing topographic features. Moreover, multiple portions of the tiered retaining walls exceed six feet in height.

Therefore, the Project is inconsistent with LIP Section 22.44.2040.

#### Grading Standards

Pursuant to LIP Section 22.44.1260.C.3, a Major CDP is required because the Project involves grading in excess of 5,000 cubic yards of total cut plus total fill material. The Project proposes 5,800 cubic yards of total cut plus total fill.

While grading is generally not allowed in areas that have a slope of 50% or greater, LIP Section 22.44.1260.J does allow grading in such areas when the grading would be more

protective of coastal resources, including scenic and biological resources. Therefore, portions of the Project Site with steep slopes could still be considered for development if such development would reduce the impacts to scenic and/or biological resources.

#### Hazard Standards

The Project site is not within a liquefaction zone or a Federal Emergency Management Agency flood zone. The Project Site is within a mapped landslide hazard zone and a Very High Fire Hazard Severity Zone. Prior to a public hearing, proposed projects are generally reviewed and cleared for a public hearing by four County departments including the Department of Public Works and Fire. Their review and requirements serve to mitigate hazardous conditions like these. Since the Project does not comply with relevant development standards and therefore cannot be approved, the Project was not circulated to those departments for review.

#### **GENERAL PLAN/COMMUNITY PLAN CONSISTENCY**

The Project is not consistent with applicable goals and policies of the General Plan and the LUP. Consistency findings can be found in the attached Findings (Exhibit C – Findings).

#### **ZONING ORDINANCE CONSISTENCY**

The Project does not comply with all applicable zoning requirements. Consistency findings can be found in the attached Findings (Exhibit C – Findings).

#### **BURDEN OF PROOF**

The applicant is required to substantiate all facts identified by LIP Sections 22.44.850 and 22.44.1150. The Burdens of Proof with applicant's responses are attached (Exhibit D – Applicant's Burdens of Proof). Staff is of the opinion that the applicant has not met the applicable burdens of proof.

#### **ENVIRONMENTAL ANALYSIS**

This Project qualifies as a Statutory Exemption pursuant to CEQA Guidelines Section 15270 (Projects Which Are Disapproved) because CEQA does not apply to projects a public agency rejects or disapproves. An environmental determination (Exhibit E – Environmental Determination) was issued for the Project.

#### **COMMENTS RECEIVED**

##### **A. County Department Comments and Recommendations**

As this Project is not consistent with applicable policies and land use development standards, the Project was not routed for consultation to other County agencies involved in land development.

##### **B. Other Agency Comments and Recommendations**

After reviewing the Project at its meetings on May 15, 2017, and June 19, 2017, the ERB recommended the applicant move the residence to the north and west. In response, the



applicant revised the Project to increase the house's overall height and habitable area and to move the house approximately 40 feet to the north and approximately 20 feet to the west. At its meeting on August 28, 2017, after reviewing the revised plans, the ERB recommended that the Project, as designed, is not consistent with the SMMLCP's biological resource protection policies and development standards. The minutes of all three ERB meetings are attached.

**C. Public Comments**

Staff has received one public comment since the previous public hearing on October 17, 2018, which was submitted by Mr. Stanley W. Lamport on March 29, 2023. Mr. Stanley W. Lamport represents the subject property owners, and his letter generally indicates his opinion that the proposed alternative building site in the northwest portion of the property is an infeasible alternative due to the costs associated with developing that alternative site.

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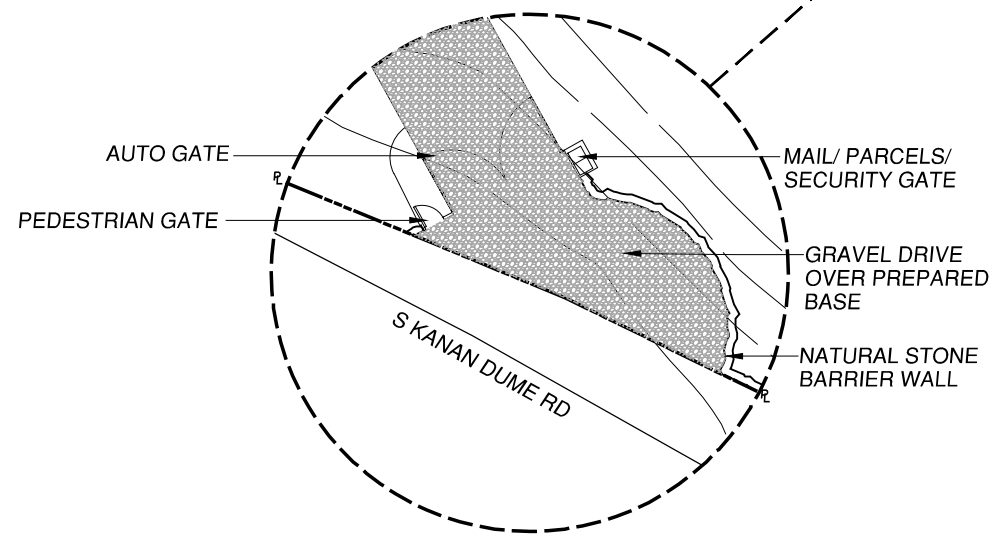
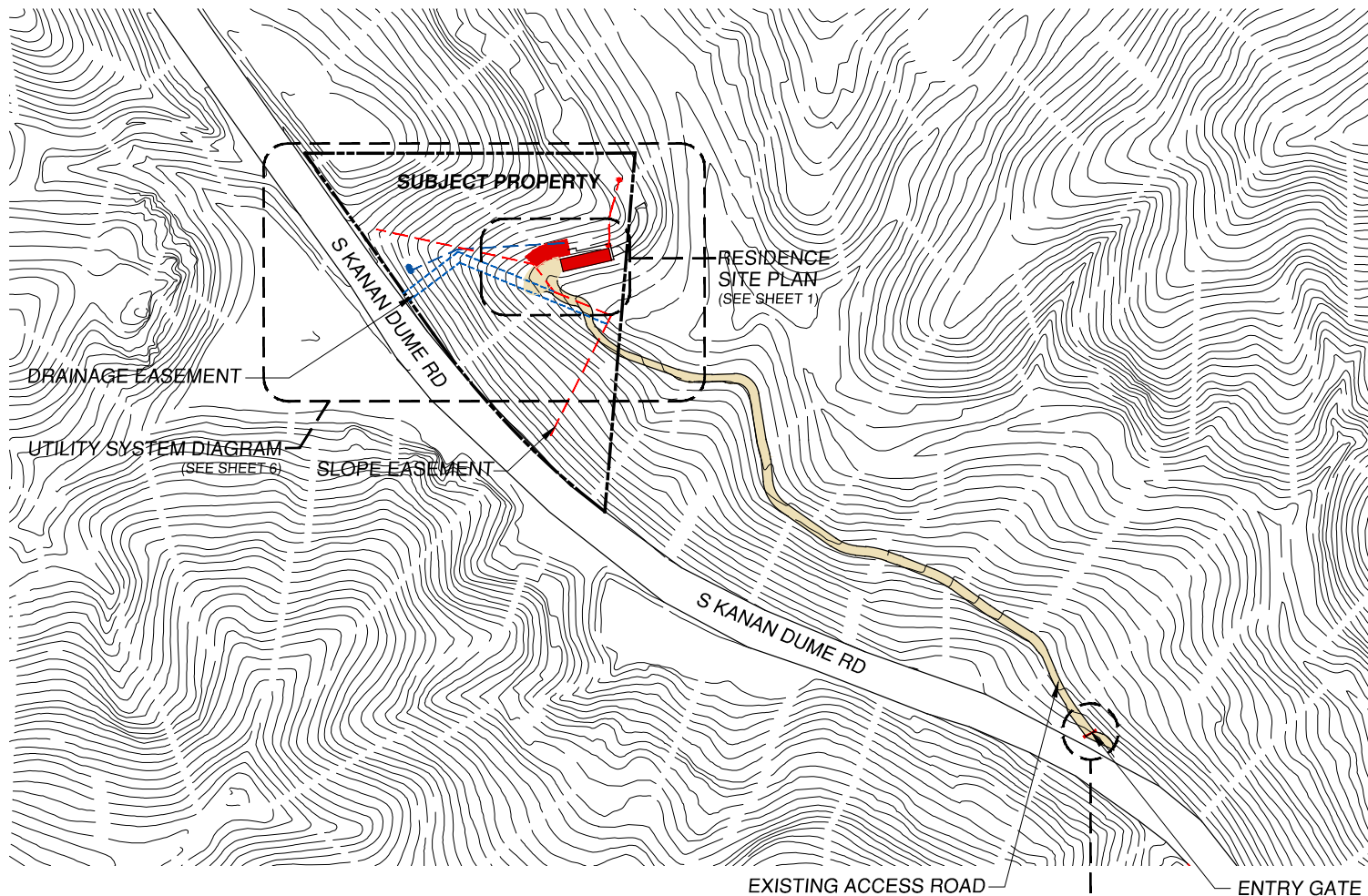
Report  
Reviewed By: Rob Glaser  
Robert Glaser, Supervising Regional Planner

Report  
Approved By: M. Glaser  
Mitch Glaser, Assistant Administrator

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LIST OF ATTACHED EXHIBITS	
EXHIBIT A	Plans
EXHIBIT B	Project Summary Sheet
EXHIBIT C	Findings
EXHIBIT D	Applicant's Burdens of Proof
EXHIBIT E	Environmental Determination
EXHIBIT F	Informational Maps
EXHIBIT G	Photographs
EXHIBIT H	Agency Correspondence
EXHIBIT I	Public Correspondence

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**PROJECT SUMMARY**

APN #: 4465-002-023  
 ZONING #: R-C-20  
 SUBJECT PROPERTY AREA: 3.45 ACRES  
 # OF PARKING SPACES: 5 (2 STACK) SPACES  
 BUILDING SETBACK: 30 FT.

**MAIN RESIDENCE -**

FIRST FLOOR LEVEL 2,364 SF\*  
 SECOND FLOOR LEVEL 2,048 SF\*

**SUBTOTAL MAIN RESIDENCE 4,412 SF\***

**AUXILIARY STRUCTURE -**

FIRST FLOOR LEVEL 1,291 SF\*  
 (INCLUDES GARAGE / LAUNDRY / MUDROOM)  
 SECOND FLOOR LEVEL 739 SF\*  
 (INCLUDES GUEST BEDROOM / GYM)

**SUBTOTAL AUXILIARY STRUCTURE 2,030 SF\***

TOTAL AREA OF PROPOSED RESIDENCE: 6,442 SQ. FT.

TOTAL DEVELOPMENT AREA: 9,715 SQ.FT.  
 (SEE SHEET 6 FOR CALCULATIONS)

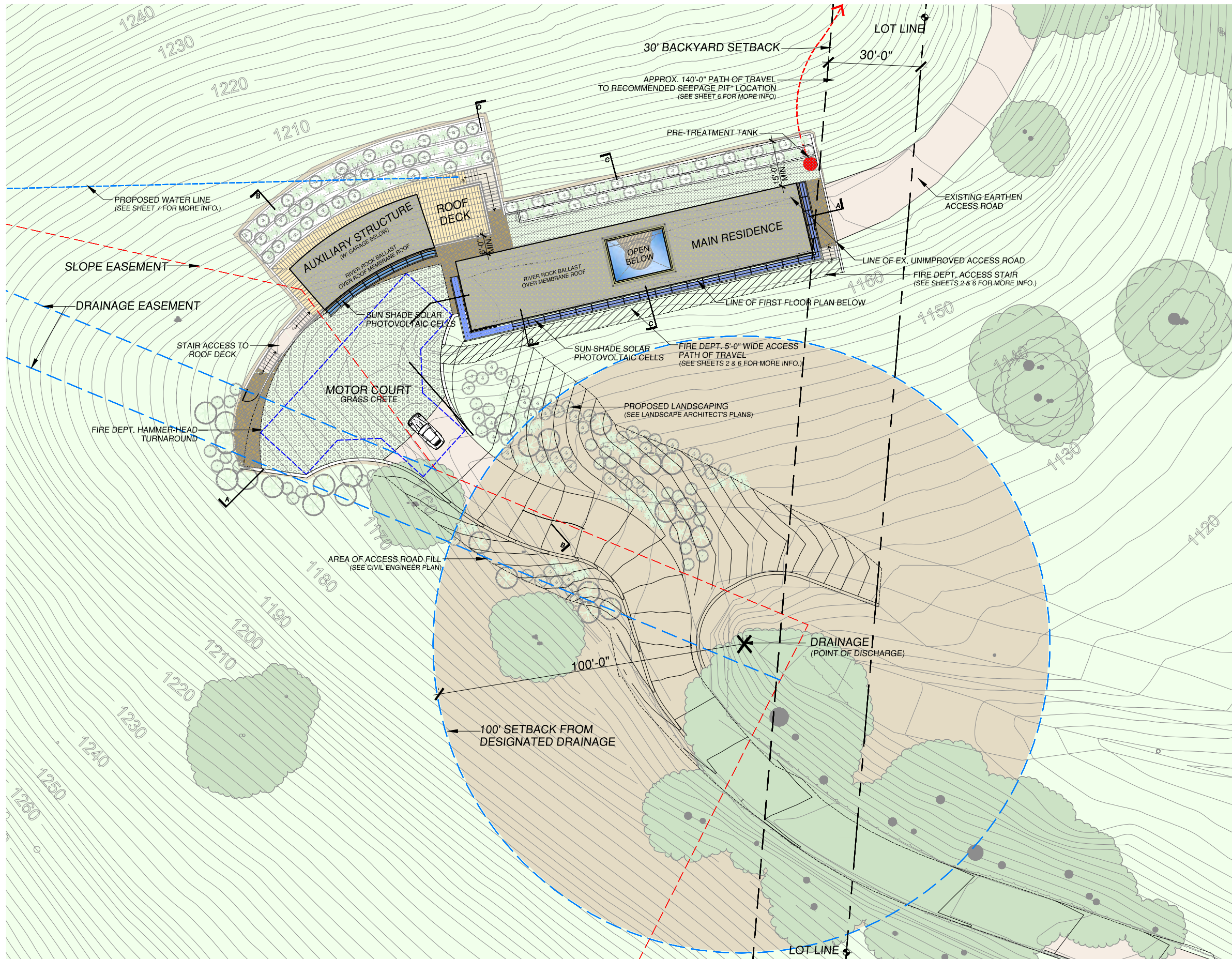
**SHEET INDEX**

SITE PLAN	SHEET 1
GROUND FLOOR PLAN	SHEET 2
SECOND FLOOR PLAN	SHEET 3
BUILDING ELEVATIONS	SHEET 4
BUILDING SECTIONS	SHEET 5
UTILITY SYSTEM, AREA OF DEVELOPMENT, IMPERVIOUS SURFACES & FIRE DEPT. ACCESS DIAGRAMS	SHEET 6



**3300 SOUTH KANAN DUME ROAD  
COVER SHEET**





**LEGEND**

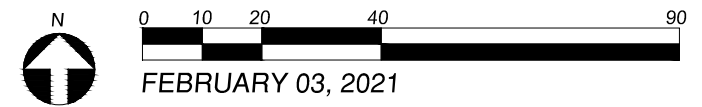
- FIRE ACCESS \*
- SEASONAL PLANTERS \*
- GRASS CRETE \*
- \* (SEE LANDSCAPE ARCHITECT'S PLAN)
- RIVER ROCK BALLAST OVER MEMBRANE ROOF
- STONE WALK W/ OPEN PERMEABLE JOINTS
- ACCESS ROAD \*
- GRADED LANDSCAPE \*
- ARCHITECTURAL \* CONC. DECKING
- \* (SEE CIVIL ENGINEER'S PLAN)

**PROJECT AREAS**

HABITABLE AREA:	5,535 SQ. FT.
1ST FLOOR (INCLUDES LAUNDRY/MUDROOM)	2,748 SF
2ND FLOOR (INCLUDES GUEST BEDROOM/GYM)	2,787 SF
SUBTOTAL	5,535 SF
GARAGE (1ST FLOOR)	907 SF
<b>TOTAL AREA OF PROPOSED RESIDENCE:</b>	<b>6,442 SQ. FT.</b>



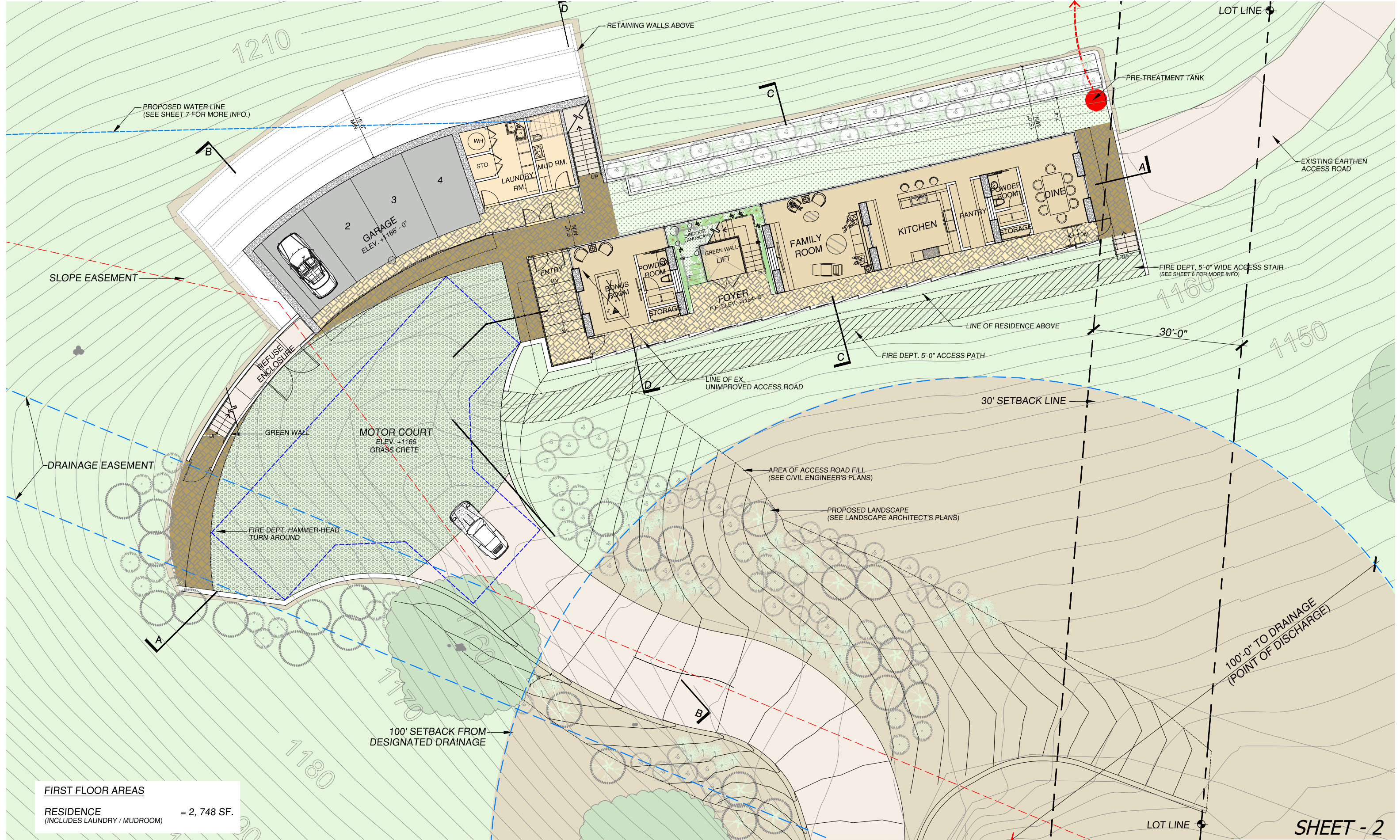
**KAY'S KANAN DUME RESIDENCE  
SITE PLAN**



FEBRUARY 03, 2021

**SHEET - 1**

DANIEL CHUDNOVSKY, A.I.A. ARCHITECTS, INC.  
1180 S. BEVERLY DRIVE, SUITE 715, LOS ANGELES, CA 90035  
PHONE: 310 475-6333 FAX: 310 475-6222



**FIRST FLOOR AREAS**  
 RESIDENCE = 2,748 SF.  
 (INCLUDES LAUNDRY / MUDROOM)

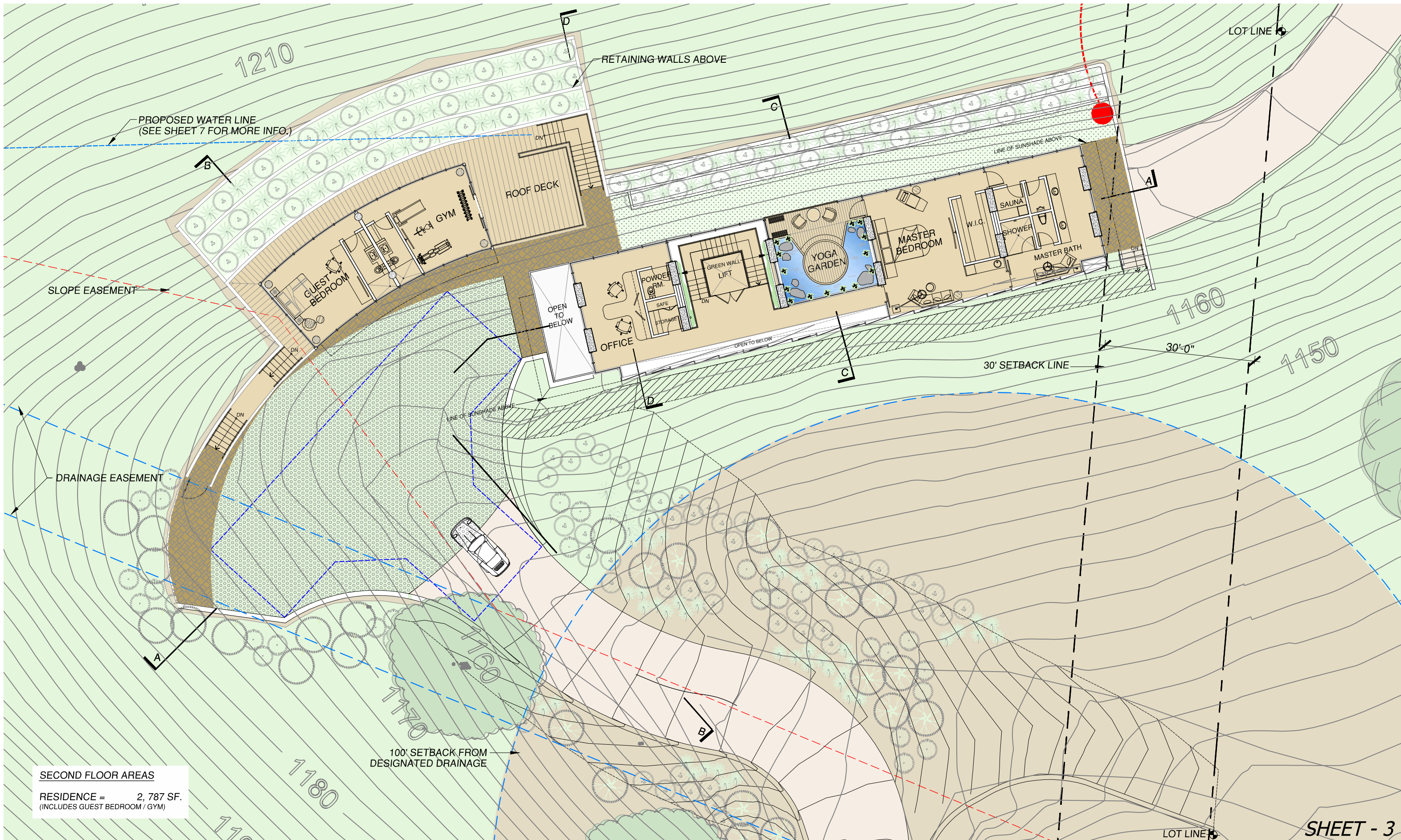
**KAY'S KANAN DUME RESIDENCE  
 FIRST FLOOR PLAN**

0 5 10 20  
 FEBRUARY 03, 2021



**DCA**  
 ARCHITECTS, INC.  
 DANIEL CHUDNOVSKY, A.I.A. ARCHITECTS, INC.  
 1180 S. BEVERLY DRIVE, SUITE 715, LOS ANGELES, CA 90035  
 PHONE: 310 475-6333 FAX: 310 475-6222

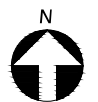




**SECOND FLOOR AREAS**  
 RESIDENCE = 2,787 SF.  
 (INCLUDES GUEST BEDROOM / GYM)

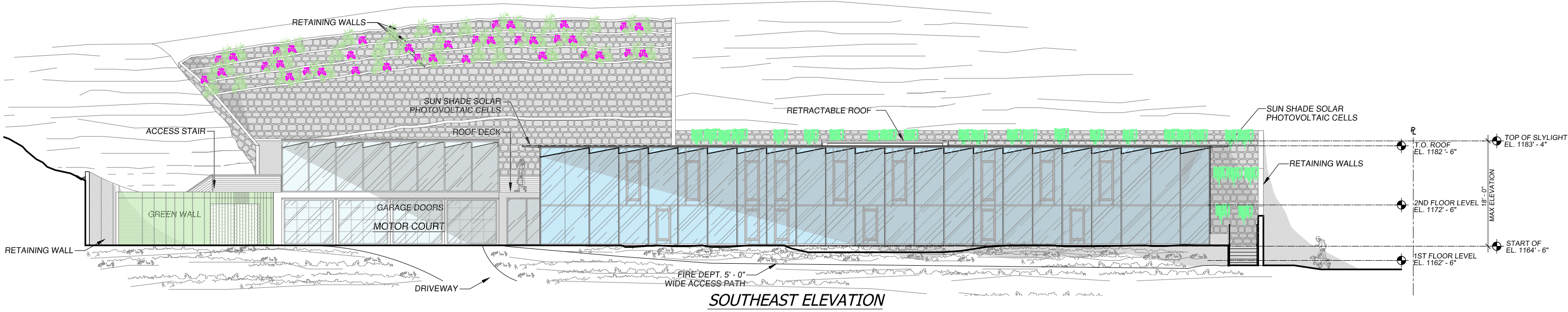
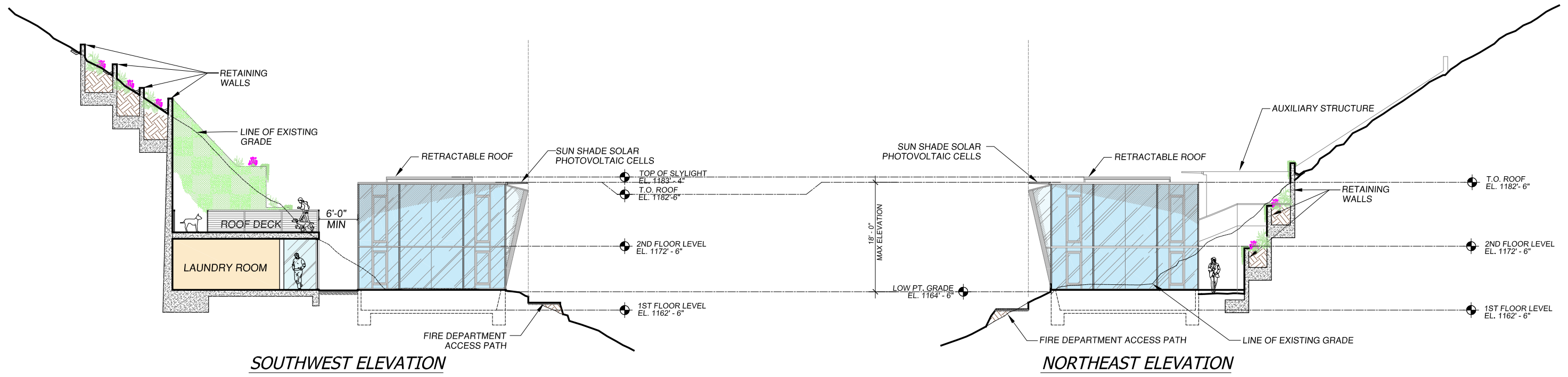
**KAY'S KANAN DUME RESIDENCE**  
**SECOND FLOOR PLAN**

0 5 10 20  
 FEBRUARY 03, 2021



**DC&A**  
 ARCHITECTS, INC.  
 DANIEL CHUDNOVSKY, A.I.A. ARCHITECTS, INC.  
 1180 S. BEVERLY DRIVE, SUITE 715, LOS ANGELES, CA 90035  
 PHONE: 310 475-6333 FAX: 310 475-6222





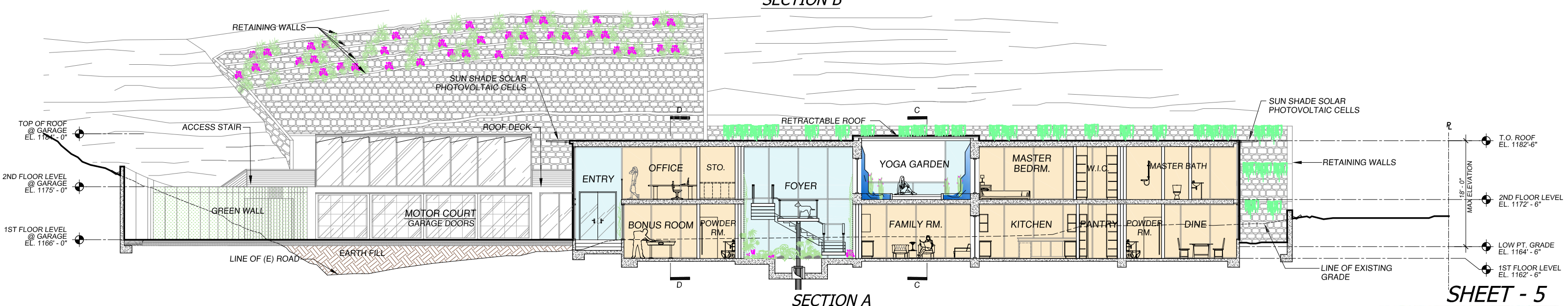
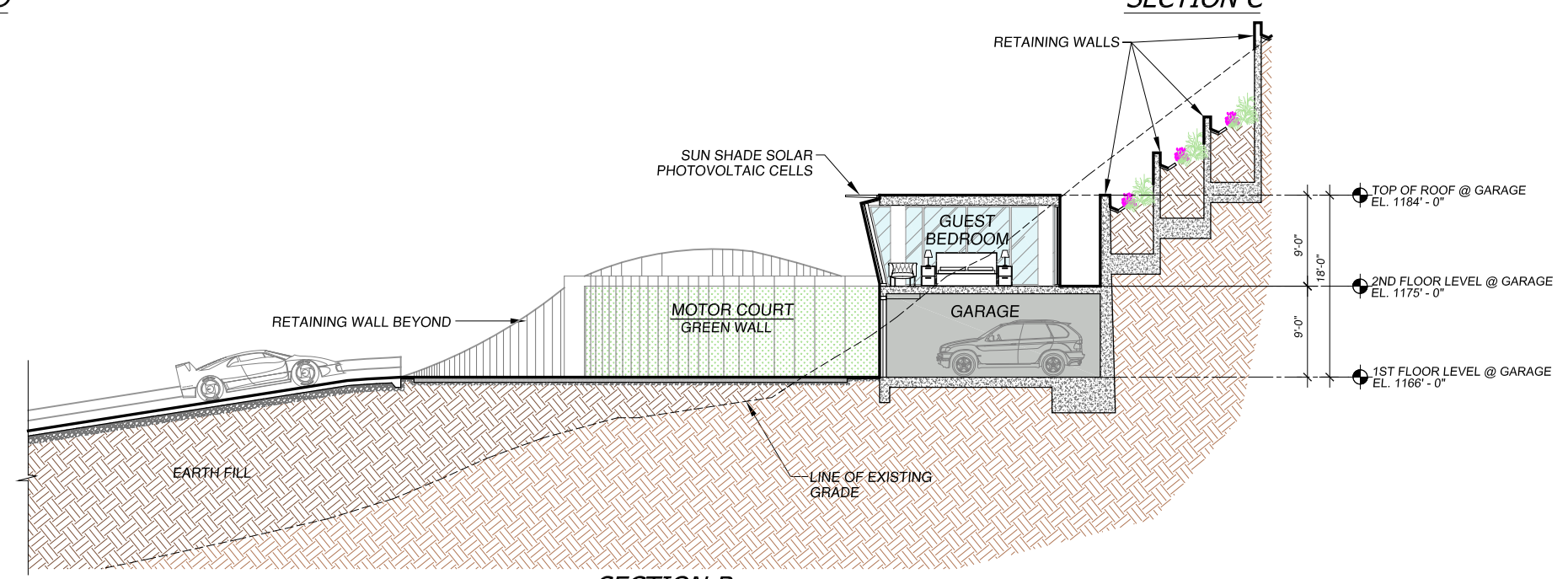
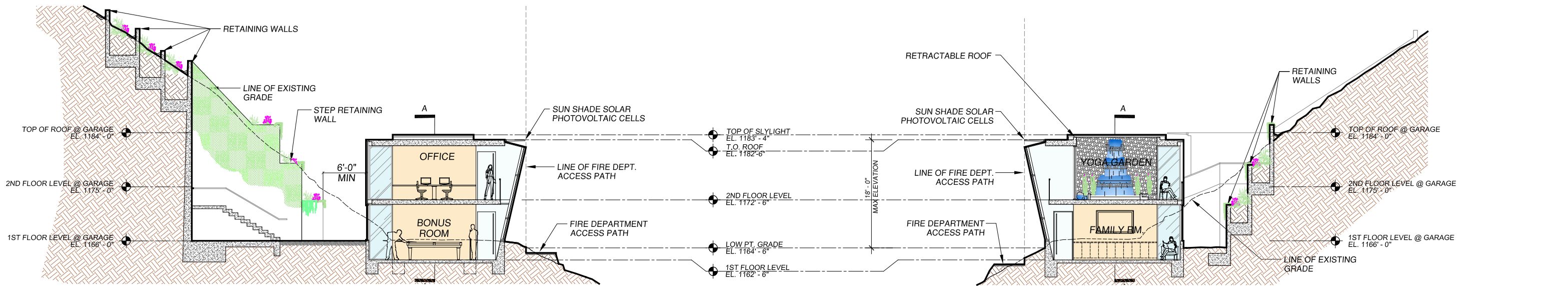
**KAY'S KANAN DUME RESIDENCE  
BUILDING ELEVATIONS**



MARCH 24, 2021  
REVISED 03 / 24 / 21



DANIEL CHUDNOVSKY, A.I.A. ARCHITECTS, INC.  
1180 S. BEVERLY DRIVE, SUITE 715, LOS ANGELES, CA 90035  
PHONE: 310 475-6333 FAX: 310 475-6222



**SHEET - 5**



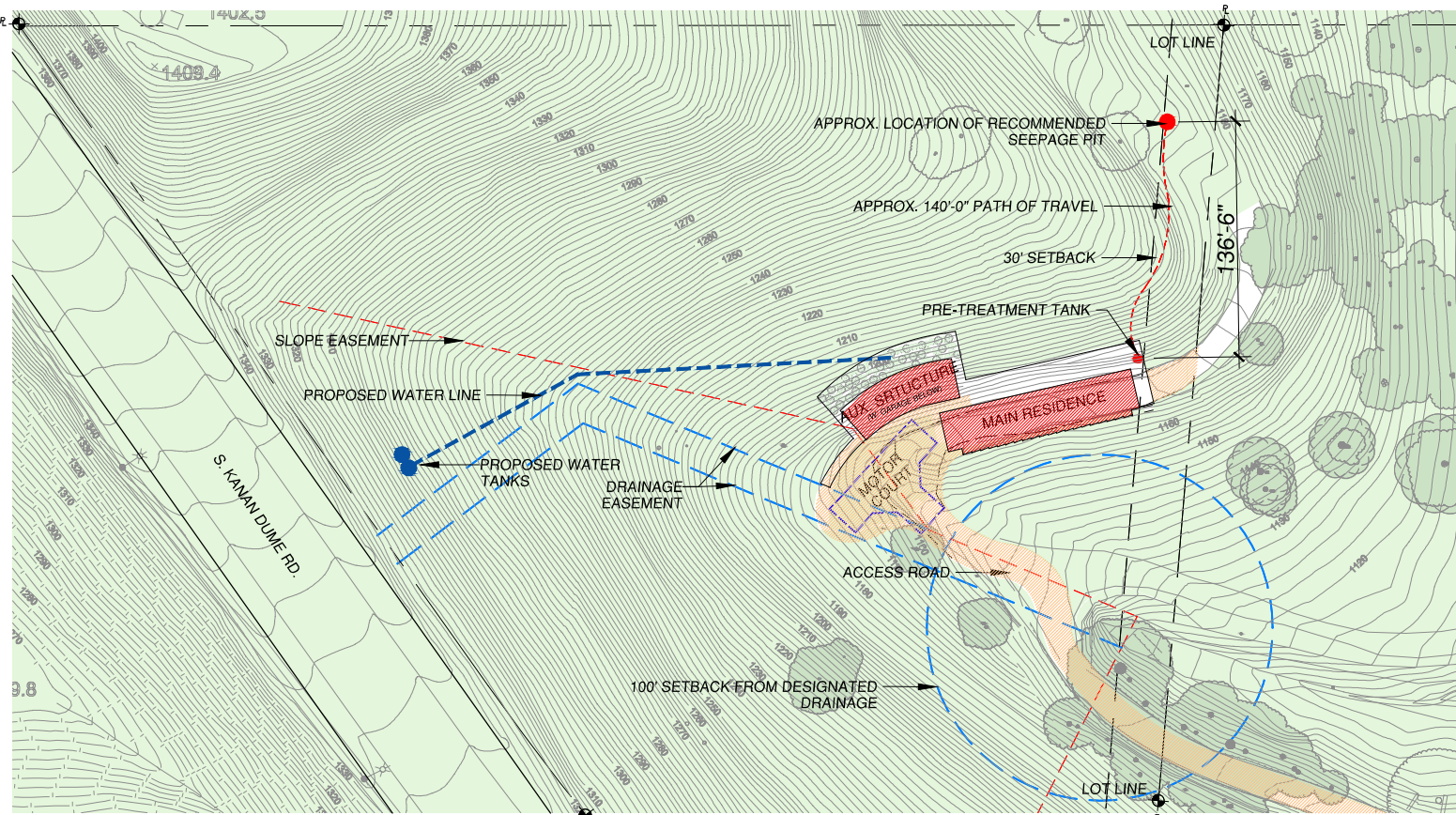
**KAY'S KANAN DUME RESIDENCE  
BUILDING SECTIONS**



MARCH 24, 2021  
REVISED 03 / 24 / 21

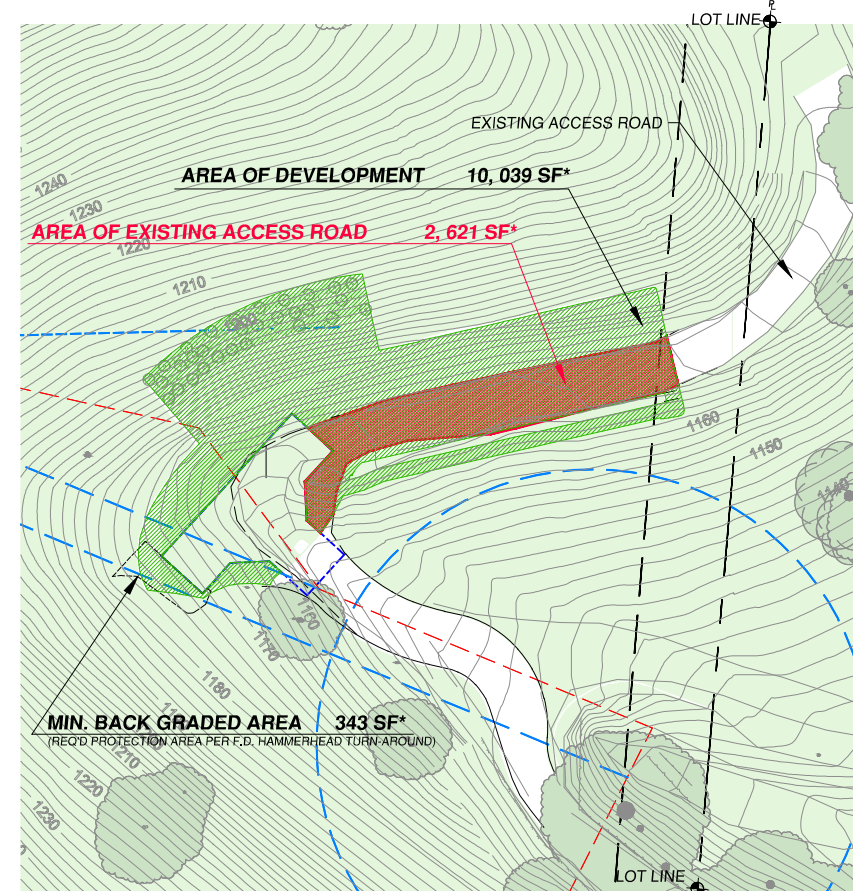


DANIEL CHUDNOVSKY, A.I.A. ARCHITECTS, INC.  
1180 S. BEVERLY DRIVE, SUITE 715, LOS ANGELES, CA 90035  
PHONE: 310 475-6333 FAX: 310 475-6222



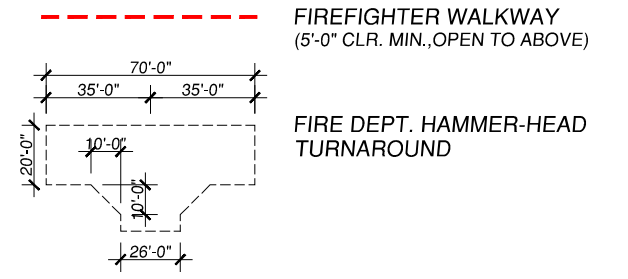
**UTILITY SYSTEM DIAGRAM**

(\*SEE CIVIL ENGINEER'S PLAN FOR MORE INFORMATION)



**AREA OF DEVELOPMENT DIAGRAM**

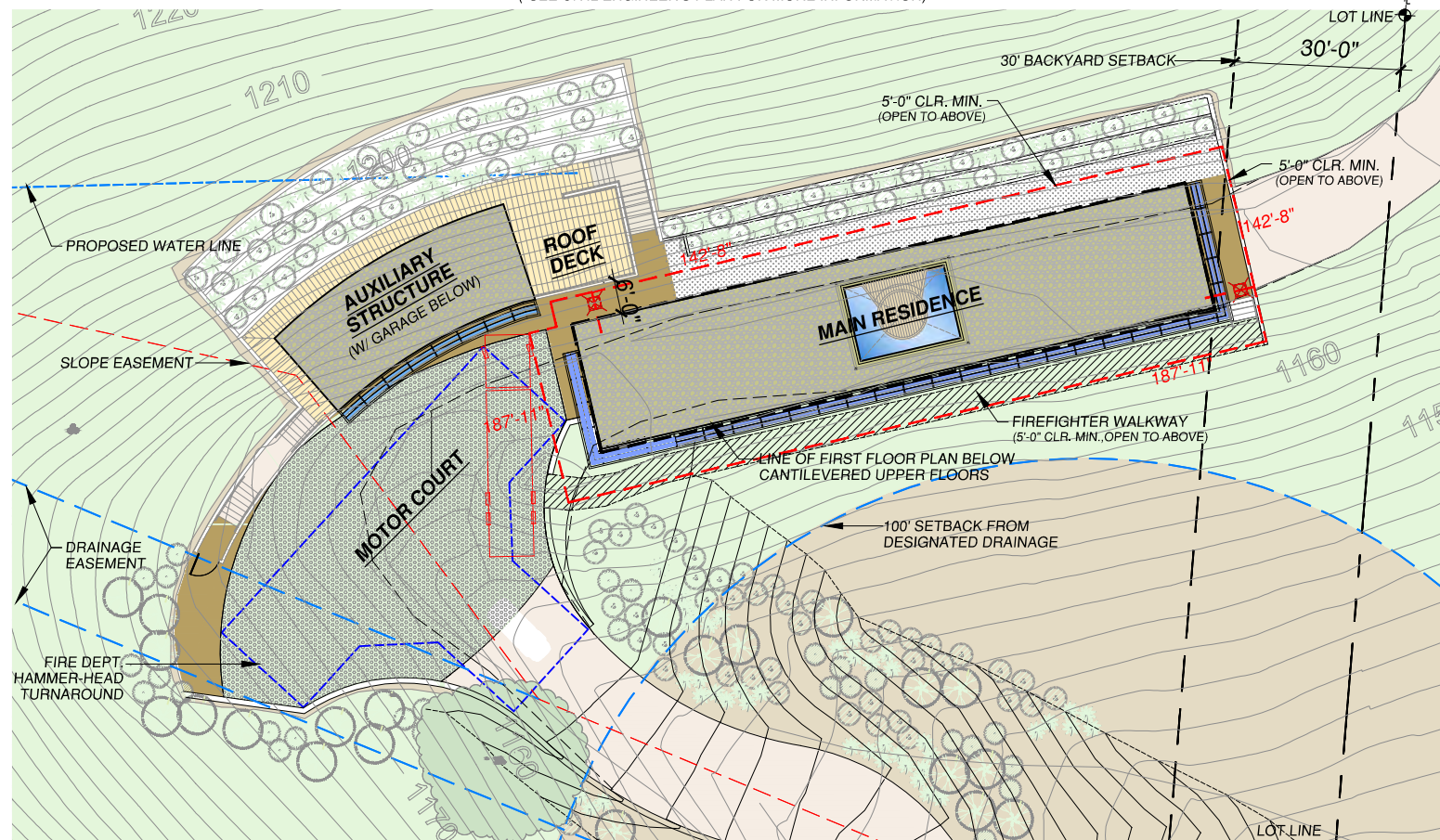
**LEGEND**



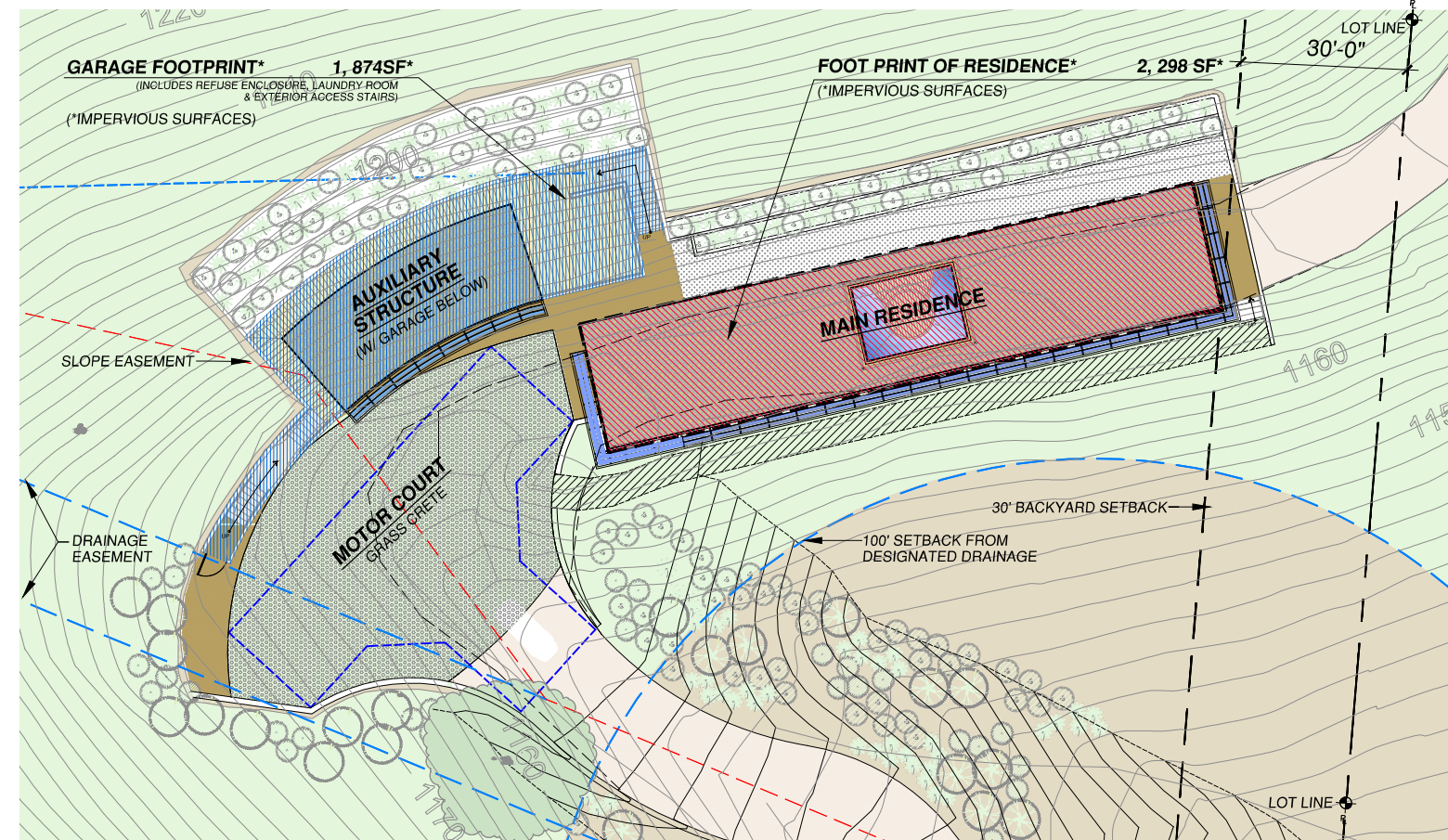
AREA OF DEVELOPMENT	10,058 SF.
MINIMUM BACK GRADED AREA (REQ'D PROTECTION AREA PER F.D. HAMMERHEAD TURN-AROUND)	343 SF
BALANCE OF DEVELOPMENT AREA	9,715 SF.

**IMPERVIOUS SURFACES AREA TABULATION**

MAIN RESIDENCE	2,667 SF.
AUXILIARY STRUCTURE (INCLUDES GUEST BEDROOM, GYM, GARAGE, REFUSE ENCLOSURE, LAUNDRY ROOM & EXTERIOR ACCESS STAIRS)	1,874 SF.
<b>TOTAL</b>	<b>4,541 SF.</b>



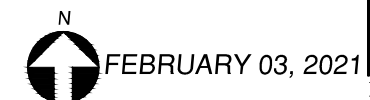
**FIRE DEPARTMENT ACCESS DIAGRAM**



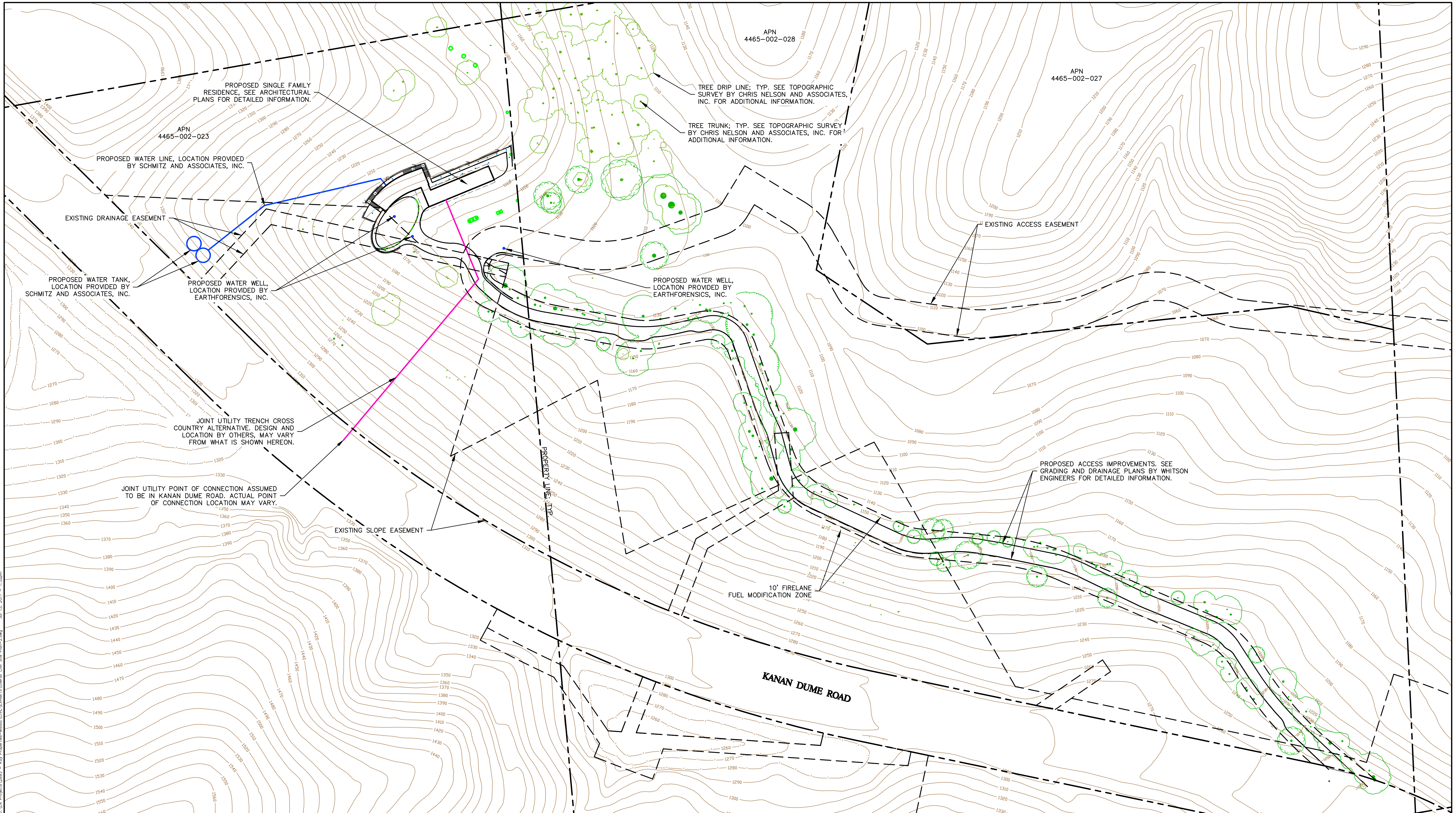
**IMPERVIOUS SURFACES DIAGRAM**



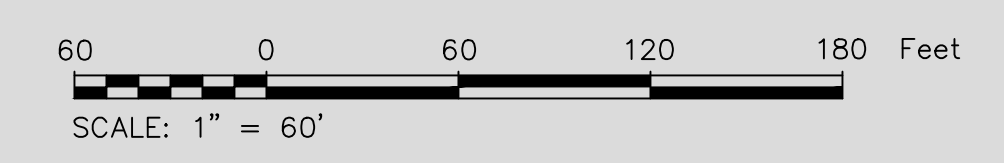
**KAY'S KANAN DUME RESIDENCE**  
UTILITY SYSTEM, AREA OF DEVELOPMENT, IMPERVIOUS SURFACE &  
FIRE DEPARTMENT ACCESS DIAGRAMS







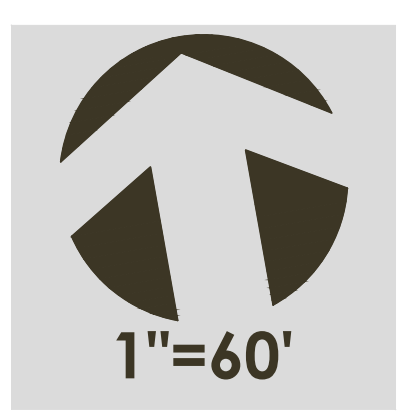
**OVERALL CIVIL SITE PLAN**  
**APN 4465-002-023**  
 LOS ANGELES COUNTY, CALIFORNIA



**Whitson Engineers**  
 5200 West Century Boulevard | Suite 430 | Los Angeles, CA 90045 | 310 645-3205 | F 310 645-3204  
 CIVIL ENGINEERING • LAND SURVEYING • PROJECT MANAGEMENT | www.whitsonengineers.com  
 Project No.: 2893.00



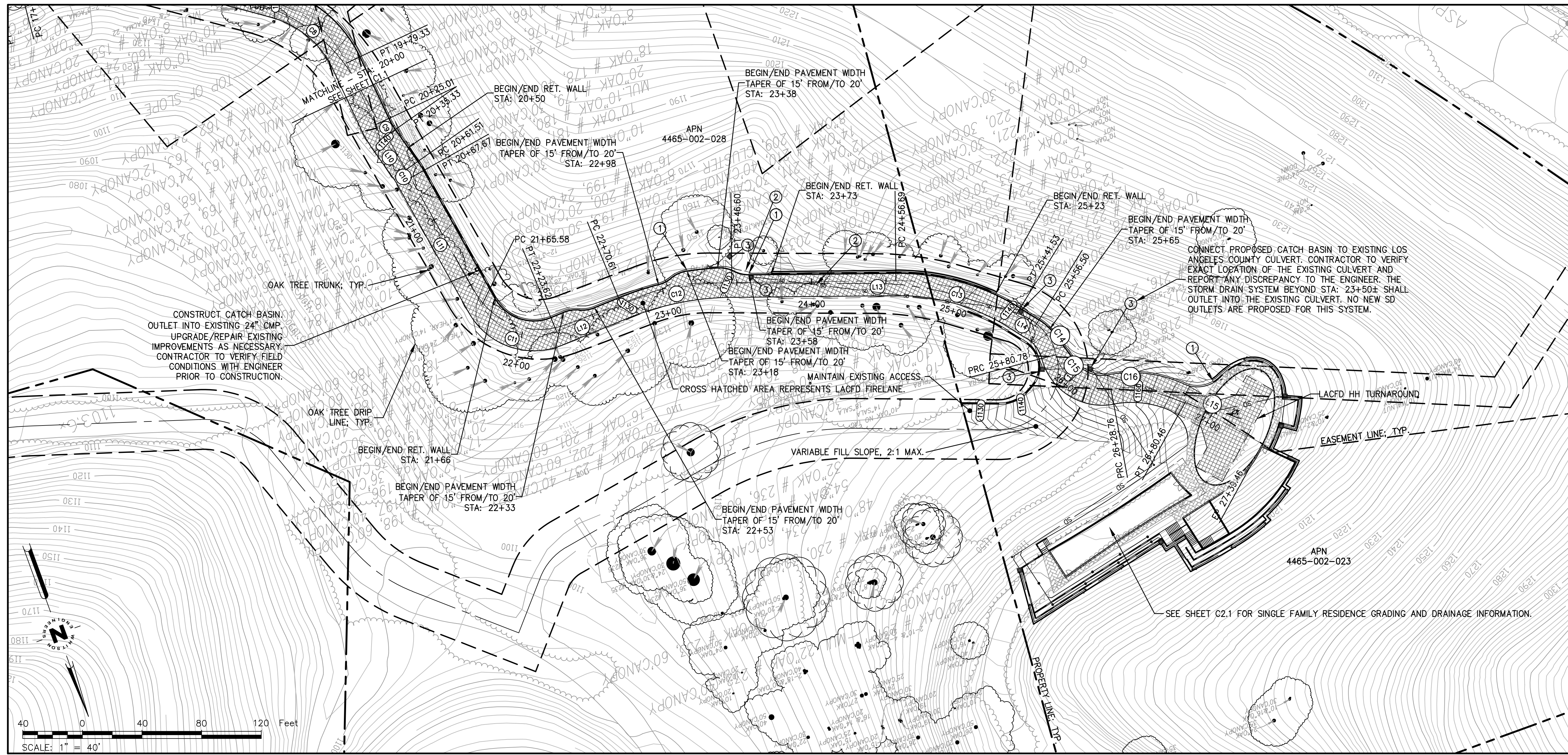
**JULY 13, 2017**  
 Sheet 1 of 1



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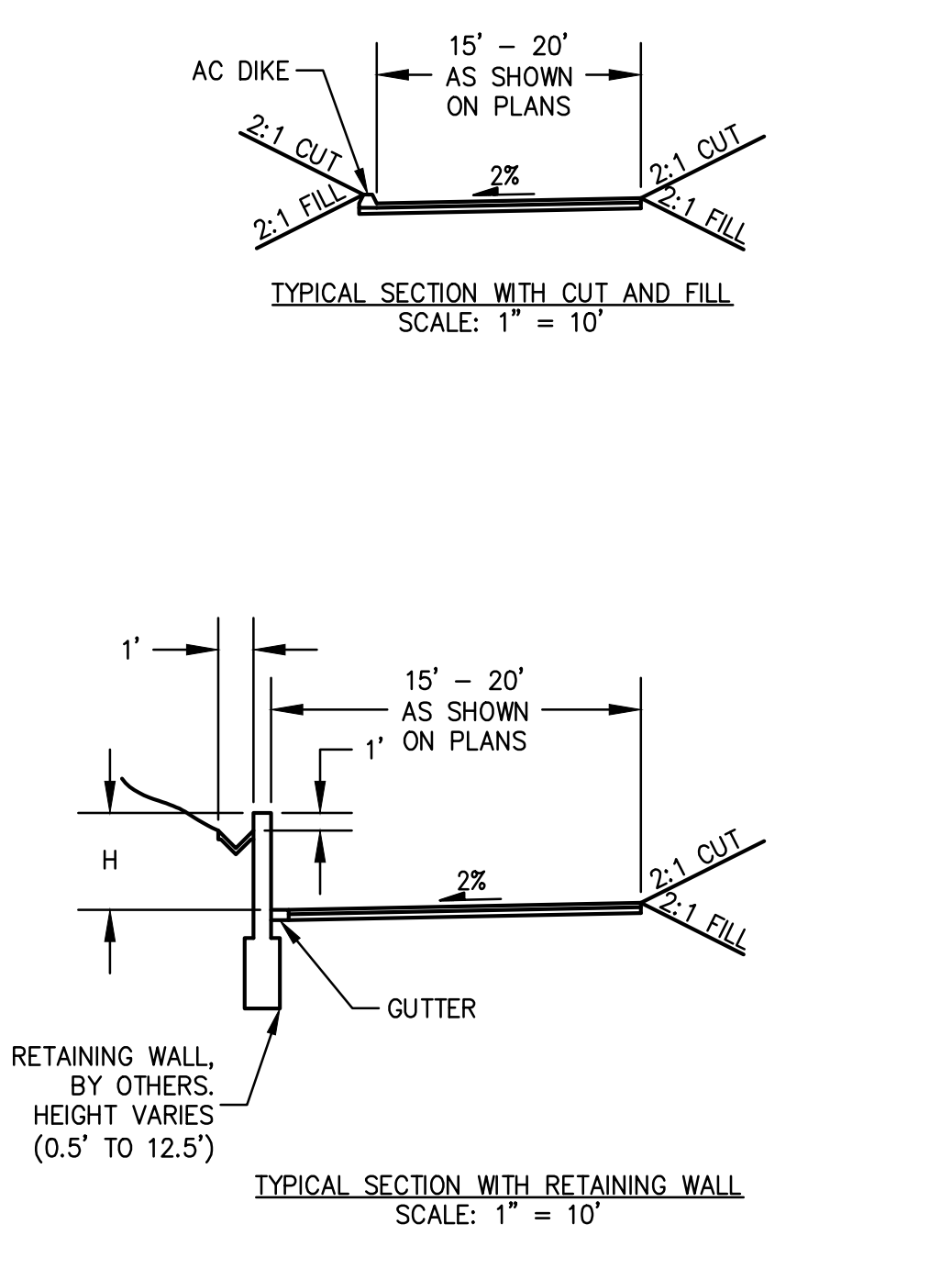
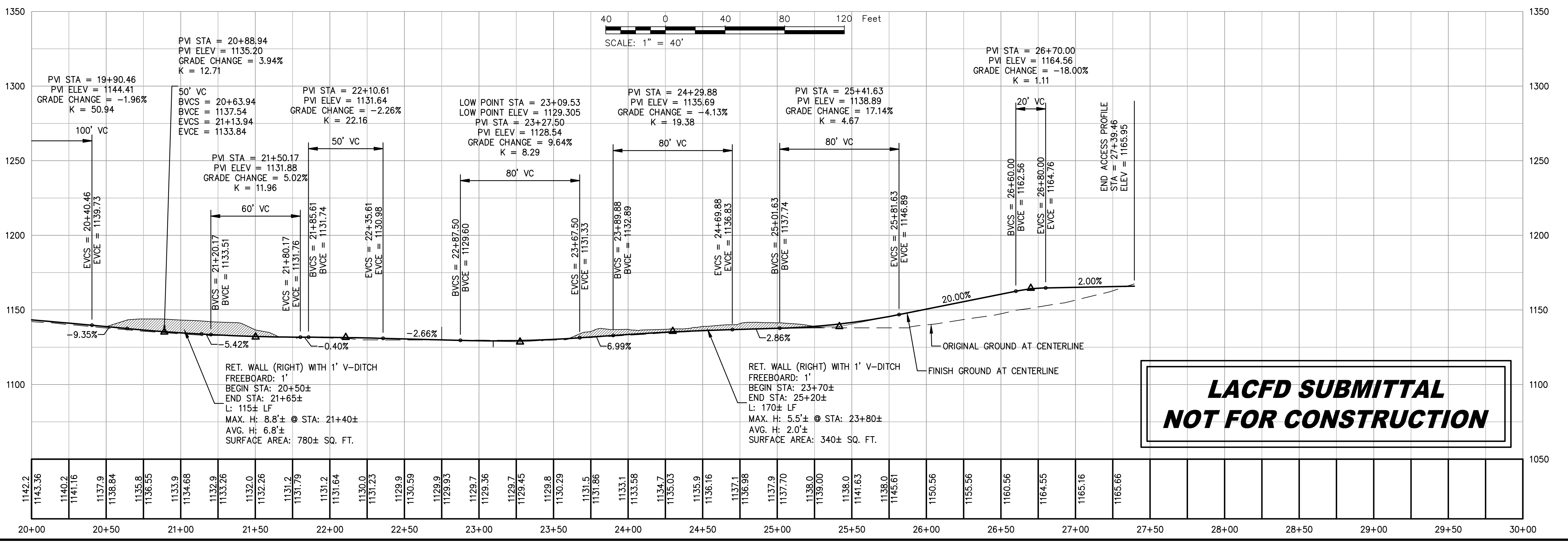
- CONSTRUCTION NOTES**
- BEGIN/END AC DIKE
  - INSTALL SD CULVERT PER MANUFACTURER'S SPECIFICATIONS.
  - CONSTRUCT 2' CATCH BASIN
  - INSTALL ROCK RIP RAP PAD AT SD OUTLET.
  - BIOSWALE
  - RETAINING WALL.
- GENERAL NOTES:**
- THE TOPOGRAPHY, BOUNDARY AND EASEMENT INFORMATION SHOWN WAS PROVIDED BY CHRIS NELSON AND ASSOCIATES.
  - ALL GRADED SLOPES ARE 2:1 (H:V) OR FLATTER
  - ALL RETAINING WALLS ARE TO BE DESIGNED BY OTHERS AND ARE SHOWN FOR REFERENCE ONLY.
- LACFD FIRELANE NOTE:**
- THE PROPOSED LACFD FIRELANE SHALL BE HARD SCAPE ALL WEATHER ACCESS IN ACCORDANCE WITH DEPARTMENT'S ALL WEATHER ACCESS REQUIREMENTS (FIRE CODE 503.2.3). PAVEMENT SECTION TO BE DESIGNED BY OTHERS.
- UTILITY NOTE:**
- JOINT TRENCH (JT) AND WATER (W) UTILITIES SHOWN ON THIS PLAN FOR REFERENCE ONLY. UTILITIES TO BE DESIGNED BY OTHERS. ACTUAL LOCATION MAY VARY. POC ASSUMED AT KANAN DUME ROAD AND PRIVATE DRIVEWAY INTERSECTION.

**LINE TABLE**

LINE	DIRECTION	LENGTH
L10	N15°05'03"W	26.19
L11	N9°12'25"W	97.92
L12	S87°39'51"W	46.99
L13	N70°33'55"W	110.08
L14	N38°09'29"W	14.97
L15	N41°06'13"E	50.00

**CURVE TABLE**

CURVE	RADIUS			DELTA	LENGTH
	CENTER	INSIDE	OUTSIDE		
C9	60.00	50.00	70.00	9°51'05"	10.32
C10	60.00	50.00	70.00	5°52'38"	6.15
C11	40.00	30.00	50.00	83°07'44"	58.03
C12	200.00	190.00	205.00	21°46'14"	75.99
C13	150.00	140.00	155.00	32°24'26"	84.84
C14	32.00	22.00	42.00	43°28'27"	24.28
C15	32.00	22.00	42.00	85°54'57"	47.98
C16	75.00	65.00	85.00	39°29'45"	51.70

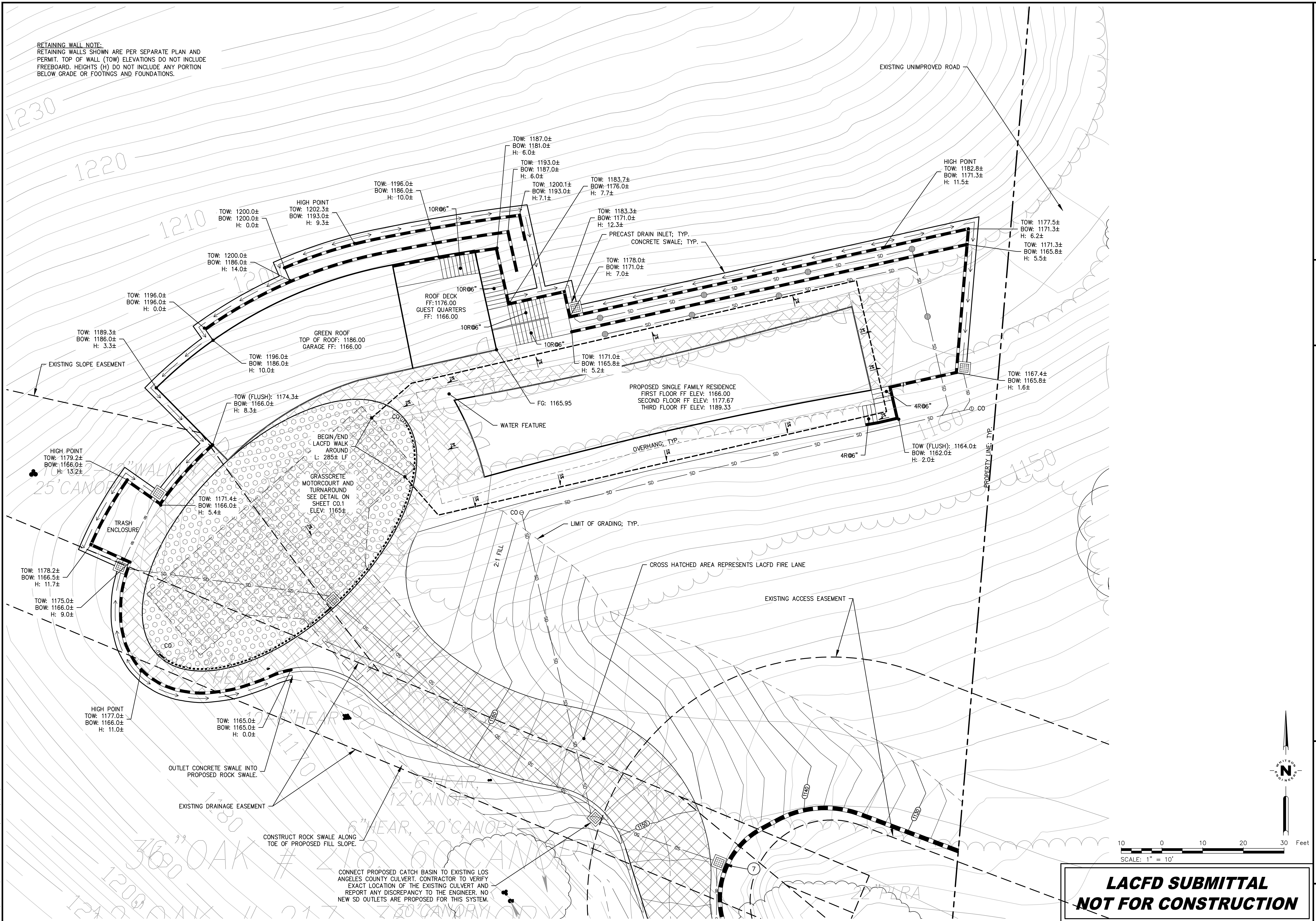


**LACFD SUBMITTAL  
 NOT FOR CONSTRUCTION**

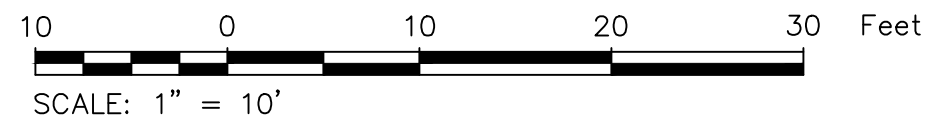
REVISIONS:

NO.	DATE	DESCRIPTION

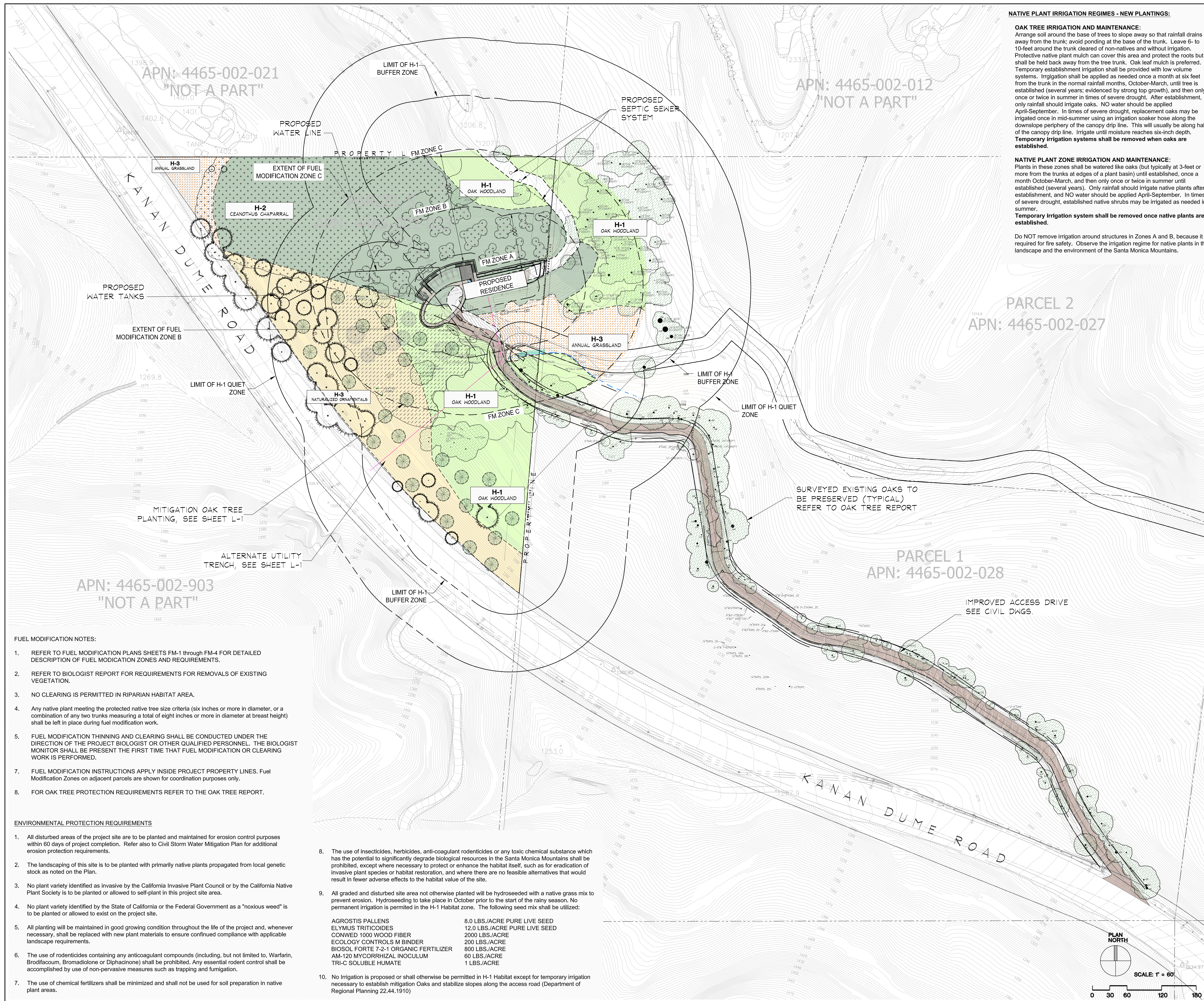
RETAINING WALL NOTE:  
 RETAINING WALLS SHOWN ARE PER SEPARATE PLAN AND PERMIT. TOP OF WALL (TOW) ELEVATIONS DO NOT INCLUDE FREEBOARD. HEIGHTS (H) DO NOT INCLUDE ANY PORTION BELOW GRADE OR FOOTINGS AND FOUNDATIONS.



**LACFD SUBMITTAL**  
**NOT FOR CONSTRUCTION**



AUG 16, 2017 - 1:28pm  
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**NATIVE PLANT IRRIGATION REGIMES - NEW PLANTINGS:**

**OAK TREE IRRIGATION AND MAINTENANCE:**  
 Arrange soil around the base of trees to slope away so that rainfall drains away from the trunk; avoid ponding at the base of the trunk. Leave 6- to 10-feet around the trunk cleared of non-natives and without irrigation. Protective native plant mulch can cover this area and protect the roots but shall be held back away from the tree trunk. Oak leaf mulch is preferred. Temporary establishment irrigation shall be provided with low volume systems. Irrigation shall be applied as needed once a month at six feet from the trunk in the normal rainfall months, October-March, until tree is established (several years; evidenced by strong top growth), and then only once or twice in summer in times of severe drought. After establishment, only rainfall should irrigate oaks. NO water should be applied April-September. In times of severe drought, replacement oaks may be irrigated once in mid-summer using an irrigation soaker hose along the downslope periphery of the canopy drip line. This will usually be along half of the canopy drip line. Irrigate until moisture reaches six-inch depth. **Temporary irrigation systems shall be removed when oaks are established.**

**NATIVE PLANT ZONE IRRIGATION AND MAINTENANCE:**  
 Plants in these zones shall be watered like oaks (but typically at 3-feet or more from the trunks at edges of a plant basin) until established, once a month October-March, and then only once or twice in summer until established (several years). Only rainfall should irrigate native plants after establishment, and NO water should be applied April-September. In times of severe drought, established native shrubs may be irrigated as needed in summer. **Temporary irrigation system shall be removed once native plants are established.**

Do NOT remove irrigation around structures in Zones A and B, because it is required for fire safety. Observe the irrigation regime for native plants in the landscape and the environment of the Santa Monica Mountains.

**CARTER, ROMANEK**  
 Landscape Architects, Inc.

11110 Ohio Avenue, Suite 204  
 Los Angeles, CA 90025  
 (310) 477-3900 FAX (310) 477-3977  
 Lic. #02114

Architect:



**SCHMITZ & ASSOCIATES**  
 28118 Agoura Rd, Suite #103, Agoura Hills, CA 91301  
 Phone: (818) 338-3636  
 Contact: Nicole Farnoush  
 Email: nfaroush@schmitzandassociates.net

Architect:



**DANIEL CHUDNOVSKY, A.I.A. ARCHITECTS, INC.**  
 2566 S. OVERLAND AVENUE, SUITE 640, LOS ANGELES, CA 90004  
 PHONE: 310.472-6333 FAX: 310.472-0222

Project:

**KANAN DUME RESIDENCE**

PROJECT ADDRESS:  
**3300 SOUTH KANAN DUME RD**  
**LOS ANGELES COUNTY**  
 APNs: 4465-002-023, 4465-002-028

**PLAN LEGEND**

- SURVEYED EXISTING NATIVE TREE TO BE PRESERVED (TYPICAL) REFER TO BIOLOGIST REPORT
- SURVEYED EXISTING NATIVE TREE TO BE PRUNED FOR ACCESS CLEARANCE REFER TO BIOLOGIST REPORT
- NON-NATIVE PINE TREES TO BE REMOVED
- NON-NATIVE PINE TREES PLANTED BY THE COUNTY FOR SLOPE STABILIZATION TO REMAIN
- QUERCUS AGRIFOLIA, COAST LIVE OAK 15 GALLON SIZE MITIGATION TREES DRIP IRRIGATED ONLY UNTIL ESTABLISHED SPACED TO FUEL MODIFICATION STANDARDS REFER TO SHEET L-1 FOR MORE INFORMATION
- EXISTING NATIVE CEANOTHUS CHAPARRAL (PREDOMINANTLY CEANOTHUS MEGACARPUS) TO REMAIN BEYOND ZONE 'C' AND IN ISLANDS WITH 20' BETWEEN IN ZONES 'C' AND 'B'-30'
- NATIVE GRASS HYDROSEEDED EROSION PROTECTION GROUND COVER SEE HYDROSEED MATERIALS LIST PROJECT REQUIREMENTS, THIS SHEET
- H-1 OAK-SCYAMORE FOREST
- H-1 OAK WOODLAND
- H-2 CEANOTHUS CHAPARRAL
- H-3 NATURALIZED ORNAMENTALS
- H-3 ANNUAL GRASSLAND
- STREAM (H-1)

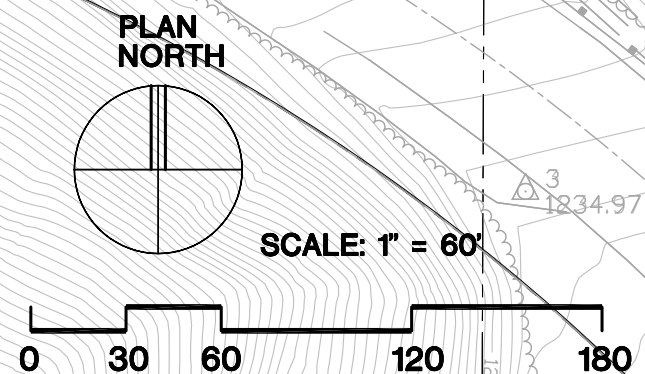
**FUEL MODIFICATION NOTES:**

1. REFER TO FUEL MODIFICATION PLANS SHEETS FM-1 through FM-4 FOR DETAILED DESCRIPTION OF FUEL MODIFICATION ZONES AND REQUIREMENTS.
2. REFER TO BIOLOGIST REPORT FOR REQUIREMENTS FOR REMOVALS OF EXISTING VEGETATION.
3. NO CLEARING IS PERMITTED IN RIPARIAN HABITAT AREA.
4. Any native plant meeting the protected native tree size criteria (six inches or more in diameter, or a combination of any two trunks measuring a total of eight inches or more in diameter at breast height) shall be left in place during fuel modification work.
5. FUEL MODIFICATION THINNING AND CLEARING SHALL BE CONDUCTED UNDER THE DIRECTION OF THE PROJECT BIOLOGIST OR OTHER QUALIFIED PERSONNEL. THE BIOLOGIST MONITOR SHALL BE PRESENT THE FIRST TIME THAT FUEL MODIFICATION OR CLEARING WORK IS PERFORMED.
7. FUEL MODIFICATION INSTRUCTIONS APPLY INSIDE PROJECT PROPERTY LINES. Fuel Modification Zones on adjacent parcels are shown for coordination purposes only.
8. FOR OAK TREE PROTECTION REQUIREMENTS REFER TO THE OAK TREE REPORT.

**ENVIRONMENTAL PROTECTION REQUIREMENTS**

1. All disturbed areas of the project site are to be planted and maintained for erosion control purposes within 60 days of project completion. Refer also to Civil Storm Water Mitigation Plan for additional erosion protection requirements.
2. The landscaping of this site is to be planted with primarily native plants propagated from local genetic stock as noted on the Plan.
3. No plant variety identified as invasive by the California Invasive Plant Council or by the California Native Plant Society is to be planted or allowed to self-plant in this project site area.
4. No plant variety identified by the State of California or the Federal Government as a "noxious weed" is to be planted or allowed to exist on the project site.
5. All planting will be maintained in good growing condition throughout the life of the project and, whenever necessary, shall be replaced with new plant materials to ensure continued compliance with applicable landscape requirements.
6. The use of rodenticides containing any anticoagulant compounds (including, but not limited to, Warfarin, Brodifacoum, Bromadiolone or Diphacinone) shall be prohibited. Any essential rodent control shall be accomplished by use of non-persistent measures such as trapping and fumigation.
7. The use of chemical fertilizers shall be minimized and shall not be used for soil preparation in native plant areas.
8. The use of insecticides, herbicides, anti-coagulant rodenticides or any toxic chemical substance which has the potential to significantly degrade biological resources in the Santa Monica Mountains shall be prohibited, except where necessary to protect or enhance the habitat itself, such as for eradication of invasive plant species or habitat restoration, and where there are no feasible alternatives that would result in fewer adverse effects to the habitat value of the site.
9. All graded and disturbed site area not otherwise planted will be hydroseeded with a native grass mix to prevent erosion. Hydroseeding to take place in October prior to the start of the rainy season. No permanent irrigation is permitted in the H-1 Habitat zone. The following seed mix shall be utilized:  

AGROSTIS PALLENS	8.0 LBS./ACRE PURE LIVE SEED
ELYMUS TRITICOIDES	12.0 LBS./ACRE PURE LIVE SEED
CONWED 1000 WOOD FIBER	2000 LBS./ACRE
ECOLOGY CONTROLS M BINDER	200 LBS./ACRE
BIOSOL FORTE 7-2-1 ORGANIC FERTILIZER	800 LBS./ACRE
AM-120 MYCORRHIZAL INOCULUM	60 LBS./ACRE
TRI-C SOLUBLE HUMATE	1 LBS./ACRE
10. No Irrigation is proposed or shall otherwise be permitted in H-1 Habitat except for temporary irrigation necessary to establish mitigation Oaks and stabilize slopes along the access road (Department of Regional Planning 22.44.1910)



Date: JULY 13, 2017

Scale: SCALE: 1" = 60'

Drawing Title:

**OVERALL SITE PLAN**

Sheet No: **L-0**

Applicant:



**SCHMITZ & ASSOCIATES**  
28118 Agoura Rd. Suite #103, Agoura Hills, CA 91301  
Phone: (818) 338-3636  
Contact: Nicole Farnoush  
Email: nrfarnoush@schmitzandassociates.net

Architect:



**DANIEL CHUDNOVSKY, A.I.A. ARCHITECTS, INC.**  
2568 S. OVERLAND AVENUE, SUITE 640, LOS ANGELES, CA 90044  
PHONE: 310.476.6333 FAX: 310.476.6222

Project:

**KANAN DUME RESIDENCE**

PROJECT ADDRESS:

**3300 SOUTH KANAN DUME RD**  
**LOS ANGELES COUNTY**  
APNs: 4465-002-023, 4465-002-028

**PLAN LEGEND**

- SURVEYED EXISTING NATIVE TREE TO BE PRESERVED (TYPICAL) REFER TO BIOLOGIST REPORT
- SURVEYED EXISTING NATIVE TREE TO BE PRUNED FOR ACCESS CLEARANCE REFER TO BIOLOGIST REPORT
- NON-NATIVE PINE TREES PLANTED BY THE COUNTY FOR SLOPE STABILIZATION TO REMAIN
- QUERCUS AGRIFOLIA, COAST LIVE OAK 15 GALLON SIZE - 25 TREES PROPOSED DRIP IRRIGATED ONLY UNTIL ESTABLISHED SPACED TO FUEL MODIFICATION STANDARDS IN ZONES 'C' AND 'B-30' SPACED MORE TYPICALLY BEYOND ZONE 'C'
- EXISTING NATIVE CEANOTHUS CHAPARRAL (PREDOMINANTLY CEANOTHUS MEGACARPUS) TO REMAIN BEYOND ZONE 'C' AND IN ISLANDS WITH 20' BETWEEN IN ZONES 'C' AND 'B-30'
- NATIVE GRASS HYDROSEEDED EROSION PROTECTION GROUND COVER SEE HYDROSEEDED MATERIALS LIST PROJECT REQUIREMENTS, THIS SHEET
- H-1 OAK-SYCAMORE FOREST
- H-1 OAK WOODLAND
- H-2 CEANOTHUS CHAPARRAL
- H-3 NATURALIZED ORNAMENTALS
- H-3 ANNUAL GRASSLAND
- STREAM (H-1)

Date: JULY 13, 2017

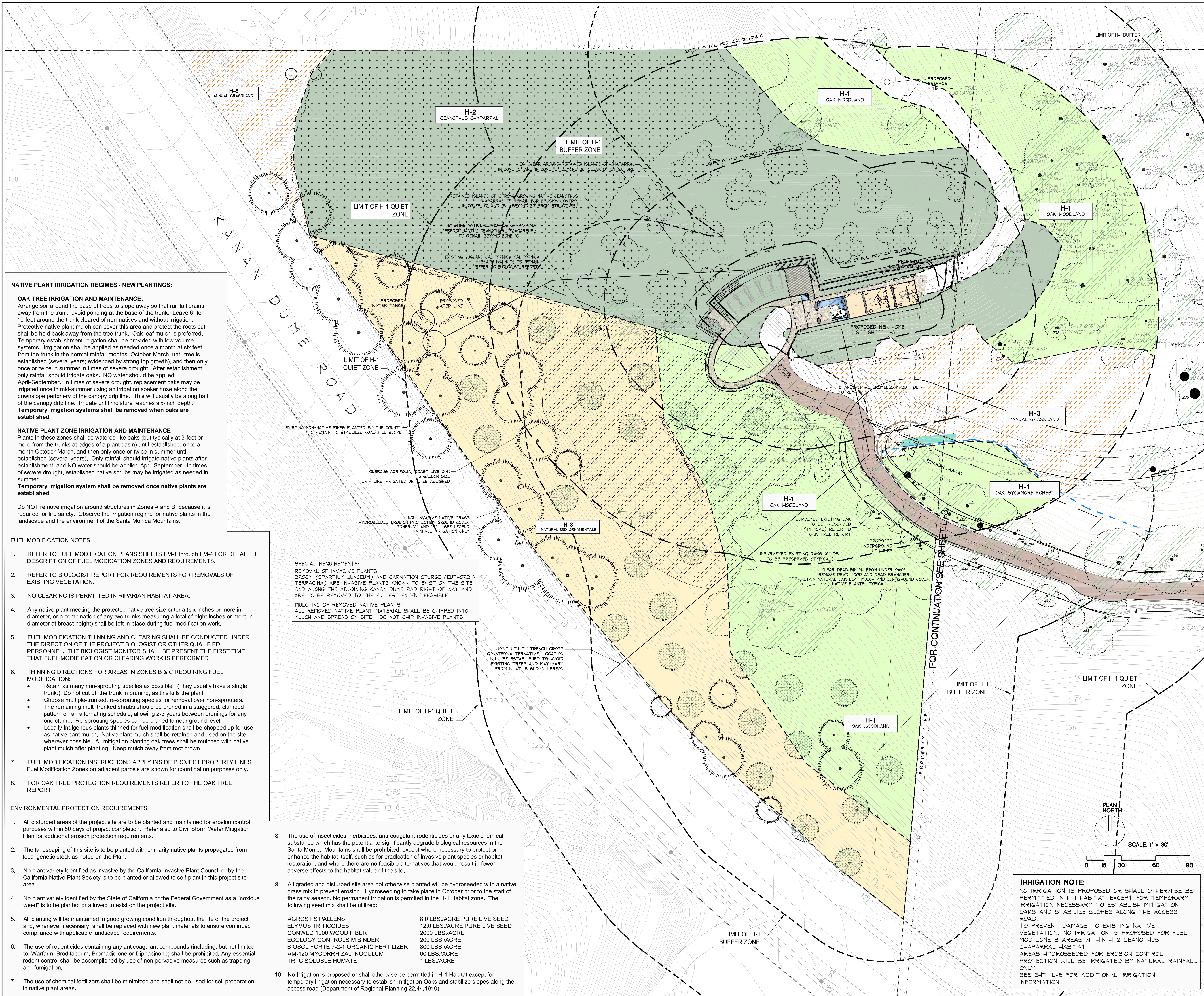
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Drawing Title:

**SITE AREA PLANTING PLAN**

Sheet No:

**L-1**



**NATIVE PLANT IRRIGATION REGIMES - NEW PLANTINGS:**

**OAK TREE IRRIGATION AND MAINTENANCE:**  
Arrange soil around the base of trees to slope away so that rainfall drains away from the trunk; avoid ponding at the base of the trunk. Leave 6- to 10-feet around the trunk cleared of non-natives and without irrigation. Protective native plant mulch can cover this area and protect the roots but shall be held back away from the tree trunk. Oak leaf mulch is preferred. Temporary establishment irrigation shall be provided with low volume systems. Irrigation shall be applied as needed once a month at six feet from the trunk in the normal rainfall months, October-March, until tree is established (several years; evidenced by strong top growth), and then only once or twice in summer in times of severe drought. After establishment, only rainfall should irrigate oaks. NO water should be applied April-September. In times of severe drought, replacement oaks may be irrigated once in mid-summer using an irrigation soaker hose along the downslope periphery of the canopy drip line. This will usually be along half of the canopy drip line. Irrigate until moisture reaches six-inch depth. Temporary irrigation systems shall be removed when oaks are established.

**NATIVE PLANT ZONE IRRIGATION AND MAINTENANCE:**  
Plants in these zones shall be watered like oaks (but typically at 3-feet or more from the trunks at edges of a plant basin) until established, once a month October-March, and then only once or twice in summer until established (several years). Only rainfall should irrigate native plants after establishment, and NO water should be applied April-September. In times of severe drought, established native shrubs may be irrigated as needed in summer. Temporary irrigation system shall be removed once native plants are established.

Do NOT remove irrigation around structures in Zones A and B, because it is required for fire safety. Observe the irrigation regime for native plants in the landscape and the environment of the Santa Monica Mountains.

**FUEL MODIFICATION NOTES:**

1. REFER TO FUEL MODIFICATION PLANS SHEETS FM-1 through FM-4 FOR DETAILED DESCRIPTION OF FUEL MODIFICATION ZONES AND REQUIREMENTS.
2. REFER TO BIOLOGIST REPORT FOR REQUIREMENTS FOR REMOVALS OF EXISTING VEGETATION.
3. NO CLEARING IS PERMITTED IN RIPARIAN HABITAT AREA.
4. Any native plant meeting the protected native tree size criteria (six inches or more in diameter, or a combination of any two trunks measuring a total of eight inches or more in diameter at breast height) shall be left in place during fuel modification work.
5. FUEL MODIFICATION THINNING AND CLEARING SHALL BE CONDUCTED UNDER THE DIRECTION OF THE PROJECT BIOLOGIST OR OTHER QUALIFIED PERSONNEL. THE BIOLOGIST MONITOR SHALL BE PRESENT THE FIRST TIME THAT FUEL MODIFICATION OR CLEARING WORK IS PERFORMED.
6. THINNING DIRECTIONS FOR AREAS IN ZONES B & C REQUIRING FUEL MODIFICATION:
  - Retain as many non-sprouting species as possible. (They usually have a single trunk.) Do not cut off the trunk in pruning, as this kills the plant.
  - Choose multiple-trunked, re-sprouting species for removal over non-sprouters.
  - The remaining multi-trunked shrubs should be pruned in a staggered, clumped pattern on an alternating schedule, allowing 2-3 years between prunings for any one clump. Re-sprouting species can be pruned to near ground level.
  - Locally-indigenous plants thinned for fuel modification shall be chipped up for use as native plant mulch. Native plant mulch shall be retained and used on the site wherever possible. All mitigation planting oak trees shall be mulched with native plant mulch after planting. Keep mulch away from root crown.
7. FUEL MODIFICATION INSTRUCTIONS APPLY INSIDE PROJECT PROPERTY LINES. Fuel Modification Zones on adjacent parcels are shown for coordination purposes only.
8. FOR OAK TREE PROTECTION REQUIREMENTS REFER TO THE OAK TREE REPORT.

**ENVIRONMENTAL PROTECTION REQUIREMENTS**

1. All disturbed areas of the project site are to be planted and maintained for erosion control purposes within 60 days of project completion. Refer also to Civil Storm Water Mitigation Plan for additional erosion protection requirements.
2. The landscaping of this site is to be planted with primarily native plants propagated from local genetic stock as noted on the Plan.
3. No plant variety identified as invasive by the California Invasive Plant Council or by the California Native Plant Society is to be planted or allowed to self-plant in this project site area.
4. No plant variety identified by the State of California or the Federal Government as a "noxious weed" is to be planted or allowed to exist on the project site.
5. All planting will be maintained in good growing condition throughout the life of the project and, whenever necessary, shall be replaced with new plant materials to ensure continued compliance with applicable landscape requirements.
6. The use of rodenticides containing any anticoagulant compounds (including, but not limited to, Warfarin, Brodifacoum, Bromadiolone or Diphacinone) shall be prohibited. Any essential rodent control shall be accomplished by use of non-persistent measures such as trapping and fumigation.
7. The use of chemical fertilizers shall be minimized and shall not be used for soil preparation in native plant areas.

**SPECIAL REQUIREMENTS:**  
REMOVAL OF INVASIVE PLANTS: BROODY (SPARTAN JUNCEUM) AND CARNATION SPURGE (EUPHORBIA TERRACINA) ARE INVASIVE PLANTS KNOWN TO EXIST ON THE SITE AND ALONG THE ADJOINING KANAN DUME RD RIGHT OF WAY AND ARE TO BE REMOVED TO THE FULLEST EXTENT FEASIBLE.  
MULCHING OF REMOVED NATIVE PLANTS: ALL REMOVED NATIVE PLANT MATERIAL SHALL BE CHIPPED INTO MULCH AND SPREAD ON SITE. DO NOT CHIP INVASIVE PLANTS.

JOINT UTILITY TRENCH CROSS COUNTRY ALTERNATIVE LOCATION WILL BE ESTABLISHED TO AVOID EXISTING TREES AND MAY VARY FROM WHAT IS SHOWN HEREON

AGROSTIS PALLENS	8.0 LBS./ACRE PURE LIVE SEED
ELYMUS TRITICOIDES	12.0 LBS./ACRE PURE LIVE SEED
CONNED 1000 WOOD FIBER	2000 LBS./ACRE
ECOLOGY CONTROLS M BINDER	200 LBS./ACRE
BIO SOL FORTE 7-2-1 ORGANIC FERTILIZER	800 LBS./ACRE
AM-120 MYCORRHIZAL INOCULUM	60 LBS./ACRE
TRI-C SOLUBLE HUMATE	1 LBS./ACRE

10. No Irrigation is proposed or shall otherwise be permitted in H-1 Habitat except for temporary irrigation necessary to establish mitigation Oaks and stabilize slopes along the access road (Department of Regional Planning 22.44.1910)

Applicant:



**SCHMITZ & ASSOCIATES**  
28118 Agoura Rd, Suite #103, Agoura Hills, CA 91301  
Phone: (818) 338-3636  
Contact: Nicole Farnoush  
Email: n.farnoush@schmitzandassociates.net

Architect:



**DANIEL CHUDNOVSKY, A.I.A. ARCHITECTS, INC.**  
2566 S. OVERLAND AVENUE, SUITE 640, LOS ANGELES, CA 90004  
PHONE: (310) 472-0333 FAX: (310) 472-0222

Project:

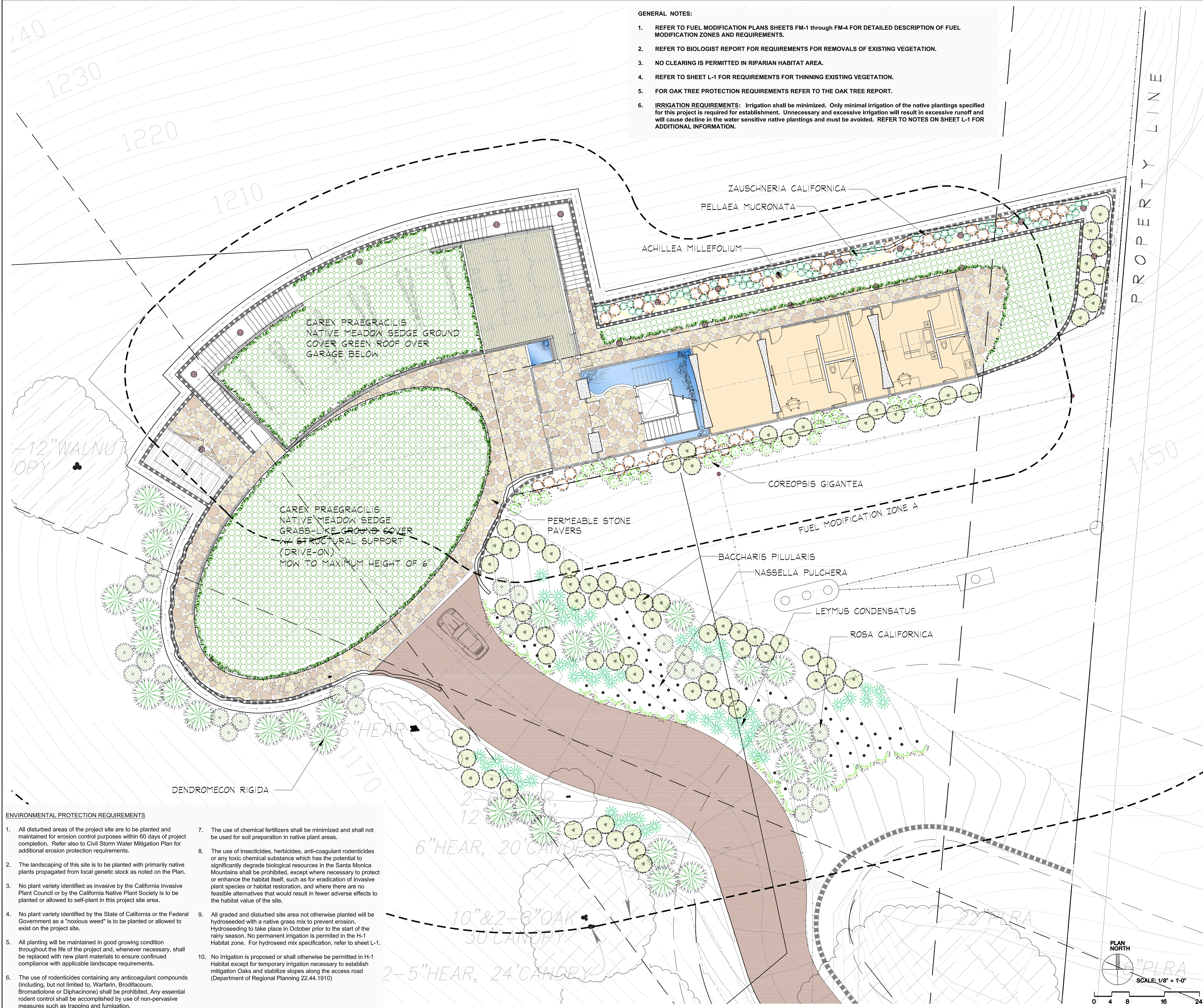
**KANAN DUME RESIDENCE**

PROJECT ADDRESS:

**3300 SOUTH KANAN DUME RD  
LOS ANGELES COUNTY  
APNs: 4465-002-023, 4465-002-028**

**GENERAL NOTES:**

1. REFER TO FUEL MODIFICATION PLANS SHEETS FM-1 through FM-4 FOR DETAILED DESCRIPTION OF FUEL MODIFICATION ZONES AND REQUIREMENTS.
2. REFER TO BIOLOGIST REPORT FOR REQUIREMENTS FOR REMOVALS OF EXISTING VEGETATION.
3. NO CLEARING IS PERMITTED IN RIPARIAN HABITAT AREA.
4. REFER TO SHEET L-1 FOR REQUIREMENTS FOR THINNING EXISTING VEGETATION.
5. FOR OAK TREE PROTECTION REQUIREMENTS REFER TO THE OAK TREE REPORT.
6. **IRRIGATION REQUIREMENTS:** Irrigation shall be minimized. Only minimal irrigation of the native plantings specified for this project is required for establishment. Unnecessary and excessive irrigation will result in excessive runoff and will cause decline in the water sensitive native plantings and must be avoided. REFER TO NOTES ON SHEET L-1 FOR ADDITIONAL INFORMATION.

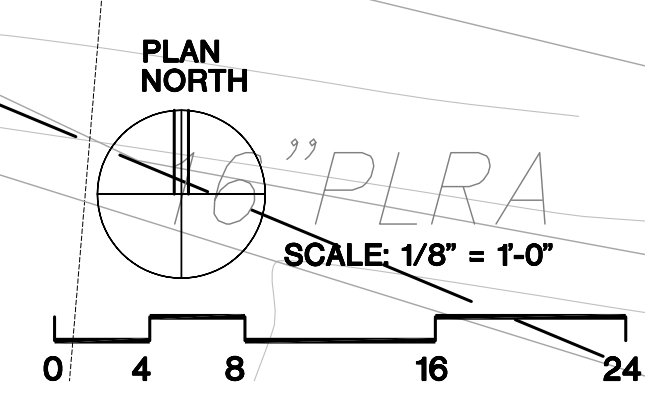


**PLAN LEGEND**

- ACHILLEA MILLEFOLIUM*  
YARROW
- BACCHARIS PILULARIS*  
DWARF COYOTE BUSH
- COREOPSIS GIGANTEA*  
GIANT COREOPSIS
- CAREX PRAEGRACILIS*  
CLUSTERED FIELD SEDGE
- DENDROMECON RIGIDA*  
BUSH POPPY
- ENCELIA CALIFORNICA*  
CALIFORNIA SUNFLOWER
- ELYMUS CONDENSATUS*  
'CANYON PRINCE' WILD RYE GRASS
- NASSELLA PULCHERA*  
PURPLE NEEDLE GRASS
- PELLAEA MUCRONATA*  
BIRDS FOOT FERN
- ROSA CALIFORNICA*  
CALIFORNIA WILD ROSE
- ZAUSCHNERIA CALIFORNICA*  
CALIFORNIA FUSCHIA

**ENVIRONMENTAL PROTECTION REQUIREMENTS**

1. All disturbed areas of the project site are to be planted and maintained for erosion control purposes within 60 days of project completion. Refer also to Civil Storm Water Mitigation Plan for additional erosion protection requirements.
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4. No plant variety identified by the State of California or the Federal Government as a "noxious weed" is to be planted or allowed to exist on the project site.
5. All planting will be maintained in good growing condition throughout the life of the project and, whenever necessary, shall be replaced with new plant materials to ensure continued compliance with applicable landscape requirements.
6. The use of rodenticides containing any anticoagulant compounds (including, but not limited to, Warfarin, Brodifacoum, Bromadiolone or Diphacinone) shall be prohibited. Any essential rodent control shall be accomplished by use of non-persistent measures such as trapping and fumigation.
7. The use of chemical fertilizers shall be minimized and shall not be used for soil preparation in native plant areas.
8. The use of insecticides, herbicides, anti-coagulant rodenticides or any toxic chemical substances which has the potential to significantly degrade biological resources in the Santa Monica Mountains shall be prohibited, except where necessary to protect or enhance the habitat itself, such as for eradication of invasive plant species or habitat restoration, and where there are no feasible alternatives that would result in fewer adverse effects to the habitat value of the site.
9. All graded and disturbed site area not otherwise planted will be hydroseeded with a native grass mix to prevent erosion. Hydroseeding to take place in October prior to the start of the rainy season. No permanent irrigation is permitted in the H-1 Habitat zone. For hydroseed mix specification, refer to sheet L-1.
10. No Irrigation is proposed or shall otherwise be permitted in H-1 Habitat except for temporary irrigation necessary to establish mitigation Oaks and stabilize slopes along the access road (Department of Regional Planning 22.44.1910)



Date: JULY 13, 2017

Scale: SCALE: 1/8" = 1'-0"

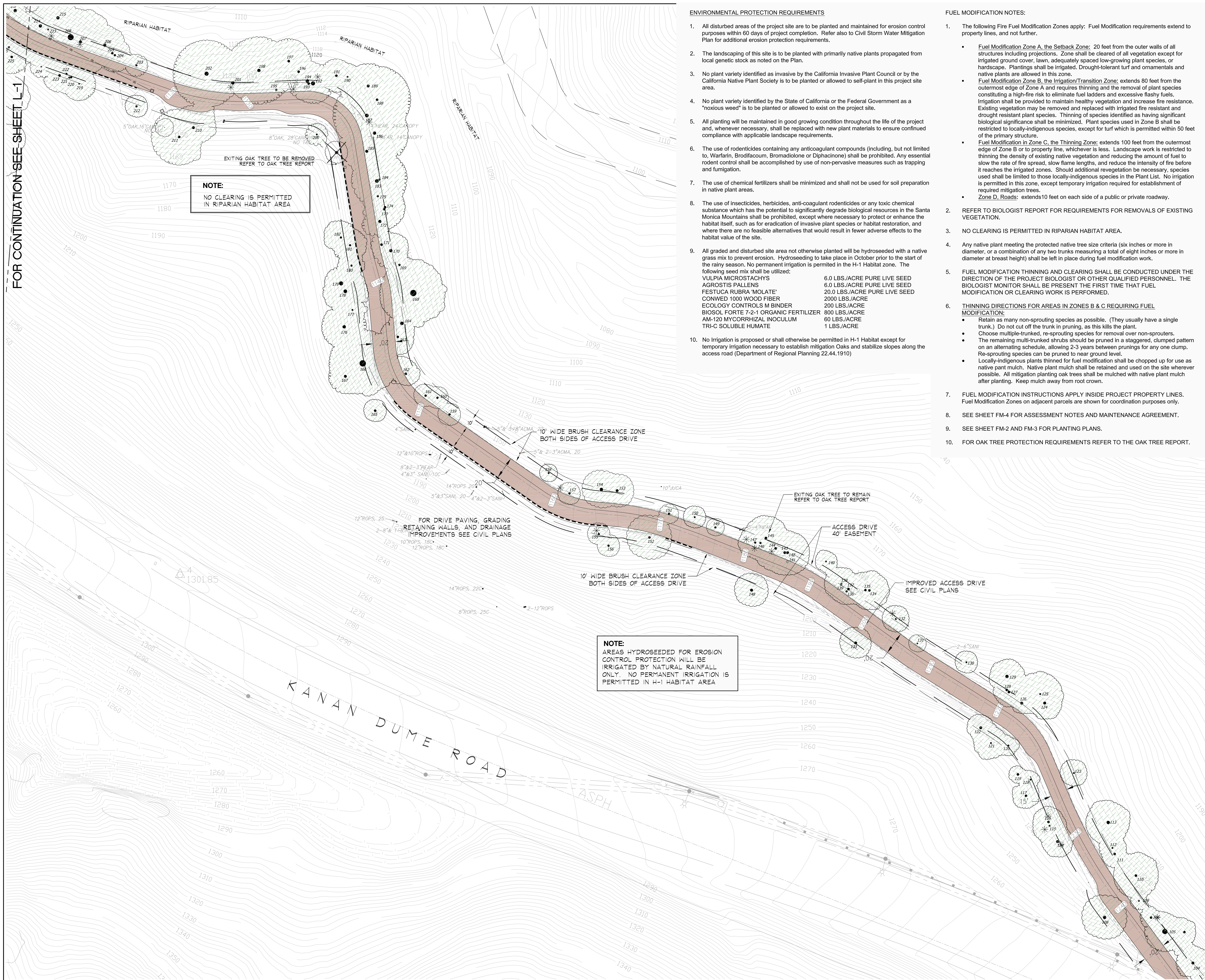
Drawing Title:

**HOUSE AREA  
ENLARGED  
PLANTING PLAN**

Sheet No:

**L-2**





**ENVIRONMENTAL PROTECTION REQUIREMENTS**

- All disturbed areas of the project site are to be planted and maintained for erosion control purposes within 60 days of project completion. Refer also to Civil Storm Water Mitigation Plan for additional erosion protection requirements.
- The landscaping of this site is to be planted with primarily native plants propagated from local genetic stock as noted on the Plan.
- No plant variety identified as invasive by the California Invasive Plant Council or by the California Native Plant Society is to be planted or allowed to self-plant in this project site area.
- No plant variety identified by the State of California or the Federal Government as a "noxious weed" is to be planted or allowed to exist on the project site.
- All planting will be maintained in good growing condition throughout the life of the project and, whenever necessary, shall be replaced with new plant materials to ensure continued compliance with applicable landscape requirements.
- The use of rodenticides containing any anticoagulant compounds (including, but not limited to, Warfarin, Brodifacoum, Bromadiolone or Diphacinone) shall be prohibited. Any essential rodent control shall be accomplished by use of non-pervasive measures such as trapping and fumigation.
- The use of chemical fertilizers shall be minimized and shall not be used for soil preparation in native plant areas.
- The use of insecticides, herbicides, anti-coagulant rodenticides or any toxic chemical substance which has the potential to significantly degrade biological resources in the Santa Monica Mountains shall be prohibited, except where necessary to protect or enhance the habitat itself, such as for eradication of invasive plant species or habitat restoration, and where there are no feasible alternatives that would result in fewer adverse effects to the habitat value of the site.
- All graded and disturbed site area not otherwise planted will be hydroseeded with a native grass mix to prevent erosion. Hydroseeding to take place in October prior to the start of the rainy season. No permanent irrigation is permitted in the H-1 Habitat zone. The following seed mix shall be utilized:
 

VULPIA MICROSTACHYS	6.0 LBS./ACRE PURE LIVE SEED
AGROSTIS PALLENS	6.0 LBS./ACRE PURE LIVE SEED
FESTUCA RUBRA 'MOLATE'	20.0 LBS./ACRE PURE LIVE SEED
CONWED 1000 WOOD FIBER	2000 LBS./ACRE
ECOLOGY CONTROLS M BINDER	200 LBS./ACRE
BIOSOL FORTE 7-2-1 ORGANIC FERTILIZER	800 LBS./ACRE
AM-120 MYCORRHIZAL INOCULUM	60 LBS./ACRE
TRI-C SOLUBLE HUMATE	1 LBS./ACRE
- No irrigation is proposed or shall otherwise be permitted in H-1 Habitat except for temporary irrigation necessary to establish mitigation Oaks and stabilize slopes along the access road (Department of Regional Planning 22.44.1910)

**FUEL MODIFICATION ZONES:**

- The following Fire Fuel Modification Zones apply: Fuel Modification requirements extend to property lines, and not further.
  - Fuel Modification Zone A, the Setback Zone: 20 feet from the outer walls of all structures including projections. Zone shall be cleared of all vegetation except for irrigated ground cover, lawn, adequately spaced low-growing plant species, or hardscape. Plantings shall be irrigated. Drought-tolerant turf and ornamentals and native plants are allowed in this zone.
  - Fuel Modification Zone B, the Irrigation/Transition Zone: extends 80 feet from the outermost edge of Zone A and requires thinning and the removal of plant species constituting a high-fire risk to eliminate fuel ladders and excessive flashy fuels. Irrigation shall be provided to maintain healthy vegetation and increase fire resistance. Existing vegetation may be removed and replaced with irrigated fire resistant and drought resistant plant species. Thinning of species identified as having significant biological significance shall be minimized. Plant species used in Zone B shall be restricted to locally-indigenous species, except for turf which is permitted within 50 feet of the primary structure.
  - Fuel Modification in Zone C, the Thinning Zone: extends 100 feet from the outermost edge of Zone B or to property line, whichever is less. Landscape work is restricted to thinning the density of existing native vegetation and reducing the amount of fuel to slow the rate of fire spread, slow flame lengths, and reduce the intensity of fire before it reaches the irrigated zones. Should additional revegetation be necessary, species used shall be limited to those locally-indigenous species in the Plant List. No irrigation is permitted in this zone, except temporary irrigation required for establishment of required mitigation trees.
  - Zone D, Roads: extends 10 feet on each side of a public or private roadway.
- REFER TO BIOLOGIST REPORT FOR REQUIREMENTS FOR REMOVALS OF EXISTING VEGETATION.
- NO CLEARING IS PERMITTED IN RIPARIAN HABITAT AREA.
- Any native plant meeting the protected native tree size criteria (six inches or more in diameter, or a combination of any two trunks measuring a total of eight inches or more in diameter at breast height) shall be left in place during fuel modification work.
- FUEL MODIFICATION THINNING AND CLEARING SHALL BE CONDUCTED UNDER THE DIRECTION OF THE PROJECT BIOLOGIST OR OTHER QUALIFIED PERSONNEL. THE BIOLOGIST MONITOR SHALL BE PRESENT THE FIRST TIME THAT FUEL MODIFICATION OR CLEARING WORK IS PERFORMED.
- THINNING DIRECTIONS FOR AREAS IN ZONES B & C REQUIRING FUEL MODIFICATION:
  - Retain as many non-sprouting species as possible. (They usually have a single trunk.) Do not cut off the trunk in pruning, as this kills the plant.
  - Choose multiple-trunked, re-sprouting species for removal over non-sprouters.
  - The remaining multi-trunked shrubs should be pruned in a staggered, clumped pattern on an alternating schedule, allowing 2-3 years between prunings for any one clump. Re-sprouting species can be pruned to near ground level.
  - Locally-indigenous plants thinned for fuel modification shall be chopped up for use as native plant mulch. Native plant mulch shall be retained and used on the site wherever possible. All mitigation planting oak trees shall be mulched with native plant mulch after planting. Keep mulch away from root crown.
- FUEL MODIFICATION INSTRUCTIONS APPLY INSIDE PROJECT PROPERTY LINES. Fuel Modification Zones on adjacent parcels are shown for coordination purposes only.
- SEE SHEET FM-4 FOR ASSESSMENT NOTES AND MAINTENANCE AGREEMENT.
- SEE SHEET FM-2 AND FM-3 FOR PLANTING PLANS.
- FOR OAK TREE PROTECTION REQUIREMENTS REFER TO THE OAK TREE REPORT.

**CARTER, ROMANEK Landscape Architects, Inc.**

11110 Ohio Avenue, Suite 204  
Los Angeles, CA 90025  
(310) 477-3900 FAX (310) 477-3977  
Lic. #02114

Architect:



**SCHMITZ & ASSOCIATES INC.**  
28118 Agoura Rd. Suite #103, Agoura Hills, CA 91301  
Phone: (818) 338-3636  
Contact: Nicole Farnoush  
Email: nfnarnoush@schmitzandassociates.net

Architect:



**DANIEL CHUDNOVSKY, A.I.A. ARCHITECTS, INC.**  
2566 S. OVERLAND AVENUE, SUITE 640, LOS ANGELES, CA 90004  
PHONE: 310.472-0333 FAX: 310.472-0222

Project:

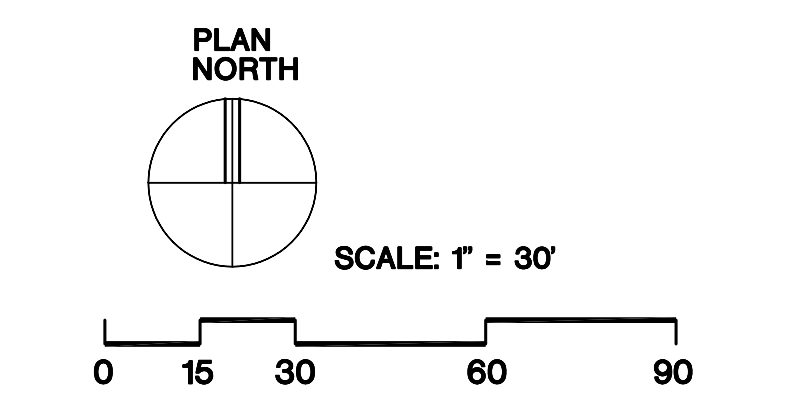
**KANAN DUME RESIDENCE**

PROJECT ADDRESS:

**3300 SOUTH KANAN DUME RD  
LOS ANGELES COUNTY**  
APNs: 4465-002-023, 4465-002-028

**PLAN LEGEND**

- SURVEYED EXISTING OAK TO BE PRESERVED (TYPICAL) REFER TO OAK TREE REPORT
- SURVEYED EXISTING OAK TO BE REMOVED FOR DRIVE IMPROVEMENT - 1 TREE, 4/98 REFER TO OAK TREE REPORT
- SURVEYED EXISTING OAK TO BE PRUNED FOR ACCESS CLEARANCE REFER TO OAK TREE REPORT



Date: JULY 13, 2017

Scale: SCALE: 1" = 30'

Drawing Title:

**ENTRY DRIVE  
CLEARING, TRIMMING  
AND HYDROSEED  
PLANTING PLAN**

Sheet No:

**PROJECT NUMBER**

R2014-00461-(3)

**HEARING DATE**

October 16, 2024

**REQUESTED ENTITLEMENT(S)**Major Coastal Development Permit No. 201500099  
Variance No. 201500100

## PROJECT SUMMARY

**OWNER / APPLICANT**

Gregory and Susan Kay Trust / Schmitz &amp; Associates, Inc.

**MAP/EXHIBIT DATE**

February 3, 2021

**PROJECT OVERVIEW**

The project is a 4,412-square-foot, 18-foot-tall, two-story, single-family residence; a 2,030-square-foot, 18-foot-tall, two-story, detached auxiliary building containing a guest house, a laundry room, a mudroom, a restroom, a garage, and a gym; and associated infrastructure, including a 1,550-foot-long driveway, a motor court, landscaping, hardscaping, retaining walls, an onsite wastewater treatment system, roof-mounted solar panels, two water wells, and two water tanks. The project also includes 5,800 cubic yards of grading, a 9,715-square-foot building site area, the removal of three native trees, and encroachments into the protected zones of 193 native trees.

**LOCATION**

3300 Kanan Dume Road, Unincorporated Malibu

**ACCESS**

Kanan Dume Road

**ASSESSORS PARCEL NUMBER**

4465-002-023

**SITE AREA**

6.63 Acres

**GENERAL PLAN / LOCAL PLAN**

Santa Monica Mountains Land Use Plan

**ZONED DISTRICT**

The Malibu

**PLANNING AREA**

Santa Monica Mountains

**LAND USE DESIGNATION**

RL20 – Rural Lands 20

**ZONE**

R-C-20

**PROPOSED UNITS**

1

**MAX DENSITY/UNITS**

1 dwelling unit per 20 gross acres

**COMMUNITY STANDARDS DISTRICT**

N/A

**ENVIRONMENTAL DETERMINATION (CEQA)**

Statutory Exemption pursuant to CEQA Guidelines Section 15270 (Projects Which Are Disapproved)

**KEY ISSUES**

- Consistency with the Santa Monica Mountains Land Use Plan
- Satisfaction of the following portions of Title 22 of the Los Angeles County Code:
  - Chapter 22.44 (Santa Monica Mountains Local Implementation Program)

**CASE PLANNER:**

Nathan M. Merrick

**PHONE NUMBER:**

(213) 974 - 0051

**E-MAIL ADDRESS:**

NMerrick@planning.lacounty.gov

LOS ANGELES COUNTY  
DEPARTMENT OF REGIONAL PLANNING  
FINDINGS OF THE REGIONAL PLANNING COMMISSION  
AND ORDER  
PROJECT NO. R2014-00461-(3)  
MAJOR COASTAL DEVELOPMENT PERMIT NO. 201500099  
VARIANCE NO. 201500100

**RECITALS**

1. **HEARING DATE(S).** The Los Angeles County (“County”) Regional Planning Commission (“Commission”) conducted a duly noticed public hearing on October 16, 2024, in the matter of Project No. R2014-00461-(3), consisting of Major Coastal Development Permit (“CDP”) No. 201500099 and Variance No. 201500100. The Major CDP and Variance are referred to collectively as the “Project Permits.” The Commission previously conducted a public hearing on October 17, 2018. The Commission voted to take the item off calendar at the conclusion of the previous public hearing.
  
2. **ENTITLEMENT(S) REQUESTED.** The applicant, Schmitz & Associates, Inc. (“Applicant”), requests the Project Permits to authorize 5,800 cubic yards of grading and the following development on a 9,715-square-foot building site area, referred to collectively as the “Project,” on a property located at Assessor’s Parcel Number (“APN”) 4465-002-023, also known as 3300 Kanan Dume Road, in the unincorporated community of Malibu (“Project Site”):
  - Construction of a 4,412-square-foot, 18-foot-tall, two-story, single-family residence.
  - Construction of a 2,030-square-foot, 18-foot-tall, two-story, detached auxiliary building, which includes a guest house and a 907-square-foot garage.
  - Construction of associated infrastructure, including a 1,550-foot-long driveway, a motor court, landscaping, hardscaping, retaining walls, an onsite wastewater treatment system (“OWTS”), roof-mounted solar panels, two water wells, and two water tanks.
  - Removal of three native trees, consisting of one oak tree, one black walnut tree, and one toyon tree.
  - Encroachments into the protected zones of 193 native trees, consisting of 190 oaks, one bigpod ceanothus, one big-leaf maple tree, and one toyon tree.
  
3. **ENTITLEMENT(S) REQUIRED.** The Major CDP is a request to authorize 5,800 cubic yards of grading and the following development on a 9,715-square-foot building site in the R-C-20 (Rural Coastal – 20-Acre Minimum Required Lot Area) Zone pursuant to the Santa Monica Mountains Local Coastal Program’s (“SMMLCP”) Local Implementation Program (“LIP”) Sections 22.44.1260 (Grading), 22.44.1750 (R-C Zone), and 22.44.1800 et seq. (Biological Resources):
  - Construction of a 4,412-square-foot, 18-foot-tall, two-story, single-family residence.

- Construction of a 2,030-square-foot, 18-foot-tall, two-story, detached auxiliary building, which includes a guest house and a 907-square-foot garage.
  - Construction of associated infrastructure, including a 1,550-foot-long driveway, a motor court, landscaping, hardscaping, retaining walls, an OWTS, roof-mounted solar panels, two water wells, and two water tanks.
  - Removal of three native trees, consisting of one oak tree, one black walnut tree, and one toyon tree.
  - Encroachments into the protected zones of 193 native trees, consisting of 190 oaks, one bigpod ceanothus, one big-leaf maple tree, and one toyon tree.
4. **ENTITLEMENT(S) REQUIRED.** The Variance is a related request for the following development pursuant to LIP Section 22.44.1150 (Variances):
- Construction of a 1,550-foot driveway, which exceeds the 300-foot limitation set forth in LIP Section 22.44.1920.C (Development Standards for Access Roads and Trails)
  - Construction of an OWTS within the dripline of an oak tree, which does not meet the required 50-foot setback from the driplines of existing native trees, including oak trees, as set forth in LIP Section 22.44.1340.B.3.c (Water Resources).
5. **PREVIOUS ENTITLEMENT(S).** The Project Site has a Certificate of Compliance (RCOC-200600592) recorded February 26, 2007.
6. **PREVIOUS APPLICATION.** On February 20, 2014, the Applicant submitted applications for a Plot Plan Approval in Concept (Case No. RPP 201400174) and an Oak Tree Permit (Case No. ROAK201400012) to the County Department of Regional Planning (“LA County Planning”) to authorize construction of a single-family residence (“2014 Project”). Pursuant to Policy No. 88 of the Malibu Land Use Plan, which was in effect at the time, the 2014 Project would have also required a Conditional Use Permit for a driveway length in excess of 300 feet.
- This application submittal occurred before the California Coastal Commission (“Coastal Commission”) certified the SMMLCP on October 10, 2014. When the SMMLCP was certified, the County was given CDP issuing authority. As a result, the Applicant could only submit a CDP application to the Coastal Commission if the County had previously approved the Plot Plan Approval in Concept, Oak Tree Permit, and Conditional Use Permit for the 2014 Project. Since the County did not approve these applications and the Applicant did not file an application with the Coastal Commission prior to the certification of the SMMLCP, the Applicant could no longer submit a CDP application to the Coastal Commission. Therefore, on September 9, 2015, the Applicant withdrew the Plot Plan Approval in Concept and Oak Tree Permit applications and submitted applications for the Project Permits.
7. **LAND USE DESIGNATION.** The Project Site is located within the RL20 (Rural Lands 20) land use designation of the SMMLCP – Land Use Plan (“Land Use Plan”) Land Use Policy Map.

8. **ZONING.** The Project Site is in the Malibu Zoned District and is currently zoned R-C-20. Pursuant to LIP Sections 22.44.1260 (Grading), 22.44.1750 (R-C-Zone), and 22.44.1800 et seq. (Biological Resources), a Major CDP is required for grading exceeding 5,000 cubic yards, the construction of a single-family residence with appurtenant infrastructure, and the removal of native trees and encroachments into the protected zones of native trees. Pursuant to LIP Sections 22.44.1150 (Variances), 22.44.1920.C (Development Standards for Access Roads and Trails), and 22.44.1340.B.3.c (Water Resources), a Variance is required for a driveway length of 1,550 feet and for locating an OWTS within 50 feet of the dripline of native trees.

**9. SURROUNDING LAND USES AND ZONING**

<b>LOCATION</b>	<b>LAND USE PLAN LAND USE POLICY</b>	<b>ZONING</b>	<b>EXISTING USES</b>
NORTH	RL20	R-C-20	Adult Residential Facility, Single-Family Residences
EAST	RL20	R-C-20	Vacant Land
SOUTH	OS-P (Open Space – Parks)	O-S-P (Open Space – Parks)	Parkland
WEST	OS-P	O-S-P	Parkland

**10. PROJECT AND SITE PLAN DESCRIPTION.**

A. Existing Site Conditions

The Project Site is 6.61 gross acres (3.45 net acres) in size and consists of one legal lot. The discrepancy between the gross and net areas is due to associated slope and drainage easements. The Project Site is irregular in shape with sloping topography and is currently undeveloped except for an existing unpaved private access road.

B. Site Access

The Project Site is accessible via a 1,550-foot-long driveway within an access easement that crosses the property to the east (APN 4465-002-028). The required improvements to the driveway necessitate the removal of one oak tree and the encroachment into the protected zones of 190 oak trees.

C. Site Plan

The site plan depicts a single-family residence, a detached auxiliary building, an OWTS, a driveway, and water tanks on a variably sloped Project Site. The Project Site is accessed via a 1,550-foot-long private driveway within an access easement that crosses the property to the east (APN 4465-002-028). The site plan depicts a proposed 4,412-square-foot, 18-foot-tall, two-story, single-family residence. The first floor consists of 2,364 square feet and the second floor consists of 2,048 square feet. The proposed OWTS is located to the northeast of the single-family residence.

The site plan also depicts a proposed 2,030-square-foot, 18-foot tall, two-story detached auxiliary building situated to the northwest of the single-family residence. The first floor consists of a 907-square-foot garage, a laundry room, and a mudroom with restroom plumbing totaling 384 square feet. The second floor consists of a 739-square-foot guest bedroom and gym. A Transfer of Development Credit (“TDC”) is required for the guest house portion of the detached auxiliary building but no TDC has been provided or proposed as part of the Project, which is inconsistent with the SMMLCP’s LIP. The proposed residence, auxiliary building, and garage total 6,442 square feet.

The Project also includes 5,800 cubic yards of grading, a motor court, landscaping, hardscaping, retaining walls, roof-mounted solar panels, two water wells, two water tanks, and native tree impacts, including the removal of one oak tree, one black walnut tree, and one toyon tree, and encroachments into the protected zones of 193 native trees consisting of 190 oak trees, one bigpod ceanothus, one big-leaf maple tree, and one toyon tree. The removals of one black walnut tree and one toyon tree, as well as the encroachments into the protected zones of one bigpod ceanothus, one big-leaf maple tree, and one toyon tree, are required to construct the proposed building site area and motor court. The removal of one oak tree and the encroachment into the protected zones of 190 oak trees are required for the construction and improvement of the driveway. The 5,800 cubic yards of grading consists of 3,300 cubic yards of cut and 2,500 cubic yards of fill, necessitating 800 cubic yards of export. Of this amount, 750 cubic yards of cut and 2,450 cubic yards of fill are required for the construction and improvement of the driveway, and 2,550 cubic yards of cut and 50 cubic yards of fill are required for the building site area.

The proposed 9,715-square-foot building site area is in the eastern area of the Project Site at the end of the 1,550-foot-long driveway and just east of the proposed motor court. The building site area is located in mapped H2 Habitat and the areas subject to required fuel modification and offsite brush clearance are located in mapped H1, H2, and H3 Habitats. The habitat mapping for the Project Site is generally consistent with the findings of the field surveys conducted by the Applicant’s biologist. The Applicant’s biologist has proposed minor changes to the habitat mapping, which have been verified by LA County Planning’s staff biologist (“Staff Biologist”) and the County Environmental Review Board (“ERB”).

The Project’s total amount of ground disturbance includes the following:

- The proposed area of development (10,058 square feet).
- The area of the proposed driveway (approximately 31,000 square feet).
- The area of the proposed brush clearance on both sides of the proposed driveway (approximately 31,000 square feet).
- The areas to be disturbed as part of required fuel modification activities within fuel modification zones A, B, and C (generally a total of 200 feet out from the outer extent of all proposed habitable structures).

11. **PUBLIC COMMENTS.** LA County Planning staff (“Staff”) has received one public comment since the previous public hearing on October 17, 2018, which was submitted by Mr. Stanley W. Lamport on March 29, 2023. Mr. Stanley W. Lamport represents the subject property owners and his letter generally indicates his opinion that the proposed alternative building site in the northwest portion of the property is an infeasible alternative due to the cost associated with developing that alternative site.

**12. AGENCY RECOMMENDATIONS.**

**A. County Department Comments and Recommendations**

As this Project is not consistent with applicable policies and land use development standards, the Project was not routed for consultation to other County agencies involved in land development.

**B. Other Agency Comments and Recommendations**

After reviewing the Project at its meetings on May 15, 2017, and June 19, 2017, the ERB recommended the Applicant move the residence to the north and west. In response, the Applicant revised the Project to increase the house’s overall height and habitable area and to move the house approximately 40 feet to the north and approximately 20 feet to the west. At its meeting on August 28, 2017, after reviewing the revised plans, the ERB recommended that the Project, as designed, is not consistent with the SMMLCP’s biological resource protection policies and development standards.

13. **CEQA DETERMINATION.** Prior to the Commission’s public hearing on the Project, Staff determined the Project qualifies as a Statutory Exemption pursuant to CEQA Guidelines Section 15270 (Projects Which Are Disapproved) because CEQA does not apply to projects a public agency rejects or disapproves.

14. **SITE VISIT.** Staff conducted a site visit on March 29, 2018, and found that the building site and the story poles are clearly visible from Kanan Dume Road. Kanan Dume Road is a designated Scenic Route pursuant to SMMLCP Land Use Plan Policy CO-126 and LIP Section 22.44.2040. Staff conducted a second site visit on September 25, 2024, and found that the Project has been appropriately posted onsite.

**GENERAL PLAN CONSISTENCY FINDINGS**

15. **LAND USE POLICY.** The Commission finds the Project Site is located within the Land Use Plan’s RL20 land use designation. Areas within the RL20 land use designation consist of rolling hills, steep slopes, and remote mountain land with difficult or no access. Rural lands may contain some concentrations of development but are also surrounded by large areas of undisturbed land. The principal permitted use in the RL20 land use designation is single-family residences. Other low impact uses are also allowed, including confined animal facilities, retreats, public recreation areas, campgrounds, and trails that are sensitively located and consistent with all development standards. The Project is a request to authorize the construction of a new single-family residence, guest house, driveway, motor court, landscaping, hardscaping, retaining walls, an OWTS, water wells, and water tanks. Therefore, the

proposed uses are consistent with the intended uses of the underlying RL20 land use designation. However, while the Project is consistent with these intended uses, it is inconsistent with the Land Use Plan's guiding principle and numerous policies as discussed in the findings below.

16. **GUIDING PRINCIPLE.** The Commission finds the Project is inconsistent with the Land Use Plan's guiding principle. Due to the Project's size (approximately 9,715 square feet of building site area) and location within the Project Site, the Project will result in significant impacts to existing coastal biological resources. These impacts would result from, but are not limited to, landform alteration for the building pad and access road and vegetation removal for fuel modification and brush clearance. In total, the Project is anticipated to affect an area of approximately 6.5 acres, both on and off the Project Site. Given the size of the proposed single-family residence and the associated amount of ground disturbance, the Project is not consistent with the guiding principle.
17. **GOALS AND POLICIES.** The Commission finds the Project is inconsistent with applicable Land Use and Housing policies of the Land Use Plan, including Policy LU-14. The Project is inconsistent with this policy because the project does not propose, and the Applicant has not sought, a TDC. The Project requires a TDC because a second residential unit, as that term is further clarified throughout the Land Use Plan (for example, see Policy LU-24 that particularly describes the term second residential units to include guest houses), is being proposed within the auxiliary building. Additionally, pursuant to LIP Section 22.44.1370.B, all proposed habitable accessory structures are required to retire one TDC in compliance with LIP Section 22.44.1230. Given no TDC is being proposed, the Project is inconsistent with Policy LU-14.
18. **GOALS AND POLICIES.** The Commission finds the Project is inconsistent with applicable Land Use and Housing policies of the Land Use Plan, including Policy LU-23. The Project is inconsistent with this policy because the Project does not propose, and the Applicant has not sought, a TDC. The Project requires a TDC because a second residential unit, as that term is further clarified throughout the Land Use Plan (for example, see Policy LU-24 that particularly describes the term second residential units to include guest houses), is being proposed within the auxiliary building. Additionally, pursuant to LIP Section 22.44.1370.B, all proposed habitable accessory structures are required to retire one TDC in compliance with LIP Section 22.44.1230. Given no TDC is being proposed, the Project is inconsistent with Policy LU-23.
19. **GOALS AND POLICIES.** The Commission finds the Project is inconsistent with applicable Conservation and Open Space policies of the Land Use Plan, including Policy CO-41. Only two non-resource dependent uses may be approved in H1 Habitat: (1) Public Works projects; and (2) access roads to lawfully permitted uses outside H1 Habitat when there is no other feasible alternative to provide access to 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. While the Project Site is a legal parcel, the development proposes fuel modification in identified H1 Habitat, both onsite and on the adjoining parcel. Vegetation clearance in order to create a defensible space in the event of a fire is not one of the two uses that may be approved



in H1 Habitat. Additionally, the Project's motor court is not the minimum turnaround size required for vehicular access to the proposed single-family residence and its development unnecessarily impacts H1 Habitat. This impact is inconsistent with Policy CO-41. Therefore, the Project is inconsistent with Policy CO-41.

**20. GOALS AND POLICIES.** The Commission finds the Project is inconsistent with applicable Conservation and Open Space policies of the Land Use Plan, including Policy CO-44. The proposed development is located on a Project Site with H1, H2, and H3 Habitat. The building site area and portions of the Project's required fuel modification area are within H1 and H2 Habitat, whereas the lower priority H3 Habitat on the Project Site will only be minimally impacted. Therefore, the Project is inconsistent with the order of priority laid out in Policy CO-44 and is therefore inconsistent with Policy CO-44.

**21. GOALS AND POLICIES.** The Commission finds the Project is inconsistent with applicable Conservation and Open Space policies of the Land Use Plan, including Policy CO-66. The Project requests a Variance from development standards relating to driveway length to the detriment of H1 and H2 Habitat areas. The Project does not prioritize protection of this habitat and instead prioritizes the development of a 4,412-square-foot, 18-foot-tall, two-story, single-family residence with a detached auxiliary building totaling 2,030 square feet, which consists of a 907-square-foot garage and a 384-square-foot laundry room and mudroom with restroom plumbing on the first floor, and a 739-square-foot guest house and gym on the second floor. The proposed residence and auxiliary building totals 6,442 square feet. The Project includes associated infrastructure including a 1,550-foot-long driveway, a motor court, landscaping, hardscaping, retaining walls, an OWTs, two water wells, two water tanks, 5,800 cubic yards of grading, and the Project results in native tree impacts including the removal of three trees and encroachments into the protected zones of 193 trees. Accordingly, the Project is inconsistent with Policy CO-66 as there exist alternatives that better preserve H1 and H2 Habitat areas.

**22. GOALS AND POLICIES.** The Commission finds the Project is inconsistent with applicable Conservation and Open Space policies of the Land Use Plan, including Policy CO-65. The Project requires a Variance because the length of the driveway (1,550 feet) exceeds the 300-foot maximum driveway length allowed by Policy CO-79, which has been codified in LIP Section 22.44.1920.C.1.c. The Project also requires a Variance for the proposed OWTs's location within the dripline of an oak tree. Pursuant to LIP Section 22.44.1340.B.3.c, OWTs shall be located 50 feet outside the driplines of existing native trees, including oak trees. Policy CO-65 does not allow Variances to be granted for impacts related to H1 or H2 Habitat, but a Variance may be granted to modify development standards to protect H1 or H2 Habitat. Here, the Project's excessive driveway length and inconsistency with the required setbacks between native trees and OWTs do not avoid impacts to H1 Habitat, nor do they minimize impacts to H2 Habitat. Instead, these proposals result in additional impacts to H1 and H2 Habitat and, therefore, the Project is inconsistent with Policy CO-65.

**23. GOALS AND POLICIES.** The Commission finds the Project is inconsistent with applicable Conservation and Open Space policies of the Land Use Plan, including

Policy CO-99. The Project proposes native tree impacts, including the removal of one oak tree, one black walnut tree, and one toyon tree, as well as encroachments into the protected zones of 193 trees consisting of 190 oak trees, one bigpod ceanothus, one big-leaf maple tree, and one toyon tree. These proposed impacts to native trees are considerable and the Project does not preserve native trees to the maximum extent feasible. There are other areas of the Project Site that are less populated with native trees and could be explored for access and development opportunities that would reduce impacts to native trees relative to the Project and, as a result, the Project is inconsistent with Policy CO-99.

**24. GOALS AND POLICIES.** The Commission finds the Project is inconsistent with applicable Conservation and Open Space policies of the Land Use Plan, including Policy CO-10. The Project is inconsistent with this policy because the impacts of the Project's proposed grading and fuel modification are considerable and Staff's recommended alternative location and design, which would be clustered in the northwest corner of the Project Site near Kanan Dume Road and an existing disturbed building site on the adjoining parcel, would likely limit grading and provide fire protection to an even greater extent than currently proposed. The Applicant is proposing a design and layout that fails to minimize the amount of grading because it places the proposed single-family residence in a location that requires a 1,550-foot-long driveway to be constructed/improved.

The proposed building site area is approximately 9,715 square feet in size. The Project was revised from an 8,724-square-foot, 40-foot-tall, single-family residence and attached garage to a 6,442-square-foot, 18-foot-tall, single-family residence and detached auxiliary structure, which contains a proposed guest house. The Project now proposes 5,800 cubic yards of grading, consisting of 3,300 cubic yards of cut and 2,500 cubic yards of fill, necessitating 800 cubic yards of export. Of this amount, 750 cubic yards of cut and 2,450 cubic yards of fill are required for the construction and improvement of the private driveway, and 2,550 cubic yards of cut and 50 cubic yards of fill are required for the building site area. This is a reduction of 1,000 cubic yards of grading compared to the previous proposal of 6,300 cubic yards of grading, consisting of 3,050 cubic yards of cut and 3,250 cubic yards of fill. Of the previous grading amount, 750 cubic yards of cut and 3,230 cubic yards of fill were required for the construction/improvement of the private driveway, and 2,300 cubic yards of cut and 30 cubic yards of fill were required for the building site area. As currently proposed, the Project is still not the minimum footprint needed to create a building site because Staff's recommended alternative location would further reduce the Project's footprint and grading quantities. Therefore, the Project is inconsistent with Policy CO-10.

**25. GOALS AND POLICIES.** The Commission finds the Project is inconsistent with applicable Conservation and Open Space policies of the Land Use Plan, including Policy CO-128. As proposed, the Project's single-family residence is a large, 4,412-square-foot, 18-foot-tall, rectilinear steel and glass building. The Project also proposes the development of a 2,030-square-foot auxiliary building, which contains additional residential living space and a garage. The height, shape, and façade are minimally articulated and extend 170 feet in length from the east end of the main residential

building to the west end of the detached auxiliary building. The design of the structure does not conform to the topography of the Project Site, and the structure is not sited in the least visible location that a structure could be placed on the property. Impacts could be significantly reduced by reducing the footprint of the structure, and by clustering the building site area with the development on the property to the northwest. Therefore, the Project is inconsistent with Policy CO-128.

- 26. GOALS AND POLICIES.** The Commission finds the Project is inconsistent with applicable Conservation and Open Space policies of the Land Use Plan, including Policy CO-125. Pursuant to Land Use Plan Map 3, Kanan Dume Road is a designated Scenic Route. Additionally, Kanan Dume Road offers scenic views of the mountains, canyons, and other unique natural features of the area. Moreover, the Project Site is not in an area associated with large swaths of existing development. Based on these facts, if the Project's building site and proposed structures will be visible from Kanan Dume Road, the Project is within a Scenic Resource Area and the protection of the area's scenic resources is required pursuant to the SMLLCP's requirements. The building site and the story poles erected by the Applicant to approximate the building envelope of the the development proposed by the Project are visible from Kanan Dume Road and, therefore, the Project is within a Scenic Resource Area.

While one required method of reducing visual impacts in Scenic Resource Areas is the reduction in structure height to 18 feet, which is reflected in Land Use Plan Policy CO-147 and LIP Section 22.44.1250.C, additional methods of reducing visual impacts are contemplated by the SMMLCP. For example, Land Use Plan Policy CO-131 and LIP Section 22.44.2040.A.1 state impacts on scenic resources should be minimized by, among other things, breaking up the mass of new structures, designing structures to blend into the natural hillside setting, clustering development, incorporating screening elements, and restricting the maximum building size, even if restricting the maximum building size results in a reduction of the building site area to a smaller size than the maximum size generally allowed, provided it is determined that a smaller building site area would serve to avoid impacts to H1 Habitat, reduce the need for retaining features visible from scenic areas, or reduce impacts to native trees as indicated in LIP Section 22.44.1910.I. Other subsections of LIP Section 22.44.2040.A also require that new development in Scenic Resource Areas incorporate colors and exterior materials that are compatible with the surrounding landscape; provide colored concrete for new access roads to blend with the natural landscape; reduce the length of new access roads; preserve and, where feasible, restore and enhance individual native trees and native tree communities in areas containing suitable native tree habitat – especially oak, walnut, and sycamore woodlands and savannas – as important elements of the area's scenic character; and preserve large areas of natural opens space by clustering development and siting development in and near existing developed areas.

As depicted on the site plan and elevations, the Project, as revised by the Applicant, would reach a maximum height of 18 feet. However, the Project is proposed as two detached, two-story residential structures, with numerous multi-level retaining walls, a motor court, and roof decks within a 9,715-square-foot building site area. These development features associated with the Project do not break up the mass of new structures, do not blend into the natural hillside setting, do not cluster development,

and do not minimize the buildings' maximum sizes. Specifically, the Project continues to be proposed at the toe of an existing slope as opposed to being proposed in a location that would blend the Project into the existing hillside; the Project's buildings' height, shape, and façade are minimally articulated and extend 170 feet in length from the east end of the main residence building to the west end of the detached auxiliary building; the Project is not sited near existing development, including Kanan Dume Road and an existing building pad on the parcel directly north of the Project Site; and the Project continues to be proposed with a building site area of approximately 9,715 square feet, which is a mere 285 square feet less than the maximum allowed. Additionally, the Project's proposed building materials (glass, gray concretes, etc.) tend to result in an increase in scenic impacts as they do not blend in with the surrounding landscape. Moreover, the Project's driveway, which is approximately 1,550 feet in length, significantly impacts the native tree communities onsite, which are important elements of the area's scenic character. Therefore, given that the Project does not protect views within Scenic Resource Areas, the Project is inconsistent with Policy CO-125.

**27. GOALS AND POLICIES.** The Commission finds the Project is inconsistent with applicable Conservation and Open Space policies of the Land Use Plan, including Policy CO-131. Pursuant to Land Use Plan Map 3, Kanan Dume Road is a designated Scenic Route. Additionally, Kanan Dume Road offers scenic views of the mountains, canyons, and other unique natural features of the area. Moreover, the Project Site is not in an area associated with large swaths of existing development. Based on these facts, if the Project's building site and proposed structures will be visible from Kanan Dume Road, the Project is within a Scenic Resource Area and the protection of the area's scenic resources is required pursuant to the SMMLCP's requirements. The building site and the story poles erected by the Applicant to approximate the building envelope of the development proposed by the Project are visible from Kanan Dume Road and, therefore, the Project is within a Scenic Resource Area.

While one required method of reducing visual impacts in Scenic Resource Areas is the reduction in structure height to 18 feet, which is reflected in Land Use Plan Policy CO-147 and LIP Section 22.44.1250.C, this Policy CO-131, which is codified at LIP Section 22.44.2040.A.1, states impacts on scenic resources should be minimized by, among other things, breaking up the mass of new structures, designing structures to blend into the natural hillside setting, clustering development, incorporating screening elements, and restricting the maximum building size, even if restricting the maximum building size results in a reduction of the building site area to a smaller size than the maximum size generally allowed, provided it is determined that a smaller building site area would serve to avoid impacts to H1 Habitat, reduce the need for retaining features visible from scenic areas, or reduce impacts to native trees as indicated in LIP Section 22.44.1910.I.

As depicted on the site plan and elevations, the Project, as revised by the Applicant, would reach a maximum height of 18 feet. However, the Project is proposed as two detached, two-story residential structures, with numerous multi-level retaining walls, a motor court, and roof decks within a 9,715-square-foot building site area. These development features associated with the Project do not break up the mass of new

structures, do not blend into the natural hillside setting, do not cluster development, and do not minimize the buildings' maximum sizes. Specifically, the Project continues to be proposed at the toe of an existing slope as opposed to being proposed at a location that would blend the Project into the existing hillside; the Project's buildings' height, shape, and façade are minimally articulated and extend 170 feet in length from the east end of the main residence building to the west end of the detached auxiliary building; the Project is not sited near existing development, including Kanan Dume Road and an existing building pad on the parcel directly north of the Project Site; and the Project continues to be proposed with a building site area of approximately 9,715 square feet, which is a mere 285 square feet less than the maximum allowed. Therefore, given the Project does not site or design new development to minimize adverse impacts on scenic resources to the maximum extent feasible, the Project is inconsistent with Policy CO-131.

**28. GOALS AND POLICIES.** The Commission finds the Project is inconsistent with applicable Land Use and Housing policies of the Land Use Plan, including Policy LU-40. Development of the Project's building site area would require the removal of H2 Habitat, and the Project's fuel modification plan proposes the removal of H1 Habitat. H1 and H2 habitat would also both be impacted by the proposed motor court. This motor court is not the minimum turnaround size necessary for County Fire access, nor is it required for vehicular access to the proposed single-family residence. Therefore, the development of the motor court unnecessarily impacts H1 and H2 Habitat and the Project is not protective of H1 and H2 Habitat areas.

Furthermore, the proposed development is visible from Kanan Dume Road, a designated Scenic Route and scenic resource. Accordingly, the Project is required to implement a multitude of development standards intended to protect public views and minimize adverse impacts on scenic resources to the maximum extent feasible. However, as depicted on the site plan and elevations, while the Project, as revised by the Applicant, would reach a maximum height of 18 feet, it is proposed as two detached, two-story residential structures, with numerous multi-level retaining walls, a motor court, and roof decks within a 9,715-square-foot building site area. These development features associated with the Project do not break up the mass of new structures, do not blend into the natural hillside setting, do not cluster development, and do not minimize the buildings' maximum sizes. Specifically, the Project continues to be proposed at the toe of an existing slope as opposed to a location that would blend the Project into the existing hillside; the Project's buildings' height, shape, and façade are minimally articulated and extend 170 feet in length from the east end of the main residence building to the west end of the detached auxiliary building; the Project is not sited near existing development, including Kanan Dume Road and an existing building pad on the parcel directly north of the Project Site; and the Project continues to be proposed with a building site area of approximately 9,715 square feet, which is a mere 285 square feet less than the maximum allowed. Additionally, the Project's proposed building materials (glass, gray concrete, etc.) tend to result in an increase in scenic impacts as they do not blend in with the surrounding landscape. Moreover, the Project's driveway, which is approximately 1,550 feet in length, significantly impacts the native tree communities onsite, which are important elements of the area's scenic character. Therefore, the Project does not protect scenic resources and public views.

Finally, because the building site area is not clustered with other nearby development, including Kanan Dume Road and an existing building pad on the parcel north of the Project Site, the Project cannot take advantage of the existing legal fuel modification associated with the building pad and the existing offsite brush clearance associated with Kanan Dume Road. Therefore, the Project does not minimize the overall vegetation clearance needed for fire protection. This impact, along with the proposed impacts to H1 Habitat, H2 Habitat, scenic resources, and public views, results in the Project being inconsistent with Policy LU-40.

### **ZONING CODE CONSISTENCY FINDINGS**

**29. HABITABLE ACCESSORY STRUCTURES.** The Commission finds the Project is inconsistent with the standards identified in LIP Sections 22.44.1230 (Transfer of Development Credit Program) and 22.44.1370 (Accessory Dwelling Units and Habitable Accessory Structures). Pursuant to LIP Section 22.44.1370.B, all proposed habitable accessory structures are required to retire one TDC in compliance with LIP Section 22.44.1230. Additionally, under LIP Section 22.44.1370.D, all habitable accessory structures must, among other things, have an OWTS separate from the primary residence. As proposed, the Project contemplates the development of a habitable accessory structure, which is a part of the larger auxiliary building. However, the Project does not propose, and the Applicant has not sought, a TDC. Additionally, the proposed habitable accessory structure does not have its own OWTS and instead proposes to utilize the OWTS associated with the single-family residence. Consequently, the Project is inconsistent with the requirements and development standards associated with habitable accessory structures.

**30. BIOLOGICAL RESOURCE STANDARDS.** The Commission finds the Project is inconsistent with the standards identified in LIP Section 22.44.1800 et seq. (Area-Specific Development Standards Biological Resources). Pursuant to the biological resource requirements of LIP Section 22.44.1800 et seq., the Applicant submitted a Biological Assessment, prepared by a qualified biologist, which was reviewed by the Staff Biologist for accuracy and adequacy. The Staff Biologist determined the Biological Assessment was sufficient.

Pursuant to LIP Section 22.44.1860, the Project and the associated Biological Assessment were reviewed by the ERB because the Project is within 200 feet of H1 and H2 Habitat. At its meeting on May 15, 2017, the ERB made several recommendations to minimize potential resource impacts. At its meeting on June 19, 2017, the ERB made additional recommendations, including that the Applicant move the residence to the north and west. While the Applicant did move the proposed single-family residence approximately 40 feet to the north and approximately 20 feet to the west, the ERB determined, at its August 28, 2017, meeting, that the Project was still not consistent with the SMMLCP's biological resource protection policies and development standards and the ERB memorialized that determination through a unanimous motion. The minutes of all three ERB meetings are attached. The revised Project's building site area is located in substantially the same location previously

considered by the ERB, with only adjustments made to the building footprints occurring within the building site area.

LIP Section 22.44.1890.C identifies the various uses and development activities permitted within the various habitat areas of the Santa Monica Mountains Coastal Zone and states that development is prohibited within H1 Habitat areas except for resource dependent uses, Public Works projects, and access roads to a lawfully permitted use where the access road and the use meet five specific criteria found in LIP Section 22.44.1890.C.2.b. The Project includes three development activities within H1 Habitat areas, including the proposed driveway and various fuel modification and brush clearance activities. The Project's proposed driveway, which is considered an access road in this context, meets the literal criteria in that it is a use permitted in H1 Habitat. However, the Project's proposed driveway is not consistent with the intent of this Section within the context of the previously discussed policies aiming to ensure that proposed development is designed to minimize disturbance to H1 Habitat and within the context of the LIP requirements limiting the length of the access road to 300 feet.

Furthermore, the Project also proposes brush clearance for fuel modification purposes within H1 Habitat. Brush clearance for fuel modification purposes meets the definition of development found in LIP Section 22.44.630, but it is not a kind or type of development allowed within H1 Habitat. Additionally, the motor court is proposed partly within H1 Habitat. This motor court is not the minimum turnaround size necessary for County Fire access, nor is it the minimum amount of paving required for vehicular access to the proposed single-family residence, and the development of the motor court is therefore not an allowed use within H1 Habitat pursuant to LIP Section 22.44.1890.C. Therefore, the Project is inconsistent with the biological resource protection requirements of LIP Sections 22.44.1800 et seq.

LIP Section 22.44.1910.A states, "New non-resource dependent development shall be prohibited in areas designated H1 Habitat to protect these most sensitive environmental resource areas from disruption of habitat values, unless otherwise provided in LIP Section 22.44.1890." As discussed above, fuel modification and brush clearance activities are not the types of development allowed in H1 Habitat, nor is the proposed motor court. Therefore, the Project's proposed impacts to H1 Habitat are not allowed and the Project is inconsistent with the requirements of LIP Section 22.44.1910.A.

LIP Section 22.44.1910.C requires that "[n]ew development shall be sited in a manner that avoids the most biologically-sensitive habitat on site where feasible, in the following order of priority: H1, H2 High Scrutiny, H2, then H3 – while not conflicting with other SMMLCP policies. Priority shall be given to siting development in H3 Habitat." The proposed development is located on a Project Site with H1, H2 and H3 Habitat. The Project's building site area, and portions of the required fuel modification area and brush clearance activities, are within H1 and H2 Habitat. By contrast, the H3 Habitat on the Project Site will be minimally impacted by the Project. The Project is inconsistent with the order of priority for habitat impacts and is therefore inconsistent with LIP Section 22.44.1910.C.

LIP Section 22.44.1910.D states development standards related to the “protection of H1 and H2 Habitat and public access shall take priority over other development standards, and if there is any conflict between the biological resource and/or public access protection standards and other development standards, the standards most protective of H1 and H2 Habitat and public access, as determined by the County, shall have precedence.” The Project does not prioritize protection of H1 and H2 Habitat. Instead, the Project prioritizes the development of a 4,412-square-foot, 18-foot-tall, single-family residence with a 2,030-square-foot detached auxiliary building including a guest house and garage, and associated infrastructure including a 1,550-foot-long driveway, a motor court, landscaping, hardscaping, retaining walls, an OWTS, two water wells, two water tanks, and 5,800 cubic yards of grading. In addition to the required Major CDP, the Project requests variances from the development standards relating to driveway length and native tree buffers. The Variance requests are not related to relief from development standards to preserve sensitive habitat and would in fact result in additional impacts to sensitive habitat, including vegetation removal and native tree impacts such as the removal of three trees as well as encroachments into the protected zones of 125 trees, along with an OWTS within 50 feet of native trees. Therefore, the Project is inconsistent with LIP Section 22.44.1910.D.

LIP Section 22.44.1920.C.1.c limits the length of new access roads or driveways to a maximum of 300 feet. The Project proposes a 1,550-foot-long driveway, which is inconsistent with this requirement. LIP Section 22.44.1920.K states, “New development shall be sited and designed to preserve native oak, walnut, sycamore, bay, or other native trees, that have at least one trunk measuring six inches or more in diameter, or a combination of any two trunks measuring a total of eight inches or more in diameter, measured at four and one-half feet above natural grade, to the maximum extent feasible. Removal of native trees shall be prohibited except where no other feasible alternative exists to allow a principal permitted use that is the minimum necessary to provide a reasonable economic use of the property. Development shall be sited to prevent any encroachment into the protected zone of individual native trees to the maximum extent feasible.”

The scope of the Project includes the construction of a 4,412-square-foot, 18-foot-tall, two-story, single-family residence with a detached auxiliary building totaling 2,030 square feet, which consists of a 907-square-foot garage and a 384-square-foot laundry room and mudroom with restroom plumbing on the first floor, and a 739-square-foot guest bedroom and gym on the second floor, which makes this building a guest house. The proposed residence and auxiliary building totals 6,442 square feet. The Project includes associated infrastructure including a 1,550-foot-long driveway, a motor court, landscaping, hardscaping, retaining walls, an OWTS, two water wells, two water tanks, and 5,800 cubic yards of grading. As designed, the scope of the Project far exceeds the minimum necessary to provide a reasonable economic use of the property. Furthermore, the Project’s native tree impacts are substantial and include the removal of one oak tree, one black walnut tree, and one toyon tree, as well as encroachments into the protected zones of 190 oak trees, one bigpod ceanothus, one big-leaf maple tree, and one toyon tree. The Applicant has not demonstrated that the Project, as designed, is the design that minimizes impacts to native trees, and has not demonstrated that the Project is sited “to prevent any encroachment into the protected



zone of individual native trees to the maximum extent feasible.” For these reasons, the Project is inconsistent with LIP Section 22.44.1920.K.

31. **VARIANCES.** The Commission finds the Project is inconsistent with the standards identified in LIP Section 22.44.1150 (Variances). Pursuant to LIP Section 22.44.1150, the Project requires a Variance because the length of the driveway (1,550 feet) exceeds the 300-foot maximum driveway length allowed by LIP Section 22.44.1920.C. A Variance is also required for the location of the proposed OWTS within the dripline of an oak tree. Pursuant to LIP Section 22.44.1340.B.3.c, OWTSs shall be located 50 feet outside the driplines of existing native trees, including oak trees. Since the previous hearing, the Project has been redesigned with a maximum height of 18 feet so a Variance for height is no longer required.

Land Use Plan Policy CO-65 does not allow Variances to be granted for impacts related to H1 or H2 Habitat, but Variances may be granted to modify development standards to protect H1 and H2 Habitat. LIP Section 22.44.1150.D requires applications for Variances to include information substantiating certain facts to the satisfaction of your Commission, including that the granting of the Variance will not be materially detrimental to the Santa Monica Mountains’ coastal resources. As opposed to redesigning the Project, the Applicant instead requests a Variance to allow a driveway and an OWTS within an H1 Habitat Buffer, which potentially may be materially detrimental to coastal resources. Staff’s recommended alternative location, which would be clustered in the northwest corner of the Project Site near Kanan Dume Road and an existing disturbed building site on the adjoining parcel to the north, would not require a Variance for driveway length and could also avoid the need for a Variance for the OWTS. The recommended alternative location is more consistent with the LIP. Because the Applicant rejected Staff’s recommended alternative location and continues to request a Variance that would allow a driveway and an OWTS that impact H1 and H2 Habitat, the Project is inconsistent with LIP Section 22.44.1150.

32. **RURAL COASTAL ZONE DEVELOPMENT STANDARDS.** The Commission finds the Project is inconsistent with the standards identified in LIP Section 22.44.1750 (R-C Rural-Coastal Zone). Pursuant to LIP Section 22.44.1750, the R-C Zone permits single-family residences and accessory uses and structures, including but not limited to: garages, grading, landscaping features and gardens, OWTSs, and required County Fire turnarounds. The Project proposes the construction of a 4,412-square-foot, 18-foot-tall, single-family residence, a 2,030-square-foot detached auxiliary building with a guest house and garage, and associated infrastructure including a 1,550-foot-long driveway, a motor court, landscaping, hardscaping, retaining walls, an OWTS, two water wells, two water tanks, and 5,800 cubic yards of grading. As such, the Project is a use permitted in the R-C Zone.

The development standards for premises in the R-C Zone are the same as those for the R-1 Zone, as provided in LIP Section 22.44.1710, which includes requirements regarding roofing, siding, yard setbacks, parking, and the minimum required area of a single-family residence. LIP Section 22.44.1710.E.3 also requires development in R-1 and R-C Zones to comply with “all applicable development standards within this LIP, including the Community-Wide Development Standards in LIP Section 22.44.1220 et

seq., and any of the applicable Area-Specific Development Standards in LIP Section 22.44.1800 et seq.” As outlined herein, the Project is inconsistent with many of the applicable development standards within the LIP. Therefore, the Project is inconsistent with the development standards of the R-C Zone.

**33. SCENIC RESOURCE STANDARDS.** The Commission finds the Project is inconsistent with the standards identified in LIP Sections 22.44.1250 (Height Limits), 22.44.1440 (Visual resource Protection), 22.44.2000 (Identification of Scenic Resource Areas), and 22.44.2040 (Scenic Resource Area Development Standards). Pursuant to LIP Section 22.44.2000.B, Scenic Resource Areas include “places on, along, 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.” According to Land Use Plan Map 3 and LIP Section 22.44.2040, Kanan Dume Road is a designated Scenic Route. Additionally, Kanan Dume Road offers scenic views of the mountains, canyons, and other unique natural features of the area. Moreover, the Project Site is not in an area associated with large swaths of existing development. Based on these facts, if the Project’s building site and proposed structures will be visible from Kanan Dume Road, the Project is within a Scenic Resource Area and the protection of the area’s scenic resources is required pursuant to the SMMLCP’s requirements. The building site and the story poles erected by the Applicant to approximate the building envelope of the development proposed by the Project are visible from Kanan Dume Road and, therefore, the Project is within a Scenic Resource Area.

Pursuant to LIP Section 22.44.1250.C, “Every residence and every other building or structure in a Scenic Resource Area shall have a height not to exceed 18 feet above natural or finished grade, whichever is lower.” Since the previous hearing, the Project’s structures have been redesigned to be 18 feet in height and the Project is now consistent with the height limit requirement in LIP Section 22.44.1250.

LIP Sections 22.44.1440.E.2 and 3 require projects to minimize adverse visual impacts to existing scenic resources to the maximum extent feasible, ensure development is subordinate to the natural setting and character of the area, and ensure all impacts on scenic resources are eliminated to the maximum extent feasible.

As proposed, the Project’s single-family residence is a large, 4,412-square-foot, 18-foot-tall, rectilinear steel and glass building. The Project also proposes the development of a 2,030-square-foot auxiliary building, which contains additional residential living space and a garage. The height, shape, and façade are minimally articulated and extend 170 feet in length from the east end of the main residential building to the west end of the detached auxiliary building. The design of the structure does not conform to the topography of the Project Site, and the structure is not sited in the least visible location that a structure could be placed on the property. Impacts could be significantly reduced by reducing the footprint of the structure, and by clustering the building site area with the development on the property to the northwest.

While one required method of reducing visual impacts in Scenic Resource Areas is the reduction in structure height to 18 feet, which is reflected in Land Use Plan Policy CO-

147 and LIP Section 22.44.1250.C, additional methods of reducing visual impacts are contemplated by the SMMLCP. For example, Land Use Plan Policy CO-131 and LIP Section 22.44.2040.A.1 state impacts on scenic resources should be minimized by, among other things, breaking up the mass of new structures, designing structures to blend into the natural hillside setting, clustering development, incorporating screening elements, and restricting the maximum building size, even if restricting the maximum building size results in a reduction of the building site area to a smaller size than the maximum size generally allowed, provided it is determined that a smaller building site area would serve to avoid impacts to H1 Habitat, reduce the need for retaining features visible from scenic areas, or reduce impacts to native trees as indicated in LIP Section 22.44.1910.I. Other subsections of LIP Section 22.44.2040.A also require that new development in Scenic Resource Areas incorporate colors and exterior materials that are compatible with the surrounding landscape; provide colored concrete for new access roads to blend with the natural landscape; reduce the length of new access roads; preserve and, where feasible, restore and enhance individual native trees and native tree communities in areas containing suitable native tree habitat – especially oak, walnut, and sycamore woodlands and savannas – as important elements of the area’s scenic character; and preserve large areas of natural opens space by clustering development and siting development in and near existing developed areas.

As depicted on the site plan and elevations, the Project, as revised by the Applicant, would reach a maximum height of 18 feet. However, the Project is proposed as two detached, two-story residential structures, with numerous multi-level retaining walls, a motor court, and roof decks within a 9,715-square-foot building site area. These development features associated with the Project do not break up the mass of new structures, do not blend into the natural hillside setting, do not cluster development, and do not minimize the buildings’ maximum sizes. Specifically, the Project continues to be proposed at the toe of an existing slope as opposed to a location that would blend the Project into the existing hillside; the Project’s buildings’ height, shape, and façade are minimally articulated and extend 170 feet in length from the east end of the main residence building to the west end of the detached auxiliary building; the Project is not sited near existing development, including Kanan Dume Road and an existing building pad on the parcel directly north of the Project Site; and the Project continues to be proposed with a building site area of approximately 9,715 square feet, which is a mere 285 square feet less than the maximum allowed. Additionally, the Project’s proposed building materials (glass, gray concretes, etc.) tend to result in an increase in scenic impacts as they do not blend in with the surrounding landscape. Moreover, the Project’s driveway, which is approximately 1,550 feet in length, significantly impacts the native tree communities onsite, which are important elements of the area’s scenic character. Therefore, the Project is inconsistent with the visual resource protection standards of LIP Section 22.44.1440.

LIP Section 22.44.2040.A.1 states, “If there is no feasible building site location on the proposed project site where development would not be visible from a Scenic Resource Area, 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.” As depicted on the site plan and elevations, the Project, as revised by the Applicant, would reach a maximum height of 18 feet. However, the Project is proposed as two detached, two-story residential structures, with numerous multi-level retaining walls, a motor court, and roof decks within a 9,715-square-foot building site area. These development features associated with the Project do not break up the mass of new structures, do not blend into the natural hillside setting, do not cluster development, and do not minimize the buildings’ maximum sizes. Specifically, the Project continues to be proposed at the toe of an existing slope as opposed to a location that would blend the Project into the existing hillside; the Project’s buildings’ height, shape, and façade are minimally articulated and extend 170 feet in length from the east end of the main residence building to the west end of the detached auxiliary building; the Project is not sited near existing development, including Kanan Dume Road and an existing building pad on the parcel directly north of the Project Site; and the Project continues to be proposed with a building site area of approximately 9,715 square feet, which is a mere 285 square feet less than the maximum allowed.

Other subsections of LIP Section 22.44.2040.A also require that new development in Scenic Resource Areas incorporate colors and exterior materials that are compatible with the surrounding landscape; provide colored concrete for new access roads to blend with the natural landscape; reduce the length of new access roads; preserve and, where feasible, restore and enhance individual native trees and native tree communities in areas containing suitable native tree habitat – especially oak, walnut, and sycamore woodlands and savannas – as important elements of the area’s scenic character; and preserve large areas of natural opens space by clustering development and siting development in and near existing developed areas. Here, the Project’s proposed building materials (glass, gray concretes, etc.) tend to result in an increase in scenic impacts as they do not blend in with the surrounding landscape. Moreover, the Project’s driveway, which is approximately 1,550 feet in length, significantly impacts the native tree communities onsite, which are important elements of the area’s scenic character.

Moreover, LIP Section 22.44.2040.A.11.c requires that, “The height and length of retaining walls shall be minimized. Retaining walls shall not exceed six feet in height. As depicted on the site plan and elevations, the proposed single-family residence is designed in a rectilinear form with little to no façade or height articulation or other elements to minimize massing and conform to existing topographic features. Moreover, multiple portions of the tiered retaining walls exceed six feet in height.

Therefore, the Project is inconsistent with LIP Section 22.44.2040.

34. **GRADING.** The Commission finds the Project is consistent with the standards identified in LIP Section 22.44.1260 (Grading). Pursuant to LIP Section 22.44.1260.C.3, a Major CDP is required because the Project involves grading in excess of 5,000 cubic yards of total cut plus total fill material. The Project proposes 5,800 cubic yards of total cut plus total fill.

While grading is generally not allowed in areas that have a slope of 50% or greater, LIP Section 22.44.1260.J does allow grading in such areas when the grading would be more protective of coastal resources, including scenic and biological resources. Therefore, portions of the Project Site with steep slopes could still be considered for development if such development would reduce the impacts to scenic and/or biological resources.

35. **HAZARD STANDARDS.** The Commission finds the Project is inconsistent with the standards identified in LIP Section 22.44.2050 et seq. (Hazards Areas). The Project Site is not within a liquefaction zone or a Federal Emergency Management Agency flood zone. The Project Site is within a mapped landslide hazard zone and a Very High Fire Hazard Severity Zone. Prior to a public hearing, proposed projects are generally reviewed and cleared for a public hearing by four County departments including the Department of Public Works and Fire. Their review and requirements serve to mitigate hazardous conditions like these. Since the Project does not comply with relevant development standards and therefore cannot be approved, the Project was not circulated to those departments for review.

#### **COASTAL DEVELOPMENT FINDINGS**

36. **The Commission finds the proposed development is not in conformity with the certified local coastal program.** The Project Site is located within the Land Use Plan's RL20 (Rural Lands 20) land use designation. While the Project is consistent with the intended uses of the RL20 land use designation, including single-family residences, it is not consistent with the Land Use Plan's guiding principle (resource protection has priority over development) and various policies related to habitable accessory structure, resource protection, limiting grading, buffers and setbacks from sensitive habitats, limiting the need for variances or modifications to development standards, limiting impacts to native trees, limiting scenic resource impacts, limiting vegetation clearance, and limiting building site area.
37. **The Commission 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 Commission finds the Project Site is in an inland portion of the Santa Monica Mountains and is not located between the first public road and the sea or shoreline of any body of water within the coastal zone.

#### **VARIANCE FINDINGS**

38. **The Commission does not find there are 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 Project Site is affected by similar circumstances as surrounding properties with steep slopes, a variety of H1, H2, and H3 Habitat, and native vegetation. The Applicant

has not adequately proven that Staff's recommended alternative location, which would be clustered in the northwest corner of the Project Site near Kanan Dume Road and an existing disturbed building site on the adjoining parcel, cannot achieve the minimum reasonable economic use while avoiding the need for variances. A Variance for driveway length would most likely no longer be required if the residence were sited nearer to Kanan Dume Road. While grading is generally not allowed in areas that have a slope of 50% or greater, LIP Section 22.44.1260.J does allow grading in such areas where such grading would be more protective of coastal resources, including scenic resources and biological resources. Therefore, portions of the Project Site with steep slopes could still be considered for development, as such development would reduce the impacts to scenic resources and/or biological resources because they are located outside of H1 Habitat and H1 Habitat Buffer areas and near the existing disturbed right-of-way, thereby reducing the required driveway length. The Applicant's rejection of Staff's suggested alternative is not consistent with the LIP because the Applicant's Project would impact H1 and/or H2 Habitat rather than develop on portions of slopes exceeding 50%. LIP Section 22.44.1910.G requires new development to be located as close as possible to existing roadways, services, and other developments to minimize impacts to H2 Habitat areas. Because the Applicant rejects alternatives that do not require a Variance, there is no special circumstance that would be applicable to the Project Site compared to the surrounding vicinity, which exhibits similar topography, scenic resources, and biological resources.

39. **The Commission does not find such variance is necessary 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 Project's excessive driveway length and the proximity of the OWTS to native trees require a Variance that would allow the driveway and the OWTS within the H1 Habitat Buffer, which would potentially be materially detrimental to coastal resources as a result. The Applicant has not adequately proven that development of the principle permitted use cannot be achieved at Staff's recommended alternative location, which would be clustered in the northwest corner of the Project Site near Kanan Dume Road and an existing disturbed building site on the adjoining parcel. This location would not require a Variance for driveway length and potentially would not require a Variance for the OWTS. The alternative location is more consistent with the LIP, as previously described in the above findings. Because the Applicant rejects Staff's recommended alternative location and continues to request a Variance that would allow driveway and OWTS impacts in H1 or H2 Habitat, the Variance is not necessary to preserve the same uses such as those in the same vicinity and zone as the Project.
40. **The Commission 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 Project does not prioritize protection of H1 and H2 Habitat. Instead, the Project prioritizes the development of a 4,412-square-foot, two-story single-family residence, a detached 2,030-square-foot auxiliary building, and associated infrastructure including a 1,550-foot-long driveway, a motor court, landscaping, hardscaping, retaining walls, an OWTS, two water wells, two water tanks, 5,800 cubic yards of grading, and related fuel modification and brush clearance activities in H1 and H2 Habitat. The Project requests variances from development

standards relating to driveway length and native tree buffers. The Variance requests are not related to relief from development standards that are necessary to preserve sensitive habitat and would instead result in additional impacts to sensitive habitat, such as vegetation removal, native tree impacts including the removal of three trees and encroachments into the protected zones of 190 trees, and the placement of an OWTS within 50 feet of native trees. Because the Variance is a request to allow impacts to H1 and H2 Habitat at the expense of those sensitive habitats, natural topography, and native trees, it may be detrimental to the public welfare and of similar improvements in the same vicinity and zone.

- 41. The Commission finds the granting of the Variance will be materially detrimental to coastal resources.** A Variance is required for the proposed location of the OWTS, which is within the dripline of an oak tree. Pursuant to LIP Section 22.44.1340.B.3.c, OWTSs shall be located 50 feet outside of the dripline of existing native trees, including oak trees. Land Use Plan Policy CO-65 does not allow Variances to be granted for impacts related to H1 or H2 Habitat, but Variances may be granted to modify development standards to protect H1 or H2 Habitat. LIP Section 22.44.1150.D requires that applications for Variances include information that substantiates certain facts to the satisfaction of the Commission, including that the granting of the Variance will not be materially detrimental to coastal resources, which includes biological and scenic resources. As described in the above findings, the Project's excessive driveway length and associated fuel modification impacts, as well as the proximity of the OWTS to native trees, are materially detrimental to the Santa Monica Mountains' coastal resources.

### **ENVIRONMENTAL FINDINGS**

42. The Commission finds the Project qualifies as a Statutory Exemption pursuant to CEQA Guidelines Section 15270 (Projects Which Are Disapproved) because CEQA does not apply to projects which a public agency rejects or disapproves.

### **ADMINISTRATIVE FINDINGS**

- 43. HEARING PROCEEDINGS.** On October 17, 2018, the Commission conducted a duly noticed public hearing regarding the Project.

#### Staff Presentation

Staff presented the Project, stated it was inconsistent with many policies of the SMMLCP, and recommended denial. Staff explained the Applicant requested a Variance because the driveway exceeded the 300-foot limitation in the SMMLCP, the proposed structure height exceeded the 18-foot height limit for new development in Scenic Resource Areas, and the location of the proposed OWTS was within the protected zone of an oak tree. Staff stated less impactful alternatives were available that would be more consistent with the SMMLCP. Staff also referenced the Coastal Commission's submitted comment letter, dated October 16, 2018, which indicated the Project was inconsistent with the SMMLCP as it relates to biological resource standards, scenic resource standards, and landform alteration standards. The Coastal Commission's comment letter also stated the

required Variance findings could not be made because feasible siting and design alternatives exist that would be consistent with the SMMLCP.

Commissioner Shell asked about the alternative locations and if Staff had recommended any alternatives or redesigns to the Applicant. Staff responded they had discussed alternatives and redesigns with the Applicant in multiple meetings. Staff explained the Applicant did relocate the proposed single-family residence approximately 40 feet to the north and approximately 20 feet to the west at the request of the ERB, but the ERB still found the Project to be inconsistent with the SMMLCP's policies, goals, and requirements related to biological resource protection standards.

#### Applicant Presentation

Don Schmitz, a representative of the Applicant, stated several reasons why the recommendation of denial was not warranted, as follows:

- The driveway location was downslope from Kanan Dume Road so the driveway and grading would not be visible.
- Staff's alternative proposal for an 18-foot-tall residence on top of a knoll would have visual impacts.
- The Project would retain 99.9% of the 191 oak trees onsite with 515 total mitigation tree plantings.
- The fuel modification impacts to H1 Habitat are unavoidable. He cited a comment from the ERB that the Project cannot avoid H1 Habitat and the Applicant's proposed building site is the best location on the Project Site to build the Project.
- The Coastal Commission has approved five new single-family residences outside H1 Habitat with fuel modification in H1 Habitat.
- Staff's alternative building site would not work because it would: (1) result in impacts to H1 Habitat; (2) be visible from the Scenic Route although the building would only be 18 feet tall; and (3) result in significant grading impacts and place retaining walls on steep slopes.
- Selective thinning under the oak woodlands in the area would actually improve the health of the oak woodlands and make them more survivable in a wildfire. He further stated selective thinning under the oak woodlands and within H1 Habitat is consistent with the SMMLCP.

Stanley Lamport, a representative of the property owners, added the following statements:

- No structure could be built if fuel modification under the County's fire standards would occur in areas designated as H1 Habitat in the SMMLCP.
- There are no locations on the Project Site where a residence or any other structure could be located that would avoid fuel modification in H1 Habitat areas. Therefore, no structure can be built on the Project Site at all and the SMMLCP requires the property to remain undeveloped open space.



Mr. Schmitz then requested that the Commission provide direction to Staff and the Applicant regarding SMMLCP interpretations related to selective thinning under oak woodlands as well as height limitations in Scenic Resource Areas.

#### Public Testimony

Five members of the public provided testimony in support of the Project and voiced their opinions on four overarching issues, as follows:

- First, in agreement with the Applicant's presentation, testimony generally stated the implementation of fuel modification in the outer fuel modification zones (i.e., those fuel modification zones furthest from the proposed habitable structures) will have negligible impacts on oak trees in H1 Habitat and that, in fact, those fuel modification activities may actually improve the survivability of those trees during drought and wildfire events.
- Second, additional testimony expressed concern that if the Variance for the driveway was not granted for the Project, other currently vacant properties attempting to take access from that roadway, through the utilization of active access easements, would no longer be able to do so.
- Third, general concerns were expressed related to the perceived conflict between the SMMLCP and the County Fire Department's ("County Fire's") fuel modification requirements. Specifically, testimony generally indicated fuel modification was important to wildfire prevention and containment and that these goals may not be consistent with the biological resource protection standards in the SMMLCP.
- Fourth, members of the public generally opined that, if the Project could not be approved in the Santa Monica Mountains Coastal Zone, then no one would be able to build in this area.

#### Commission Questions

Commissioner Louie asked the County Fire representative to comment on the fuel modification issues. The County Fire representative stated fuel modification requirements are determined on a case-by-case basis by the Forestry Division and the intent of these requirements is to provide for defensible space around structures for firefighter evacuation purposes. The representative further stated fuel modification is generally triggered by development and they would look at the SMMLCP's requirements for projects and try to incorporate them into their approvals.

Commissioner Shell asked Staff the following questions:

- The number of CDPs for residential land uses approved since the certification of the SMMLCP. Staff responded 54 CDPs for residential land uses, including five CDPs for new single-family residences, and hundreds of LIP Exemptions, had been approved since the certification of the SMMLCP.
- Clarification on the alternative building location Staff that was recommending. Staff responded that they were not recommending the Applicant's proposed design. Specifically, Staff was recommending the

Applicant find a location along Kanan Dume Road that is not within a slope easement, and then design the structures so they are set at or below road grade, which would be the least impactful building location from a visual resource perspective.

- Responses to the fuel modification issues and impacts related to the development of the access road. Staff stated the SMMLCP requires them to find the least impactful location for the proposed development and that, currently, the proposed driveway location does not appear to be the least impactful location. Additionally, with respect to fuel modification, Staff stated the ERB found that, while removing vegetation near existing oak trees may benefit those oak trees, such vegetation removal does not benefit the habitat as a whole.
- Additional impacts to H1 Habitat besides those associated with the access road. Staff responded there are other proposed impacts to H1 Habitat, such as impacts related to fuel modification activities and impacts related to the proposed development of the motor court. Staff further stated that the impacts to H1 Habitat associated with the access road itself may be allowable under the SMMLCP but the SMMLCP does not allow for the H1 Habitat impacts related to the proposed fuel modification activities and the proposed development of the motor court.

Commissioner Shell asked County Counsel if the Commission could issue the Variance based on the facts presented. County Counsel stated the Staff report was accurate and indicated agreement with Staff, and also mentioned that the Coastal Commission submitted a letter indicating the Project did not comply with several policies in the SMMLCP. Lastly, County Counsel stated the Coastal Commission is allowed to balance certain parts of the California Coastal Act and may be able to allow for development in H1 Habitat, but the County has a different level of authority and, outside of a few exceptions, development is not allowed in H1 Habitat.

Commissioner Modugno asked Staff the following questions:

- Whether there is another site along the approved access road that would allow for the development of at least a 1,000-square-foot home. Staff responded that the majority of the access road is actually located offsite.
- If anything can be built on the Project Site that would comply with applicable County Code requirements, including those related to structure height and OWTS siting. Staff responded they would not be able to recommend approval of the Project as currently proposed given SMMLCP constraints, but alternatives exists that could be approved. Staff did indicate that the single-family residence would need to be notably reduced in size and the Applicant would need to continue working with County Fire to ensure any alternative proposal was safe from fire risks because the SMMLCP states that when development is proposed in the H1 Habitat Buffer (i.e., property within 100 feet of H1 Habitat) or in the H1 Quiet Zone (i.e., property within 200 feet of H1 Habitat), only a development with the minimum size

necessary to provide a reasonable economic use of the property could be allowed.

Commissioner Smith asked Staff for clarification on its position regarding Project alternatives. Specifically, Commissioner Smith asked whether Staff agreed with the Applicant that even if Staff's alternative was chosen and proposed, H1 Habitat impacts would still exist as a result of required fuel modification activities. Staff disagreed and indicated it is possible to avoid new fuel modification by siting the proposed development in the recommended alternative building location. Specifically, given the prior existence of habitable structures in the southwest corner of the parcel directly north of the Project Site, given that the County Code generally requires 200 feet of fuel modification and offsite brush clearance around such structures, and given that existing areas of legal fuel modification and offsite brush clearance are by definition not H1 Habitat, the Project may be able to take advantage of existing development near the recommended alternative building location and avoid impacts to H1 Habitat. Furthermore, Staff stated offsite brush clearance is also required along both sides of Kanan Dume Road, a 100-foot-wide easement, and it may be possible to work with County Fire to get a modified fuel modification plan approval that would not require new fuel modification in these areas as well.

#### Conclusion

Commissioner Shell suggested taking the item off calendar if the Applicant was willing to meet with Staff and consider a redesigned Project at other locations that may be feasible and minimize impacts. This would provide sufficient time for the Applicant to revise the Project to conform to the applicable policies, goals, and requirements of the SMMLCP. The other Commissioners agreed with Commissioner Shell's suggestion and the Commission unanimously voted to take the item off calendar.

- 44. LEGAL NOTIFICATION.** The Commission finds, pursuant to LIP Sections 22.44.970 and 22.44.990, the community was properly notified of the public hearing by mail, newspaper (Malibu Times), and property posting. Additionally, the Project was noticed and case materials were available on LA County Planning's website. On September 4, 2024, a total of 12 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, as well as 18 notices to those on the courtesy mailing list for the Malibu Zoned District and to any additional interested parties.
- 45. LOCATION OF DOCUMENTS.** The location of the documents and other materials constituting the record of proceedings upon which the Commission's decision is based in this matter is at LA County 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, LA County Planning.

**BASED ON THE FOREGOING, THE REGIONAL PLANNING COMMISSION CONCLUDES THAT:**

Regarding the Coastal Development Permit:

- A. The proposed development is not in conformity with the SMMLCP; and
- B. The proposed development is in conformity with the public access and public recreation policies of Chapter 3 of Division 20 of the Public Resources Code.

Regarding the Variance:

- C. There are no special circumstances or exceptional characteristics applicable to the property, that under the strict application of the Code deprives such property of privileges enjoys by other property in the vicinity and under identical zoning classification; and
- D. The adjustment authorized will constitute a grant of special privilege inconsistent with the limitation upon other properties in the vicinity and zone in which the property is situated; and
- E. Strict application of zoning regulations as they apply to such property will not result in practical difficulties or unnecessary hardships inconsistent with the general purpose of such regulations and standards; and
- F. Such adjustment will be detrimental to the public health, safety, or general welfare; or the use, enjoyment, or valuation of property of other persons located in the vicinity; and
- G. Granting of the Variance will be materially detrimental to coastal resources.

**THEREFORE, THE REGIONAL PLANNING COMMISSION:**

- 1. Finds the Project is exempt from CEQA pursuant to State CEQA Guidelines Section 15270 (Projects Which Are Disapproved);
- 2. Denies **MAJOR COASTAL DEVELOPMENT PERMIT NO. 201500099**; and
- 3. Denies **VARIANCE NO. 201500100**.

**ACTION DATE: October 16, 2024**

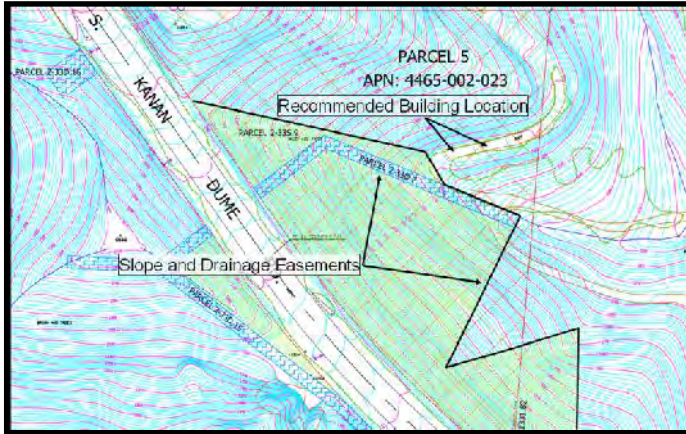
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October 3, 2024

c: Each Commissioner, Zoning Enforcement, Building and Safety

# SANTA MONICA MOUNTAINS LOCAL COASTAL PROGRAM VARIANCE BURDEN OF PROOF – Driveway Length

- A. That there are 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.



Access to the applicant's property can only be attained from the existing partially paved southerly approach to the site. A large portion of the northerly portion of the property is comprised of County Right-of-Way (Kanan Rd.) and slope easement making these areas unbuildable. The County Right-of-Way eliminates the potential for siting the residence on-site and immediately adjacent to Kanan Rd. The slopes along the Northern lot boundary are far too steep (0:5:1 – 1.4:1 ) to allow for the construction of a Fire Department compliant access road; therefore, the only feasible means of taking access to the property is by improvement and utilization of the

existing access road which traverses the neighboring parcel to the southeast (APN# 4465-002- 008). The existing access road, which currently provides access to the Subject Property, is approximately 1,550 feet long (including motor court and turnaround) and 10-15' in width. This existing partially paved access road is located within an easement benefitting the applicant's property and as such is the only means of legal and physical access to the property. As mentioned, the extremely steep slopes along the northern side of the property make any other means of access from off of Kanan Rd. to the property infeasible.

- B. That such variance is necessary 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 extremely steep slopes along the northern side of the property make any other means of access from off of Kanan Rd. to the property infeasible. The existing partially paved access road is the only means of legal and physical access to the property. Without access to the property, the SFR would not be permissible per code, and therefore, would constitute a regulatory taking.

- C. That the granting of the variance will not be materially detrimental to the public welfare or be injurious to other property or improvements in the same vicinity and zone.

The existing partially paved access road leading to the applicant's property is abutted by steep ascending slopes to the West and steep descending slopes to the East. Dense Oak Woodlands are located adjacent to the existing access road on both sides. The improvements to the access road has been approved by the LA County Fire Department and will meet all applicable building and engineer safety codes and will not be detrimental to the public's welfare or be injurious to other property or improvements in the same vicinity and zone.

- D. That the granting of the variance will not be materially detrimental to coastal resources.

The granting of the variance will not be materially detrimental to coastal resources as the applicant will be utilizing the existing partially paved access road that has been in existence since the 1960's. What's more, the improvements to the access road have been designed to be protective of the dense Oak woodlands that are located adjacent to the existing access road on both sides.

## APPLICANT'S OAK TREE PERMIT BURDEN OF PROOF

**A. That the proposed construction or proposed use will be accomplished without endangering the health of the remaining trees subject to Part 16 of Chapter 22.56, if any, on the subject property.**

The project arborist identified 137 Coast Live Oak trees (Quercus Agrifolia) on the property. The applicant submits the subject oak tree permit application to obtain permission from Los Angeles County to encroach into the protected zone of 27 Oak trees, and to remove 27 Oak trees. The remaining Oak trees are outside the impact area of construction and will be retained and protected through the course of construction.

The majority of trees that are being retained are located well below the road or above the road. The fortunate steep grade changes will allow these trees to be retained and receive no impact to their root systems. Many of the trees are well above the road, or located down the hillside below the road.

Although it is anticipated that these retained trees will not be impacted, Tree Protection Guidelines are included in the Oak Tree Report prepared by the Certified Project Arborist, Lisa Smith. These guidelines are to be employed throughout the course of construction. Also included in the Oak Tree Report are the Oak Tree Maintenance Guidelines, which include pruning techniques that will be employed to assure the continued health and vigor of impacted trees.

**B. That the removal or relocation of the oak tree(s) proposed will not result in soil erosion through the diversion or increased flow of surface waters which cannot be satisfactorily mitigated.**

The widening of the existing paved access road is the sole factor requiring the removal of the 27 Oaks and the encroachment into the other 27. No Oaks are being removed or encroached upon to facilitate construction of the residence. The existing areas where the trees and soil currently exist will be replaced with hardscaped driveway and retaining walls. Any over-excavation behind the retaining walls will be hydroseeded with native vegetation on the surface to prevent a loss of ground cover that could increase the potential for erosion. Additionally, drainage collected atop the retaining walls to the west (upslope) of the driveway will be channeled through concrete v-ditches and diverted to catch basins with filtration systems.

As noted in the grading and drainage plans, Best Management Practices (BMPs) for onsite drainage will be utilized. Sensitive design elements have been incorporated into the proposed project, including the use of bioswales and infiltration into permeable surfaces, to maintain the site's natural drainage patterns to the maximum extent feasible and to avoid impacts to coastal waters, including the surrounding area's riparian and woodland habitats. Likewise, the applicant has prepared a professional landscape plan and a state-of-the-art drainage system to ensure that the maximum rate of storm water runoff will not exceed the current levels.

C. That in addition to the above facts, at least one of the following findings must apply:

1. That the removal of oak tree(s) proposed is necessary as continued existence at present location(s) frustrates the planned improvement or proposed use of the subject property to such an extent that:

a. Alternate development plans cannot achieve the same permitted density or that the cost of such alternative would be prohibitive, or

b. Placement of such tree(s) precludes the reasonable and efficient use of such property for a use otherwise authorized, or

2. That the oak tree(s) proposed for removal or relocation interfere with utility service or streets and highways, either within or outside of the subject property, and no reasonable alternative to such interference exists other than removal of the tree(s), or

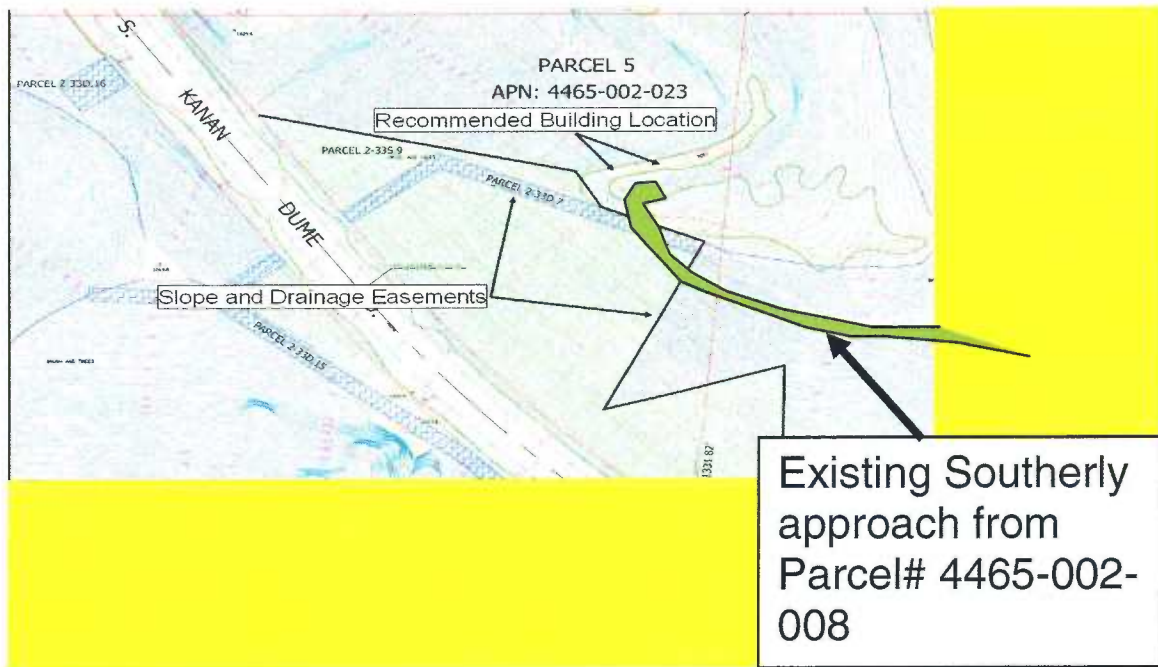
3. That the oak tree(s) proposed for removal, with reference to seriously debilitating disease or danger of falling, is such that it cannot be remedied through reasonable preservation procedures and practices.

The subject property is designated A-1-1 pursuant to the Los Angeles County Zoning Ordinance (Title 22). The residential use proposed by the applicant is a principally permitted use within the A-1 zone. All uses pursuant to this designation require Los Angeles County Fire Department Access and Engineering Approval.

The impacts to the oaks are due to the widening of the existing, partially paved driveway/access road needed to comply with the regulations of the Los Angeles County Fire Department (LACOFD) which requires *a minimum 20-foot wide access road* and a minimum height clearance of 13.5 feet.

Access to the applicant's property can only be attained from the existing southerly approach to the site (existing partially paved road). A majority of the northerly portion of the property is comprised of County Right-of-Way (Kanan Rd.) and Slope easement making these areas inaccessible and unbuildable. The County Right-of-Way and steep slopes eliminates the potential for siting the residence immediately adjacent to Kanan Rd. **(See Diagram #1, below).**

The slopes along the Western lot boundary adjacent to Kanan Rd. are far too steep (0.5:1 – 1.4:1) to allow for the construction of a Fire Department compliant access road; therefore, the only feasible means of taking access to the property is by improvement and utilization of the existing partially paved access road which traverses the neighboring parcel to the southeast (APN# 4465-002-008). The existing partially paved access road **(See Diagram #2, below)** which currently provides access from the south to the Subject Property is approximately 1550 feet long (including proposed turnaround) and a variable 10-15' in width. This existing road is located within an easement benefitting the applicant's property and as ***such is the only means of legal and physical access to the property.*** As discussed, the extremely steep slopes along the northern side of the property make any other means of access from off of Kanan Rd. to the property infeasible.



**Diagram#1**

**Access Road Design & Planning for Minimization of Impacts:** The existing, partially paved access road leading to the applicant's property is abutted by steep ascending slopes to the West and steep descending slopes to the East. Dense Oak Woodlands are located adjacent to the road on both sides. The Fire Code requires that the applicant provide a minimum 20' wide access drive (@20% max slope) to the proposed residence complete with a Fire Department Turnaround. Widening of the existing access road from 10-15' (existing) to 20' planned width will occasion the removal of 27 Oak trees and the encroachment into the drip zone of 27 additional Oaks.



**Diagram #2: Existing Partially Paved Access Road**



In an effort to minimize these impacts to the maximum extent feasible, the applicant submitted a plan to the Los Angeles County Fire Department proposing to limit the width of the improved access road to 15' with wider driveway widths in key locations to allow for the safe passing of Fire Trucks. This request was processed subject to the Section 108 of the Fire Code (**Appeals- See Fire Department Appeal with Applicant's Burden of Proof**). The applicant's appeal was summarily denied and the Fire Department is mandating that the applicant improve the existing driveway width to a minimum of 20' as required by code.

On November 20, 2013, the applicant received Approval-in-Concept from the Los Angeles County Fire Department for the currently proposed 20' access road. That approval is enclosed with the applicant's application (see Grading Plans).

Removal of the 27 Oaks and encroachment into the additional 27 trees is strictly necessary in order to permit a Fire Code compliant access road which is requisite to the approval and construction of the planned residence. No alternatives exist that would be less damaging to the Oak Woodland. Accordingly, the provisions of finding #C1 can and should be made.

**D. That the removal of the oak tree(s) proposed will not be contrary to or be in substantial conflict with the intent and purpose of the oak tree permit procedure.**

Through careful layout, grading for the project has been minimized and overall impacts to the surrounding natural vegetation are minimized. The project also includes the introduction of new oak trees to serve as mitigation for the removed oak trees. In light of this and the fact that the remediation oak trees will be located on site such that they can achieve maximum growth potential, this project will result in more abundant and healthier oak woodland on the property. This project will create a favorable environment for the propagation of Oak trees on site and will not create unmitigatable impacts to the Woodland. The applicant's request is therefore consistent with the intent and purpose of the ordinance which is to allow for approval of reasonable development proposals while protecting Oaks to the maximum extent feasible.

## **Santa Monica Mountains Coastal Development Permit** **Biological Resources Area Burden of Proof**

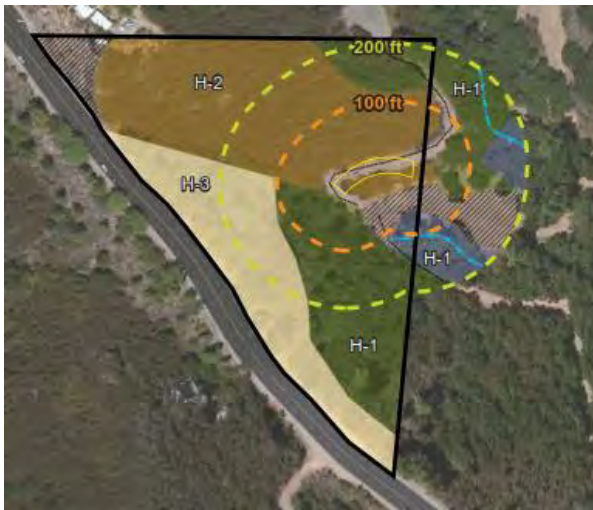
- A. That the requested development is sited and designed to avoid H1 Habitat and areas within 100 feet of H1 Habitat except as permitted by Sections 22.44.1800 through 22.44.1950; and**

The proposed development is sited on the previously disturbed portion of the site towards the north-east end of the property (H3). With respect to the fuel modification, no irrigation is proposed or shall otherwise be permitted in H1 habitat, except for temporary irrigation necessary for mitigation oak trees and for hydroseeding and stabilizing slopes along the access road. Moreover, there will be no clearing in the riparian habitat.

- B. That the requested development is sited and designed to avoid the 100-foot Quiet Zone except as set forth herein; and**

No portion of the proposed SFR will encroach into the 100-foot Quiet Zone.

- C. That the requested development is sited and designed to avoid H2 "High Scrutiny" and H2 Habitat to the maximum extent feasible. Where avoidance is not feasible and it is necessary to allow the owner a reasonable economic use of the property, the requested development is sited and designed to minimize and mitigate significant adverse impacts in conformance with the policies and provisions of the LCP; and**



The proposed development is sited within previously disturbed portions of the site (H3), and encroaches minimally into areas dominated by Ceanothus Chaparral (H2). Required fuel modification expands into H2 habitat and as noted above, no irrigation is proposed or shall otherwise be permitted in H1 habitat, except for temporary irrigation necessary for mitigation oak trees and for hydroseeding and stabilizing slopes along the access road. The proposed project, as designed, has been designed to utilize the parcel's existing disturbed area, thereby avoiding to the maximum extent feasible the removal of native vegetation and the potential for runoff and erosion and as such, is conformance with the policies and

provisions of the Santa Monica Mountains Local Coastal Program (LCP).

- D. That the requested development is sited and designed to avoid wildlife movement corridors (migratory paths) to the maximum extent feasible to ensure these areas are left in an undisturbed and natural state. Where avoidance is not feasible and it is necessary to allow the owner a reasonable economic use of the property, the requested development is sited and designed to minimize significant adverse impacts in conformance with the policies and provisions of the LCP; and**

A complete evaluation of the potential for special-status species to occur on the project site was conducted by the project's consulting biologist, PCR, and was based on the proximity of the project site to previously recorded occurrences in the California Natural Diversity Database

(CNDDDB), including evaluation of on-site vegetation and habitat quality, topography, elevation, soils, surrounding land uses, habitat requirements, and geographic ranges of special-status plant and wildlife species known to occur in the region. The potential for special-status plant species to occur on site is summarized in Appendix D of the provided Bio Assessment. Likewise, Appendix E, Special-Status Wildlife Species Recorded from the Project Vicinity, of the same report, summarizes the potential for special-status wildlife species to occur on the subject property. No special-status wildlife species were directly observed during surveys by the Biologist. However, woodrat scat was observed in some of the rocky areas in the chaparral habitat on site and woodrat stick nests were observed in the riparian woodlands. It is not anticipated that the development would impact the areas of habitat nor their migratory paths.

- E. That roads and utilities serving the proposed development are located and designed so as to avoid H1 Habitat, H1 buffer, and to avoid or minimize significant adverse impacts to H2 "High Scrutiny," and H2 Habitat, and migratory paths.**

The existing, partially paved access road has been in existence since the 60's. The road is abutted by steep ascending slopes to the West and steep descending slopes to the East and have been identified as H3 habitat (naturalized ornamentals) by the project biologist,

## PROPOSED ENVIRONMENTAL DETERMINATION

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**DETERMINATION DATE:** October 16, 2024  
**PROJECT NUMBER:** R2014-00461-(3)  
**PERMIT NUMBER(S):** Major Coastal Development Permit No. 201500099  
Variance No. 201500100  
**SUPERVISORIAL DISTRICT:** 3  
**PROJECT LOCATION:** 3300 Kanan Dume Road, Unincorporated Malibu  
**OWNER:** Gregory and Susan Kay Trust  
**APPLICANT:** Schmitz & Associates, Inc.  
**CASE PLANNER:** Nathan M. Merrick, Principal Regional Planner  
NMerrick@planning.lacounty.gov

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Los Angeles County (“County”) completed an initial review for the above-mentioned Project. Based on examination of the Project proposal and the supporting information included in the application, the County proposes that a Statutory Exemption is the appropriate environmental documentation under the California Environmental Quality Act (“CEQA”). The Project qualifies for a Statutory Exemption under State CEQA Guidelines Section 15270 (Projects Which Are Disapproved) because the Project is recommended for denial and CEQA does not apply to projects which a public agency rejects or disapproves.

# 3-MILE RADIUS

## LOCATOR MAP

PROJECT NO. R2014-00461

CDP RCDP-201500099

VAR RCDP-201500100



**Project Location**



**LOS ANGELES COUNTY**  
Dept. of Regional Planning  
320 W. Temple Street  
Los Angeles, CA 90012

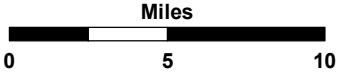
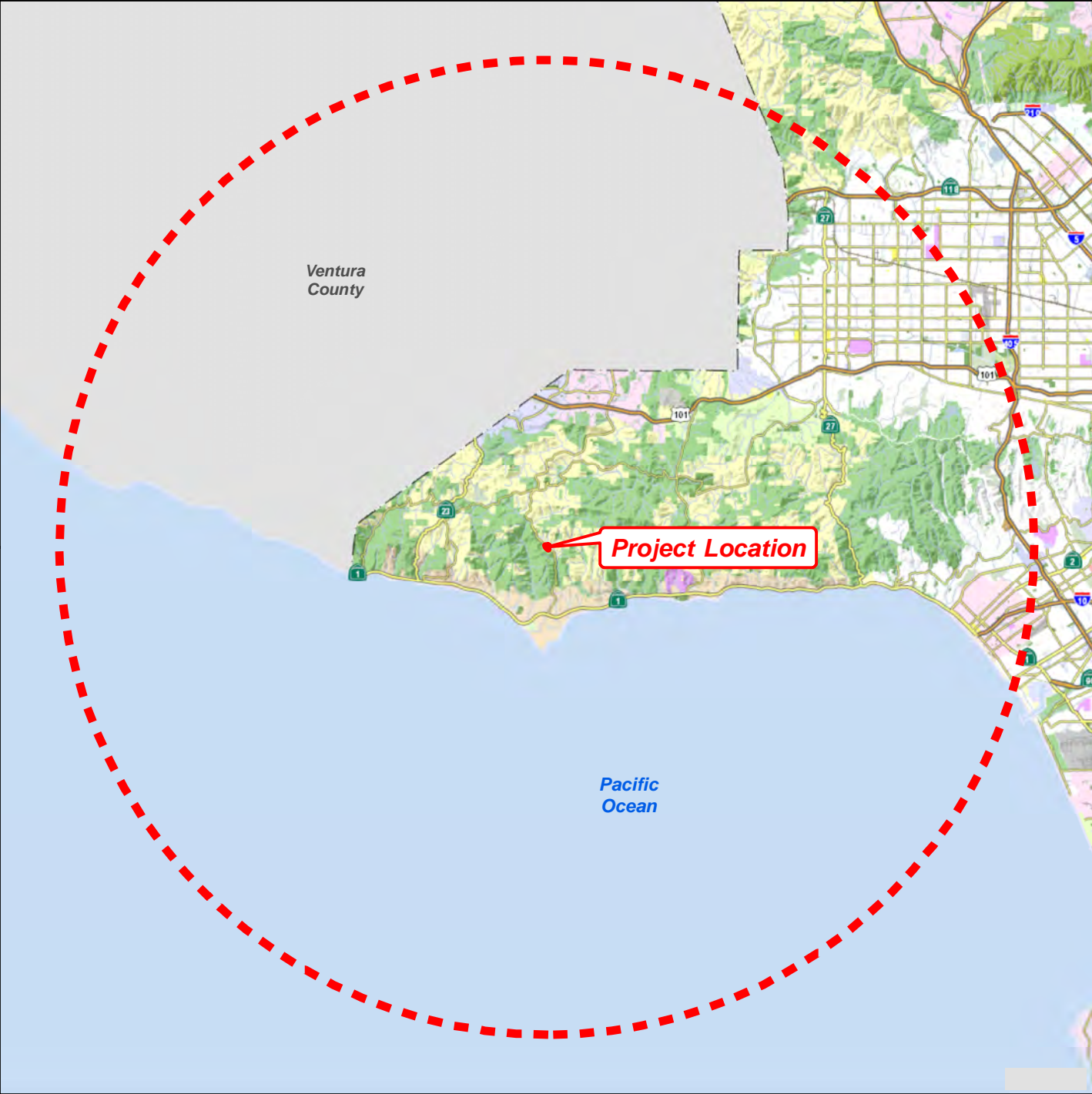
# 20-MILE RADIUS

## LOCATOR MAP

PROJECT NO. R2014-00461

CDP RCDP-201500099

VAR RCDP-201500100



LOS ANGELES COUNTY  
Dept. of Regional Planning  
320 W. Temple Street  
Los Angeles, CA 90012



# AERIAL IMAGERY

## SITE-SPECIFIC MAP

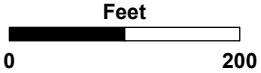
PROJECT NO. R2014-00461

CDP RCDP-201500099

VAR RCDP-201500100

Digital Ortho Aerial Imagery:  
Los Angeles Region Imagery  
Acquisition Consortium (LARIAC)  
2020

S Kanan Dume Rd



LOS ANGELES COUNTY  
Dept. of Regional Planning  
320 W. Temple Street  
Los Angeles, CA 90012

# EXISTING LAND USE

## 700-FOOT RADIUS MAP

PROJECT NO. R2014-00461

CDP RCDP-201500099

VAR RCDP-201500100

 700-ft Coastal Radius

Existing Land Use (Assessor Use Codes)

 Residential - Single Unit\*

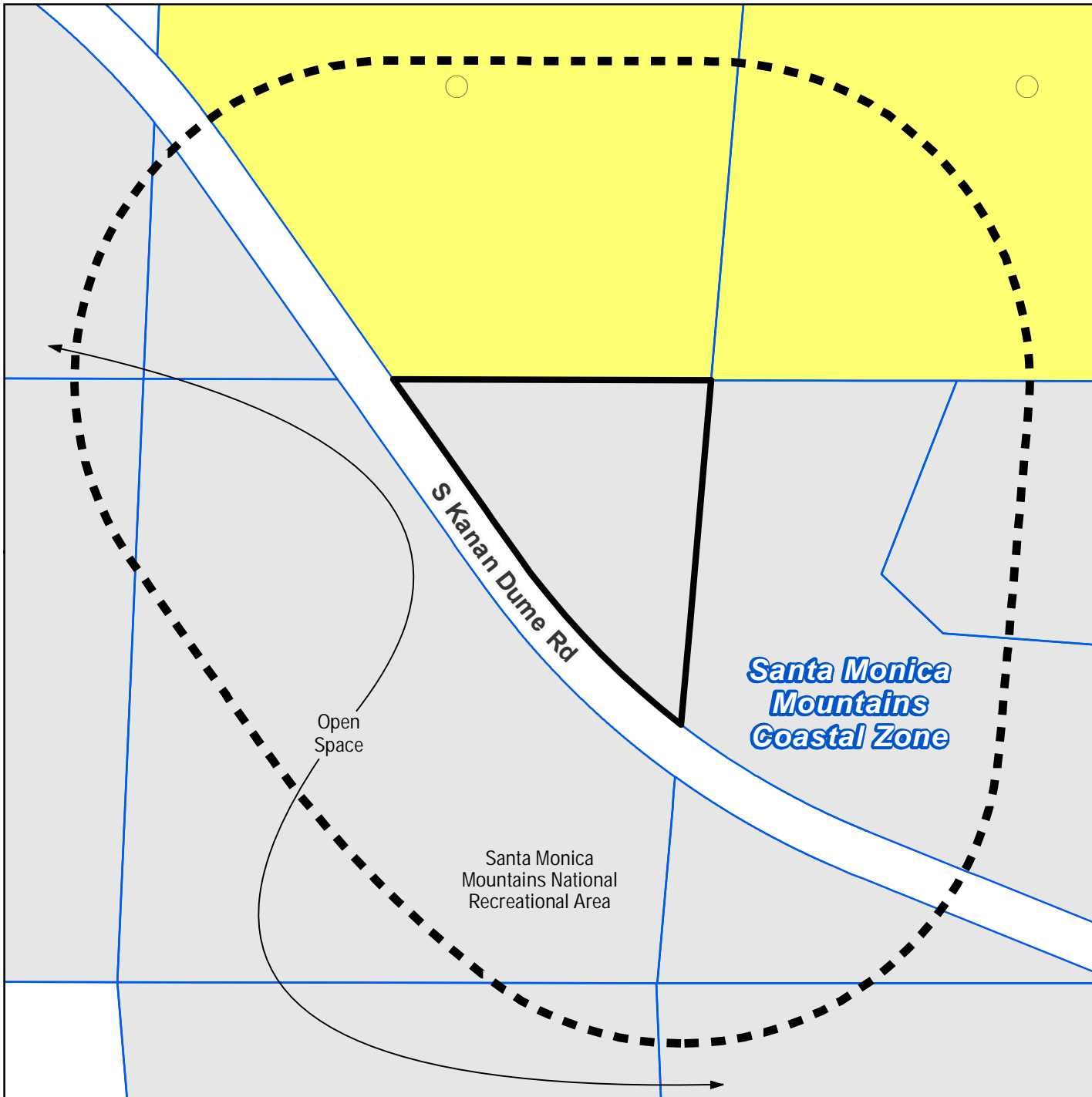
 Vacant

\* Circles are generally applied to residential parcels. Empty circles indicate a single dwelling unit (DU), unless the parcel is symbolized as Vacant. Elsewhere, multi-unit residential parcels (where shown) are labeled with the number of DUs they contain.

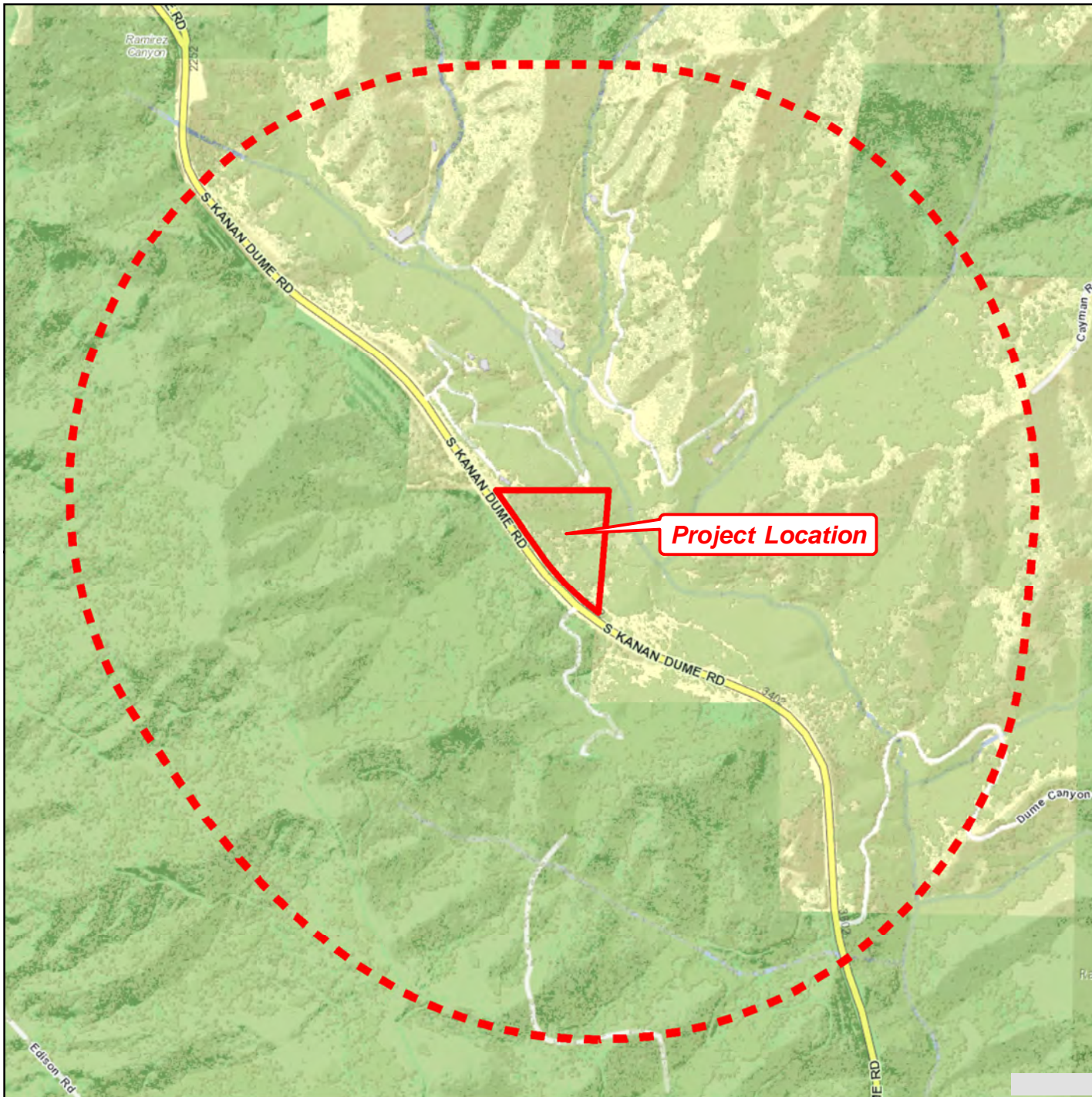
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LOS ANGELES COUNTY  
Dept. of Regional Planning  
320 W. Temple Street  
Los Angeles, CA 90012







# HALF-MILE RADIUS

## LOCATOR MAP

PROJECT NO. R2014-00461

CDP RCDP-201500099

VAR RCDP-201500100



**LOS ANGELES COUNTY**  
 Dept. of Regional Planning  
 320 W. Temple Street  
 Los Angeles, CA 90012



# LAND USE POLICY

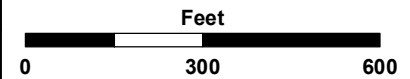
## 700-FOOT RADIUS MAP

PROJECT NO. R2014-00461

CDP RCDP-201500099

VAR RCDP-201500100

-  RL20 - Rural Lands (1 du / 20 ac)
-  OS-P - Open Space-Parks



LOS ANGELES COUNTY  
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320 W. Temple Street  
Los Angeles, CA 90012



# ZONING

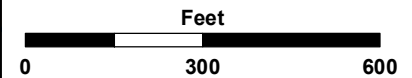
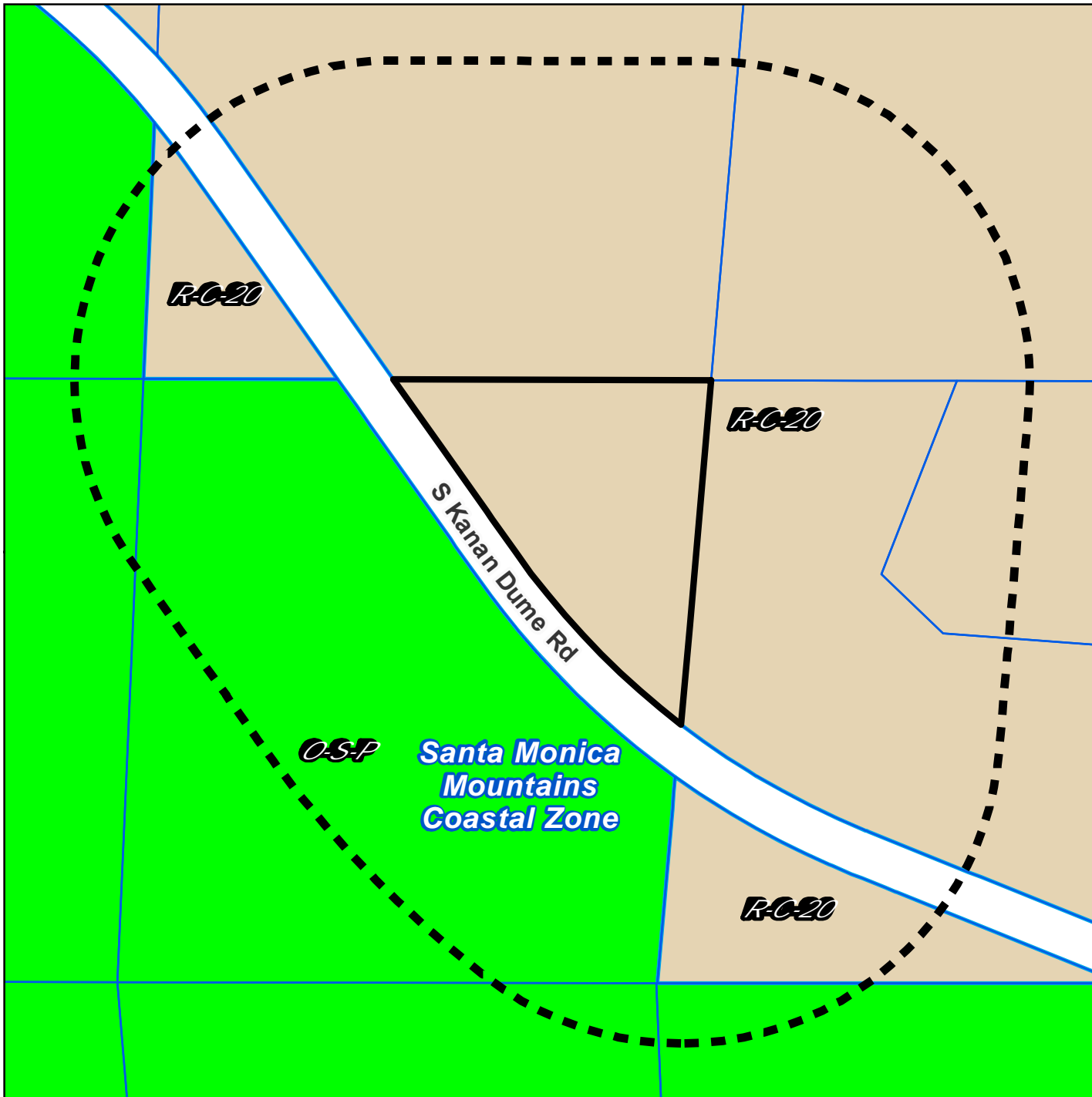
## 700-FOOT RADIUS MAP

PROJECT NO. R2014-00461

CDP RCDP-201500099

VAR RCDP-201500100

-  R-C - Rural Coastal
-  O-S-P - Open Space - Parks



LOS ANGELES COUNTY  
Dept. of Regional Planning  
320 W. Temple Street  
Los Angeles, CA 90012

















**MINUTES OF THE ENVIRONMENTAL REVIEW BOARD (ERB)  
Unincorporated Coastal Zone, Santa Monica Mountains, Los Angeles County  
Meeting of May 15, 2017**

(Minutes approved as amended, 17 July 2017)

**Persons in Attendance**

**ERB Members**

Joseph Decruyenaere, *pro tempore* ERB  
Ron Durbin  
Suzanne Goode  
Richard Ibarra  
Travis Longcore, Ph.D.

**Regional Planning Staff**

Joshua Huntington, Planner  
Rob Glaser, Planner  
Shirley Imsand, Ph.D., Biologist, ERB  
Coordinator

**3300 Kanan-Dume Road, Project Number 2014-00461-(3)**

Chris Dicus, Ph.D.  
Don Schmitz  
Lisa Smith  
Jacqueline Worden

**2181 Encinal Canyon Road, Project Number R2015-00089-(3)**

Dean Bosacki  
Andrew Forde  
Jo Newman  
Upadi Yuliatmo

**Public:**

Everett Rollins

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**MINUTES**

**APPROVAL OF MINUTES**

**Motion/second** to approve Minutes of 21 November 2016 as amended with an additional recommendation:  
Goode/Durbin

**Ayes:** Durbin, Goode, Ibarra  
**Abstaining:** Longcore, Decruyenaere

**NEW BUSINESS**

- A. Kay SFR Project, R2014-00461, 3300 Kanan Dume Road**  
**Location:** Ramirez Canyon Watershed  
**Project No.** R2014-00461-(3)  
**Permit Nos.** RCDP 201500007, RENV 201400038  
**APNs:** 4465-002-023 and access 4465-002-028  
**Location:** 3300 Kanan Dume Road, Malibu, CA 90265  
**Planner:** Joshua Huntington  
**Applicant:** Nicole Farnoush, Schmitz & Associates  
**Biologist:** Jacqueline Worden, Impact Sciences  
**USGS Quad:** Point Dume (residence and access)

### **Development:**

Applicant proposes construction of a 9,278 sq.ft., 3-story, single-family residence with cut into the slope, turnaround meeting the Fire Dept. requirements, landscaping, hardscaping, retaining walls, a water well, two 30,000 gallon water storage tanks, drainage devices, and a private septic system. The driveway is a 1,620-ft. fire road approaching from the south. The driveway will need to have road improvements of grading, paving, drainage devices, widening to 15-20-ft., and retaining walls to meet Fire Dept. requirements. A variance will be needed because the driveway length exceeds 300-ft. Grading is estimated at 4700 CY total with 3600 CY export: development area 3,350 CY cut, 150 CY fill, 3600 CY export. For the access/fire lane 800 CY of cut, 400 CY fill. The septic system is to be on a fire road northeast of the residence. The project will encroach on 190 coast live-oaks and remove one tree. Mitigation oaks needed are calculated at 515 oaks. Some other native trees are impacted and will need mitigation. Plan for runoff control during construction was not provided. Permanent runoff is to be collected, filtered in an unspecified manner, and added to runoff from the tributary on the west side of Kanan-Dume and the highway runoff that empties by conduit into Ramirez Canyon. The project is in Zones R2-20 and RL-20 of the SMM Coastal Zone.

### **Project description with regard to biological resources:**

**Location:** The project parcels are in the Ramirez Canyon Watershed. The structure will be east of Kanan-Dume Road at the base of a 45% grade fill slope of about 200-250-ft. elevation that supports Kanan-Dume Road over a previous drainage that was a tributary to Ramirez Canyon. The planned residence is about at the level of the previous drainage bank and partially on an existing fire road. The fill may end west of the residence or continue to Ramirez Canyon along the south side of the planned residence. On previous topographic maps a drainage is shown in this area south of the residence. The grassland could be fill with a cover of non-native grassland. It is evaluated in the Biological Assessment as "cleared." A natural, chaparral-covered slope is on the north of the residence (H2). On the south of the residence is the head of a seasonal tributary of Ramirez Canyon (H1). The fire turn-around is planned to be about 25-ft. from the bank of this tributary, and the residence is set back 100-ft. from the bank. The tributary accepts the runoff from Kanan-Dume Road and runoff of extension of the tributary on the west side of Kanan-Dume from a culvert embedded in the fill slope. The runoff of the residence is planned to empty into this culvert after unspecified filtration. Ramirez Canyon is about 180 ft. west of the planned residence, so the stream bed of Ramirez is at the outer edge of the 200-ft. fuel modification required (H1). The planned driveway is on a fire road, currently paved between culverts draining from Kanan-Dume for about 440-ft. of the 1620-ft total length (H1). The residence will have 2 wells chosen from several sites in either the tributary stream course or in the existing fire road on the west side of the residence. Tanks for water storage will be near Kanan-Dume Road at the top of the west fill-slope (H3). The septic system is planned to be uphill, north of the residence in the existing fire road near the former connection to one of the paved driveways of the parcel to the north (H1).

### **Habitat Impacts:**

Habitat impact is an issue with this project. LUP mapping with the residence overlay shows

- the residence and access are chiefly in H1-mapped habitat, which is chiefly riparian woodland, not previously modified.
- Fuel modification extends into H1 habitat of riparian sycamore-oak-willow woodland in the tributary to the south and
- into H1 riparian oak woodland and part of the drainage course of Ramirez Canyon to the east.
- The septic system is planned to be in H1 oak woodland on the western slope of Ramirez Canyon.
- The access road will need widening and paving of an existing fire road that is entirely in oak woodland mapped as H1.

Residence siting, septic system, and fuel modification for development are not permitted uses in H1 habitat. §22.44.1890.C. Access impacts through H1 are permitted when there is no other feasible means of access §22.44.1890.C.

**Fuel modification/Brush clearance/Road widening** all remove dead wood and understory and thin and remove flammable plants that are also part of the oak woodland and riparian community. These are important constituents of the riparian woodland biological ecosystem. All these elements provide important ecological functions, connections, diversity, and resilience to adversity among community members. The understory is the chief location for the next generation of the plant community and some of the animals. All these constituents provide services to the whole habitat and environment of the Santa Monica Mountains. Even with some modifications to the usual requirements by County Fire, these necessary actions of development are impacts to the H1 habitat community and, except for road widening, are not permitted uses according to the LIP.

### **Impacts to Oaks, Other Native Trees, and Woodland:**

The access route is proposed through H1-mapped coast live-oak woodland, where an existing 1620-ft. road (fire road or ranch road) will be widened and paved and tree branches cut as required for fire safety. One oak is to be removed, encroachments will affect 87 trees requiring mitigation and 103 trees requiring monitoring for 10 years. There will be 515 oaks required for mitigation under the LIP for impacts to oaks on the access road. The landscape plan shows planting of 25 coast-live oaks, so a mitigation plan for these and the remaining 490 oaks is needed. The mitigation oaks will need to be oak woodland replacement with incorporation of typical understory in the mitigation area.

Other native trees were assessed in the Preliminary Native Tree Replacement Plan, but apparently the drip-line was used instead of the TPZ, and therefore, encroachment mitigations needed are uncertain. Percent encroachment was

not tabulated. Large-trunked chaparral plants in the area planned for the residence were not assessed, and these will be removed. Well placement will determine whether other protected trees are removed.

Fuel modification, brush clearance, and access road widening and paving will impact oaks, oak woodland, and riparian habitat in H1 habitat that has not been previously fuel-modified. Except for impacts along the access road, this is not an allowed use under the LIP.

Septic systems are planned to be located to the northeast of the structure along the fire road and may impact oaks and oak woodland there. One oak near the septic pits has canopy over a pit and requires mitigation; other oaks are upslope 7 feet and downslope an unspecified amount, so although the tree protected zone (TPZ) may overlap the seepage pits, they are considered to be without impact according to the Protected Oak Report (2017.04). One oak with canopy overlap will have mitigation.

**Remapping:**

The Biological Assessment has proposed remapping the residence location as H2 and the annual grassland to the south as H3, thus changing some H1 to H2 and H3. Nevertheless, impacts remain from having fuel modification in H1 riparian oak woodland in the southwest area, fuel modification in the sycamore-oak-willow woodland in the tributary to the south, brush clearance (fuel modification) in Ramirez Canyon riparian oak woodland to the east, and placing the septic system and fuel modification on the west slope riparian oak woodland of Ramirez Canyon to the northeast.

Redefining the residence location habitat as H2 may not be accurate in that the chaparral plants there (*Sambucus nigra* ssp. *caerulea* and *Ceanothus spinosus*) have large, tree-sized trunks, are arboreal in form, and were probably south-facing riparian flora on the drainage bank at the time before probable filling of the former tributary channel south of the residence. These large-trunked plants were not evaluated in the tree reports. There are N-S lines of mugwort (*Artemisia douglasiana*), sometimes apparent, between the south tributary head and the *Elymus condensatus* that is in clumps beneath the chaparral plants with large trunks. Mugwort is also on the bank north of the stream course, in the west side of the grassland, and in the fire road west of the chaparral plants with large trunks. This area could be considered riparian H1 in the coastal zone (§22.44.630-Riparian Habitat and 22.44.1810). It has chaparral species near a water course, differing from habitat more distant from the water course in composition and more vigorous and robust form. Elderberry and mugwort are specifically named as riparian species in the LIP.

**Wildlife Movement:** The project is sited on a dirt fire road that connects to Kanan-Dume Road in the south and the paved driveway on the parcel under different ownership to the north. This route is cited as a wildlife movement area together with Ramirez Canyon watershed in the original Biological Assessment (2013.01) and was mapped as a wildlife movement area in the Malibu Local Coastal Plan of 1982. At the southern area of the project parcel, the access road joins the fire road that crosses Ramirez Canyon and connects to fire roads that go both north and south along Ramirez Canyon. The house will be placed on a fire road, but may not block movement due to adjacent open space according to the Biological Assessment (2013.01), although this is very steep on the upslope sides of the planned residence.

**Landscape elements:** The landscape plan shows existing native trees to be retained, has a combination of ornamental and natives in Zone A, some turf in both Zones A and B, and all SMM natives in Zones B and C. The landscape is acceptable under the SMM LIP.

- To the west near the summit next to Kanan Dume, the slope is planted with non-natives with extensive Spanish Broom (*Spartium junceum*), locust (*Robinia* sp.), and pines (*Pinus eldarica* and *P.halepensis*.) Some of this is retained for erosion control, although these plants are exotics and some are considered invasive in the Santa Monica Mountains (SMM).
- Most of the slope on the west is in Zone C and has native plants including trees. Twenty-five (25) of the 515 coast live-oak trees needed for mitigation of impacts to oaks are planned for this slope, replacing some of the exotic trees.
- Potential fuel modification extends north upslope into H2 chaparral, and thinning is accurately described on the landscape plans.
- Brush clearance fuel modification will extend into the riparian tributary to the south and into riparian oak woodland of Ramirez Canyon on the southwest, south, east and northeast.
- The applicant has an approved fuel modification plan that requires minimal fuel modification in the applicant's defined riparian habitat. Dead wood clearance, limbing up, and clearing of understory along the access and perhaps other areas will be what is needed.

**Water provision:** Water will be provided by a well (locations shown in the Hydrogeologic Report). Evaluation of the impact on the environment is that there is no impact due to a projected well depth of hundreds of feet, although hydrological connections of deep aquifers are not discussed, and the impact of well placement is not discussed. Water use projections are not discussed and drawdown is not discussed. Water storage tanks are to be placed among some of the pines on the upper slope near Kanan-Dume Road. Trucked water is not an allowed provision method in the SMM Coastal Zone (§22.44.1340.D)

**Hazards:** The project is in a high fuel hazard area and an earthquake-induced landslide hazard area but is not in a liquefaction zone.

**Special Status:** There are no CNDDDB reports of special status species in the project area, nor any critical habitat areas. The Biological Assessment found *Calochortus catalinae*, *Lilium humboldtii* ssp. *ocellatum*, possible nests of Desert Woodrat *Neotoma lepida intermedia*. None of these were mapped, and they all should be avoided for impact if possible.

**DRAFT RECOMMENDATIONS** were provided but were not reviewed.

For applicant and coordinator response to questions of ERB see appendix.

Testimony on fuel modification of oak woodland was provided by expert witness for the applicant, Dr. Chris Dicus, Fire Ecologist.

**ERB COMMENTS:**

**SITE:**

1. The siting of the project structures needs to be adjusted to the 30-ft. setback from property lines required by State Fire Code. A closer setback may have been agreed to before the adoption of the SMM LCP in 2014, but a further setback will now be required due to the near H1 habitat that cannot be fuel modified.

2. The siting of all development on the project parcel needs to have a minimum setback of 50-ft. from all H1 habitat, and structures need to have a setback of 200-ft. to avoid fuel modification in H1.

3. Oak woodland has moisture content that could accommodate a more narrow fuel modification clearance than other habitats. For fire safety, removal of deadwood would be needed, however.

4. There is an incongruity in fuel modification needed to provide defensible space out to 200-ft. from structures and preservation of H1. The objective in providing defensible space is removal of continuity between horizontal and vertical fuels, which removes a lot of dead and downed material. Fuel modification should be moved outside of H1 habitat in order to preserve it.

**HABITAT IMPACT:**

5. ERB pointed out that the annual grassland area near the planned residence site had areas that were not grassland, that could be shrubs. This was pointed out in the early photos of the property (2006).

6. Fuel modification of any kind on H1 areas such as those proposed by the project is impact, and is not alleviated by the careful clearing of understory proposed. Removal of flammable elements and dead wood is removal of intrinsic parts of the community. Oak woodland as defined by the County includes non-oak elements and is not confined to the oaks alone.

7. The state of California has an oak woodlands act and code that regards all plants and wildlife use within a stand of oaks as part of oak woodland. The oaks by themselves are important as the basic structure, but the other components are important to the whole habitat of oak woodland. The smaller non-oak components may be essential to some of the rare and sensitive species. The example of the understory plant *Amorpha* as essential to a rare butterfly was given.

8. The remapping of the H1 habitat by finely characterizing specific areas less than the original mapping unit, is not appropriate to the concept of what constitutes habitat of riparian oak woodland. The project will be impacting the H1 habitat by placement where it is proposed. The area has recovered from the impact of the fill slope on the tributary canyon to a great degree. The remapping should not be accepted as a means to approval of the project placement nor approval of the project impact.

9. The concept of the SMM LCP of preserving H1 habitat of oak woodland is not the same as the forestry objective of promoting oak growth.

10. The most likely fill of space provided by removal of non-oak flammable shrubs and other plants in the understory will be non-native grasses. Non-native grasses promote spread of fire when dried, probably more than plants that remain green in the drier seasons.

11. Canopy covers 10% of oak woodland area according to the Los Angeles County specific definition in the Los Angeles County Oak Woodland Conservation Plan. Non-oak plants living in the area beyond the canopy are included in the oak woodland. The extent of roots beyond the canopy can be hundreds of feet.

12. Oaks near the septic system or with canopy overhang of the septic system will probably not be affected by installation of the septic system in the former fire road roadbed.

13. The judgmental term of “significant oak” should not be applied in the oak tree report.

**ACCESS:**

14. The plan for the access road needs further review under new requirements of Los Angeles County Fire policy for the Coastal SMM. Defensible space needs to be provided, and protection of H1 habitat is needed.

15. The access road needs control of erosion to preserve oaks and maintain the road integrity.

16. Documentation on seeking access over the property to the north should be provided, as this would show proof that best preservation of the sensitive environment of H1 was pursued by the applicant. The applicant states this is not possible, and his verbal description of the attempt is the proof. Coordinator’s finding on prescriptive access is in the appendix.

17. The reserve water in water tanks will need to be filled at a rate of 15-20 gal/min. Trucked water is not permitted by the LIP. (§22.44.1340.D)

**OAK MITIGATION PLAN:**

18. Clumped planting in an early landscape plan for the needed mitigation coast live-oak trees does not replace the natural arrangement of the trees in the oak woodland of impact and is not recommended for mitigation.

19. In the mitigation plan, the impact on the existing habitat should be analyzed. Oaks should not be planted in natural areas that do not already have oaks. An impacted area appropriate by slope and aspect is preferred for the mitigation, over natural areas, such as the chaparral.

**BIOLOGICAL ASSESSMENT**

20. For the biological report provide a recent, complete list of species and define the project space of the survey. Be careful to include nearby sensitive plants in a stream course that could be affected by project runoff.

**ERB RECOMMENDATIONS:**

1. Tree mitigation for this project should not be payment into an oak fund. Mitigation should be restoration or creation of coast live-oak woodland with non-oak mitigation trees and common natives of the understory included to create oak woodland. The site needs to be conducive to oak growth in soil, aspect, amount of moisture, and slope. The plan needs to deviate from the exact constitution of the impact area to have the best oak woodland constituents for the site of restoration.

Motion/second Goode/Longcore, Ayes: Unanimous

2. The mitigation plan should have all sites identified, and should be maintained by agreement with an agency experienced in conservation management of natural lands and restoration. The land should have a conservation easement applied to the property if it is not public land or land already managed for conservation. Sites might be ones that have oaks that have been impacted by drought and pests, particularly the non-native borers.

Motion/second Goode/Longcore, Ayes: Unanimous

3. Planting of mitigation oaks may need to occur outside the Ramirez Canyon Watershed because there are so many mitigation trees required. Initially the applicant should find as many protected areas for planting as possible in the Ramirez Canyon Watershed or provide an area with a conservation easement managed by a conservation agency in the Ramirez Canyon Watershed. This may involve participating

in a conservation agency's program. All mitigation areas and plantings need to be mapped in the Native Tree Replacement Planting Program.

Motion/second Decruyenaere/Ibarra, Ayes: Unanimous

4. Placement of the septic system shall use hand tools and air spade for the first 24-in. depth. Oak roots of 1-in. and larger shall be preserved whenever possible. Critical oak roots for support of the downslope oaks (tension roots) could be encountered.

Motion/second Ibarra/Durbin, Ayes: Unanimous

5. Walnut mitigation for the walnut tree removed for the residence shall be all onsite.

Motion/second Goode/Ibarra, Ayes: Unanimous

6. Broom (*Spartium junceum*) and carnation spurge (*Euphorbia terracina*) are both invasive plants that should be removed from all areas of the project parcel and along the access road. This should include removal along the right-of-way of Kanan-Dume if this can be done. A weed-wrench would work for broom removal.

Motion/second Goode/Longcore, Ayes: Unanimous

7. For the landscape, consider replacing the non-native turf proposed, *Agrostis palens* and *Festuca rubra* hybrid with the native *Elymus triticoides* and native *Festuca rubra* variety.

Motion/second Goode/Decruyenaere, Ayes: Unanimous

8. Any native plant material removed for the project should be chipped into mulch and spread onsite.

Motion/second Goode/Ibarra, Ayes: Unanimous

9. The project shall be continued to the next ERB meeting.

Motion/second Decruyenaere/Durbin, Ayes: Unanimous

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ERB Meeting Date: 15 May 2017, R2014-00461-(3)

Staff Biologist Recommendation:  Consistent  Consistent after Modifications  
 Inconsistent  No decision

Suggested Modifications: Comply with all ERB recommendations.

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ERB Meeting Date: 15 May 2017, R2014-00461-(3)

ERB Evaluation:  Consistent  Consistent after Modifications  
 Inconsistent  No decision, continued to 19 June 2017

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**B. Project:** Bosacki-Newman SFR, 2181 Encinal Canyon Road, Malibu, CA 90265  
**Location:** Lachusa Canyon & Encinal Canyon Watersheds  
**Project No.** R2015-00089-(3)  
**Permit Nos.** CDP-RPPL2016004920; Var-RPPL2016004921;  
Envi-RPPL2016004924  
**APNs:** 4472-027-016; 4472-027-030  
**Location:** 2181 Encinal Canyon Road, Malibu  
**Applicant:** Upadi Yuliatmo, Burdge & Associates  
**Biologist:** Andrew Forde  
**Planner:** Joshua Huntington  
**USGS Quad:** Triunfo Pass, bordering Point Dume

### **Development**

The proposal is for a new single family residence of 6371 sq.ft. footprint with basement and attached two-car garage on a high point between Lachusa and Encinal Canyons. A new driveway of 862-ft. is proposed from 3 alternatives, 2 alternatives on existing roadways but longer and in more sensitive habitat as determined by the Biological Assessment. The driveway proposed accesses Encinal Canyon Road near the northeast corner of the project parcels. Line-of-sight requirements may necessitate removal of some part of cliffs along Encinal Canyon Road, but these are naturally crumbling and support very little lichen-bryophyte flora due to the continual disintegration of the rock strata. Existing roads and paths to be retired are proposed to be revegetated with native plants taken from the new driveway, new trail, and residence construction. A new connecting trail alignment is proposed for the project, and some existing trails are retained. The development will be in currently mapped H2 habitat with some fuel modification needed in mapped H1 habitat. Grading total is 16,710 CY; 8355 CY cut, 8336 CY fill, 19 CY import. Outdoor lighting for the driveway is shown in the landscape plans and will be downward directed lights along the driveway and around the house. A 1440-sq.ft barn/stable is proposed near the septic system. The septic system is planned to be in H2 habitat east of the residence and is over 200-ft. distant from all oaks on the parcels. Water will be provided by the Las Virgenes Water District.

### **Habitat Remapping**

The mapped habitat categories within project impact vicinity include H1 (riparian oak woodland in a drainage that drains to Lachusa Canyon), H2-high scrutiny habitat areas in the surrounding grassland and purple sage alliances, and a grassland area along one of the drainages to Encinal Canyon. Due to findings of extensive Catalina Mariposa-lily (*Calochortus catalinae*) and other wildflowers widespread on the property and identification of intermittent drainages not previously mapped, the Biological Assessment has proposed remapping of the habitat categories on the project.

**H1 remapping:** H1 expands from approximately 4.9 acres to 13.25 acres. The remapping expands H1 habitat to include the identified drainages on the project parcels with 100-ft. buffer included, and some of the H2-high scrutiny areas are also included in the remapped H1 habitat. H1 will also include a northern branch of the drainage to Lachusa Canyon which has coast live-oak woodland and a rock outcrop. The LCP-mapped H1-buffer or quiet zone on the north will have fuel modification, and remapping has not changed that area. Part of the proposed driveway will be in one of the areas proposed to be H1, but is currently mapped as H2.

**H2 remapping:** Part of a southern arm of the nearest Lachusa drainage will change to H2; an area of H2-high scrutiny next to Charmlee Wilderness Park will change to H2; and an area needed for fuel modification at the northeast end of the near Lachusa drainage is purple sage alliance and will change to H2. H2 declines from 34.87 acres to 27.2 acres; H2-high scrutiny declines from 1.44 acres to none.

### **Landscape**

The most recent landscape plan has a mix of natives and ornamentals in Zone A; all SMM natives in Zone B except for some turf; and a mix of natives and ornamentals in Zone C. Revegetation is needed in Zone C, and this should be revised to use a native seed mix and SMM native container plants typical of the surrounding natural habitat of purple sage scrub. Fuel modification will largely be in mapped H2 habitat, with remapping proposed for fuel modification in mapped H1 habitat that is purple sage alliance. For revegetation of abandoned paths and roads and along the new driveway, the applicant has proposed a method of transplant using soil blocks for areas that have the Catalina mariposa-lilies. A restoration plan needs to be created for the revegetation outside Zone C on abandoned trails, roads, and clearings of the project.

**Potential Fuel Modification & Brush Clearance** (200-ft. from project structures) Fuel modification will largely be in mapped H2 habitat, with remapping to H2 proposed for fuel modification in mapped H1 habitat that is purple sage alliance on the project parcels. Brush clearance on the property to the north is on mapped H2 habitat and may extend into H1-buffer and H1-quiet zone in one area (acreage not known).

### **Hazards**

The parcel is in a Very High Fire Hazard area. The parcel has extensive areas with landslide hazard including areas near the house site. There is no mapped seismic hazard nor mapped flood hazard.

Applicant approved J.Decruyenaere *pro tempore* for fulfillment of the needed quorum.



**DRAFT RECOMMENDATIONS** were provided but were not reviewed.  
For applicant and coordinator response to questions of ERB see appendix.

**ERB COMMENTS:**

1. Drainages are not necessarily H1 habitat. They would need to incorporate designated types of H1 habitat, such as riparian habitat, to be designated H1.
2. Drainages have a designated buffer of 100-ft from the outer edge of riparian vegetation or 100-ft. from the bank edge in cases without riparian vegetation (§22.44.1340.A).
3. ERB is required to make a recommendation on remapping proposals of projects. The subject parcel cannot be subdivided, so this will involve recommendations on remapping of areas not influenced directly by the development.
4. ERB has concerns about placement of the house in a somewhat central location of the large parcel. This will have associated impacts that extend in all directions from the house site, which is on a ridgeline with runoff to two watersheds. In relation to this site, the applicant needs to show that the house site chosen is the best of several options and that the driveway option chosen justifies the increased length over the maximum standard permitted length.
5. ERB requests to review the proposed house sites and selection of driveway using photographs of all the potential entry points for the driveway. Issues of the cliff removal to remove blind spots also should be discussed with photographs.

**ERB RECOMMENDATIONS:**

1. The drainages should be reviewed for whether they incorporate sensitive H1 habitat. The H1 habitat should have the edge mapped to delimit H1. There will be the standard H1 buffer and H1 quiet zone around this. Drainages without H1-habitat will have the stream buffer of 100-ft., and should be mapped as stream buffer with a different symbol from the H1.

Motion/second Decruyenaere/Durbin, Ayes: Unanimous

2. The drainage chosen near the selected access is stated to be without riparian habitat and appears to be flat enough for the house. With appropriate engineering, perhaps the house could be placed there with less impact to the environment from runoff. The alternative of runoff from a driveway of more than 800-ft. and runoff from the proposed residence site and fuel modification into two watersheds seems to have more impact. It needs to be demonstrated that the chosen site is better for the environment. The two locations should be compared for environmental impact.

Motion/second Longcore/Durbin, Ayes: Unanimous

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ERB Meeting Date: 15 May 2017, R2015-00089-(3)

Staff Biologist Recommendation:  Consistent  Consistent after Modifications  
 Inconsistent  No decision

Suggested Modifications: Comply with all ERB recommendations.

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ERB Meeting Date: 15 May 2017, R2015-00089-(3)

ERB Evaluation:  Consistent  Consistent after Modifications  
 Inconsistent  No decision, continued to 19 June 2017

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**OTHER ITEMS:**

**C. Public comment pursuant to Section 54954.3 of the Government Code:**

No public comment was given.

## **APPENDIX: APPLICANT & COORDINATOR RESPONSES TO ERB QUESTIONS**

### **Kay SFR Project, R2014-00461**

#### **Applicant response to ERB inquiries:**

##### **Habitat and Biology:**

Biological report submitted in 2013 was for 5 parcels. The plant list there may not be appropriate for the current project. Humboldt Lily, for example was only in the streambed. Applicant states that the H2 chaparral on the northwest is not a possible development area and the chosen site impacting riparian and H1 areas is better for preservation of biological resources. The slope easement imposed on the fill slope and protection of drainage easements on the project parcel precludes development on a large amount of the parcel area. No development is permitted on slopes over 50% which make up a large portion of the parcel.

The H1 habitat remapping near the planned residence coincides with a definite line of vegetation change from large chaparral plants to non-native grassland. This coincides with a slope change that extends to the east off the project parcel. Whether a soil change is involved is not known. The riparian area is defined topographically by the bank. Mugwort is present in the grassland and along the top of the bank. The riparian definition used in remapping coincides with a change in vegetation that is in the channel. Only a few sycamore trees are present, so the vegetation may not be oak-sycamore woodland south of the planned residence. Kanan-Dume Road was constructed in the 1970s. Installation of the 200-ft. fill slope denuded the project area. The last burn was in 1978.

The grassland study was qualitative and species observed are noted in the text.

##### **Access:**

Access from the northern neighbor's driveways is not possible due to adversarial protection of privacy there, and the applicant has an access easement so absence of easement cannot be claimed. The applicant was not clear about whether previous owners had a prescriptive right by use to access over the northern neighbor's property. (This could have been established in court—see coordinator's note below.) There are three or four parcels which have an access easement along the road the applicant is using. Approval on the access road was obtained in 2013 with revision to have lengths as long as about 150-ft. narrowed to 15-ft. for approximately 25-33% of the access road length. This reduced oak removals from 27 to 1 oak. About 67-75% of the road is the standard 20-ft. width. Paving is required because all of the road has slope over 10%.

##### **Oak Impacts:**

Oaks requiring mitigation were assessed in 2013 and again in 2017 using the LIP minimum size of assessment at 6-in. DBH trunks or 2 trunks summing to 8-in. and the encroachment mitigation requirements of the LIP. Only 1 tree is to be removed. All structures are at least 50-ft. distant from oak trees. Oak mitigation trees planted on the fill slope next to Kanan-Dume Road are replacing non-native trees planted there for erosion control. Tree 288 is the one by the septic area, and will be mitigated for encroachment of the tree. Tree 199 at the access road elbow will be removed and mitigated. Exhibit B of 2017 report has photos that clarify discrepancies on the oaks. Oak trimming including #115 was observed by an ERB member on a site visit, but this trimming was not done by the applicant's program. The access road needs erosion controls to preserve the oaks, and this will be provided in the form of retaining walls. Vertical clearance along access road sides is available for all construction equipment anticipated for use on the project.

Dr. Dicus, a senior Fire Ecologist, provided comment on benefit to oaks by doing fuel modification required for the project. He is speaking from the perspective of a forestry objective, which does not consider downed wood and non-oak species as part of the oak woodland. Removal of species that promote fire spread and compete for water and nutrients should benefit the oak vigor and be protective of oak loss from fire. The soil moisture content will return after removal of shrubs because smaller non-shrub plants will fill the vacant areas, and oak roots will hold the soil.

##### **Water and Septic provision:**

Water provision must be by wells. Trucked water is not permitted in the SMM LCP area. The tank placement at the top of the slope is outside the slope easement area. The septic pipeline goes through H2 chaparral and does not impact any oak trees.

##### **Coordinator's findings:**

**Unit of habitat mapping:** The unit of mapping using aerial photographs was 0.5 hectare (a little more than 1.2 acres). This is from the Photo Interpretation Report for the aerial photography flown in July 2001 for NPS.

The LIP does not have a specification for unit of mapping. If an identified resource is considered sensitive, then the planner would take steps to protect it in the plan of the project. Usually the resource would need to be part of a bigger habitat category that has prescribed setbacks, such as a drainage.

**Prescriptive Easement Access:** A prescriptive easement, acquired by use for 5 years (CA) of access, is not binding until reviewed in a court of law and ruled to be binding. An Access Easement Title Search, which is complex, is needed to determine if an easement exists. DRP does not do these searches, as it does not have the manpower to do them.

There are two ways to discover an access easement that was created by court judgement from a prescriptive easement.

1. Search land title records by legal description of the subject property on which the easement would apply. (This would be the property with the access route, not the property using the access route.)
2. Search the General Index by name of the subject access easement owner (Dominant Tenement). This would be a search back through time of all records for all of the owners of the property providing the access.

**H1 habitat:**

There are certain types of habitat recognized as “riparian” by the LIP which are not standard. These are “. . . 1) distinctly different vegetative species than adjacent areas and 2) species similar to adjacent areas but exhibiting more vigorous or robust growth forms.” (§22.44.630.Riparian habitat);

3. all vegetation (canopy and understory species ) associated with a creek or stream including, but not limited to, . . . mugwort, and Mexican elderberry. In the Coastal Zone, where chaparral and/or coastal sage scrub occur within or adjacent to creeks or streams and function as riparian habitat, these areas are considered to be H1 riparian habitat. (§22.44.1810.A.1)

**Oak trees:**

An oak tree removal or encroachment within the TPZ requires mitigation for trees with trunk diameter measured at 4.5-ft from mean natural grade (1) six inches or more in diameter, or (2) for oaks with a combined diameter of two trunks eight inches or more. (§22.44.950.B.1.)

“**Protected zone**” or “Tree Protected Zone, TPZ” is the area within the dripline of an oak tree and extending outwards to a point at least five feet outside the dripline, or 15 feet from the trunks of a tree, whichever distance is greater. (§22.44.950.B.3.)

**Trees (species other than oaks)**

**Native tree protection.** New development shall be sited and designed to preserve native oak, walnut, sycamore, bay or other native trees, that have at least one trunk measuring six inches or more in diameter, or a combination of any two trunks measuring a total of eight inches or more in diameter, measured at 4.5 feet above natural grade. Development shall be sited to prevent any encroachment into the protected zone of individual native trees to the maximum extent feasible.

“**Protected zone**” or “Tree Protected Zone, TPZ” is the area within the dripline of the tree and extending outwards to a point at least five feet outside the dripline, or 15 feet from the trunks of a tree, whichever distance is greater. Adverse impacts to native trees shall be fully mitigated, with priority given to on-site mitigation. (§22.44.1920.K)

**Bosacki-Newman SFR, R2015-00089-(3)****Applicant response to ERB inquiries:****Habitat:**

Drainage 2 in the Lachusa Canyon Watershed is a topographic swale in the proposed area of fuel modification for the house. The plant alliance is purple sage scrub.

**House site:**

The applicants state that they have been told by DRP that the residence needs to be 200-ft. distant from the road due to various constraints. Two low points at the road are protected areas, and the area between is a cliff. The traffic going downhill past the project can be proceeding at 50 mph or more, and all possible access points from the property have blind areas (so that some cliff removal is needed for safe egress). The house site was chosen to avoid impacting the environment of the jurisdictional drainage areas next to the road.

**DRP Planners:****Remapping:**

Planners directed that accuracy in the habitat map is important, but the focus should be on areas of impact of the project.

**Coordinator findings:****Drainage buffer:**

Stream/Drainage course protection. 1. New development shall provide a buffer or at least 100-ft. in width from the outer edge of the canopy of riparian vegetation associated with a stream/drainage course. Where riparian vegetation is not present, the buffer shall be measured from the outer edge of the bank of the subject stream. (§22.44.1340.A.1)

- a. In no case shall the buffer be less than 100 feet, except when it is infeasible to provide the 100-foot buffer in one of the following circumstances: . . . (3) for a development on a legal parcel that is the minimum development necessary to provide a reasonable economic use of the property and where there is no feasible alternative; (§22.44.1340.A.1.a.(3))

Allowed uses in a drainage buffer include:

-Water quality BMPs required for new development shall be located outside the 100-foot buffer, except for non-structural BMPs (e.g. vegetated berms/swales, bioengineered velocity reducers) (§22.44.1340.A.1.b)

-Fuel modification is allowed in H2 and H3 habitat and drainages with no H1 habitat. Fuel modification is allowed in H1 buffer. Appropriate survey to avoid disturbance of wildlife is required. (§22.44.1920.A)

**Parkland buffer:** 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. (§22.44.1900.C) Two hundred (200) ft. buffer is needed where feasible. (§22.44.1240.C.13)

**H1 habitat:** This category consists of habitats of highest biological significance, rarity, and sensitivity . . . native grassland and scrub with a strong component of native grasses or forbs, riparian, native oak . . . , and rock outcrop habitat types. . . Native grassland (§22.44.1810.A.1)

**Access:**

The maximum length of driveway permitted without a variance is 300-ft. (§22.44.1920.C)



**MINUTES OF THE ENVIRONMENTAL REVIEW BOARD (ERB)  
Unincorporated Coastal Zone, Santa Monica Mountains, Los Angeles County  
Meeting of June 19, 2017**

(Minutes approved, 17 July 2017. ERB only approves ERB comments and recommendations and does not approve appendix materials.)

**Persons in Attendance**

**ERB Members**

Ron Durbin  
Margot Griswold, Ph.D.  
Richard Ibarra  
Travis Longcore, Ph.D.  
Jennifer Mongolo, Biologist, *pro tempore*

**Regional Planning Staff**

Joseph Decruyenaere, Senior Biologist

**Regional Planning Staff** (continued)

Shanna Farley-Judkins, Planner  
Kevin Finkel, Planner  
Joshua Huntington, Planner  
Rob Glaser, Planner  
Shirley Imsand, Ph.D., Senior Biologist,  
ERB Coordinator  
Tyler Montgomery, Planner

**3300 Kanan-Dume Road, Project Number 2014-00461-(3)**

Don Schmitz  
Jacqueline Worden

**T-Mobile WTF Renewal and Modifications, Malibu Canyon Road, R2016-002947-(3)**

**T-Mobile WTF Renewal and Modifications, Mulholland Highway, R2016-002944-(3)**

**Martinez SFR, 26347 Ingleside Way, Malibu, R2015-00833-(3)**

Victor Martinez

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**MINUTES**

**ANNOUNCEMENTS:**

1. The ERB meeting for August will be on 28 August 2017.
2. The Project R2015-00089, 2181 Encinal Canyon, is continued to the 17 July 2017 meeting, pending receipt of documents submittal within deadline for July materials.
3. Review of the Project 2015-00833-(3) 26346 Ingleside Way, is continued to the 28 August meeting, pending receipt of documents requested by planner within deadline for August materials.
4. Time rules for ERB meetings were presented by Kevin Finkel with handouts to ERB members. Applicants will have 15 minutes for presentation and 10 minutes for discussion/response with the ERB panel. Other proponents and speakers will be limited to 3 minutes per speaker. The ERB Coordinator may adjust these limits. The rules were adopted from those used by the Regional Planning Commission. See Appendix A

**CHAIRPERSON FOR ERB – DISCUSSION and VOTE**

Dr. Longcore requested to have a chair from the ERB committee conduct the meeting. This would make the panel more independent of DRP influence and allow them to address what the ERB panel deems important with respect to project review.

**Motion/second Longcore/Griswold, Ayes: Unanimous**

**The ERB committee nominated Ron Durbin to be the chairperson.**

**Motion/second Griswold/Ibarra, Ayes: Unanimous**

**Dr. Longcore volunteered to be the chairperson and conducted the meeting.**

### **APPROVAL OF MINUTES**

**Dr. Longcore proposed a change of minutes format to have the ERB panel approve only the sections with the ERB comments and recommendations.**

**Motion/second Longcore/(no second) Ayes: Unanimous**

**Dr. Longcore contended that content in appendices and the staff reports was not presented at the meeting, but staff states that all material was taken from notes of the meeting and the video tape. There are two exceptions which are answers to questions on unit of mapping and prescriptive easement. The video tape of the meeting can be watched and listened to in order to confirm that this is the case.**

**One member requested that the material in the appendices be available, even if it was not part of the meeting review.**

### **OLD BUSINESS**

**A. Kay SFR Project, R2014-00461, 3300 Kanan Dume Road**  
**Location: Ramirez Canyon Watershed**  
**Project No. R2014-00461-(3)**  
**Permit Nos. RCDP 201500007, RENV 201400038**  
**APNs: 4465-002-023 and access 4465-002-028**  
**Location: 3300 Kanan Dume Road, Malibu, CA 90265**  
**Planner: Joshua Huntington**  
**Applicant: Nicole Farnoush, Schmitz & Associates**  
**Biologist: Jacqueline Worden, Impact Sciences**  
**USGS Quad: Point Dume (residence and access)**

Mr. Huntington, the DRP planner, presented the project description. (Appendix 2)

**Recommendations for consistency and recommendations to reduce project impacts were requested by Mr. Huntington.**

Dr. Imsand presented the review of biological resources. (Appendix 2)

**Recommendation on remapping was requested by DRP Biologist Imsand. ERB stated this was irrelevant to the project review.**

**Draft Recommendations** were provided but were not reviewed.

For applicant and coordinator response to questions of ERB see Appendix 3.

### **ERB COMMENTS:**

#### **SITE:**

**1. The siting of the project structures needs to be adjusted to the 30-ft. setback from property lines required by State Fire Code, and it needs 100-ft. setback from riparian resources. Move the structure into H2 habitat and provide 100-ft. setback from the H1 mapped habitat.**

**2. A location in H2 habitat will have the drawback of more runoff and erosion because of the greater extent of fuel modification needed.**

**3. There is a question of whether it is better to clear understory and have the oak canopy remain, which results in more coverage of foliage, or move to a position in chaparral that does not impact H1 but requires the full 100-ft. of clearing and thinning between 100-200-ft.—which possibly leaves less foliage as an end result.**

5. Placing the structure on the north side of the access road, compared to the south side currently proposed, includes the road as defensible space, which it is—little to burn on the road.
6. Placing the structure on the north side of the access road gives benefits of slope reversal, change of slope and the defensible space of the road which aid in a fuels-driven fire, and for a topographically-driven fire having fuels upslope of the residence is an aid.
7. Figure 4 which shows 100- and 200-ft. out from H1 shows a best position in the chaparral H2 to have minimal impact of fuel modification in H1. Figure 4 does not show H1 on the neighboring northern parcel, however.
8. A north-facing slope position has more moisture than other aspects and is always preferable as an aid to fire protection.
9. New staging area for County Fire will need to be positioned within 500-ft. of any part of structures and at the same level as the house. It needs to be 300-ft. diameter due to the long access. It needs to be located at least partially in the original position of the house. The slope of a fire turnaround can be no more that 2%.
10. Elderberry (*Sambucus nigra ssp. caerulea*) and Mugwort (*Artemisia douglasiana*) are both species found distant from stream courses, and could or may not indicate a riparian area.

#### **FUEL MODIFICATION & HABITAT IMPACT:**

11. ERB confirmed with the planner that clearing for defensible space is not an allowed use in H1.
12. Minimal fuel modification needed in oak woodland habitat is clearing of dead wood from understory and crown cleaning of dead and dried material.
13. The project needs to identify key dead elements to retain in fuel modification and what can be removed with least damage to the biological resources. Get concurrent advice from both County Fire and DRP biologists on this plan.
14. Clearing of understory and downed materials is not good for oak woodland. Fuel modification is an impact to H1 oak woodland, even clearing of dead materials removes resources.
15. Fire suppression that is practiced does not effectively reduce fire in oak woodlands in the Santa Monica Mountains (SMM). It is not possible to prevent fire under the Santa Ana wind conditions that sometimes prevail.
16. Senescence and overgrowth are not driving forces for the oak woodland biological community of the SMM.
16. The applicant should consider minimizing the house to have less requirement for extensive fuel modification. The minimum size of house possible that does not constitute a taking is 750 sq.ft. Uncovered parking does not need fuel modification.
17. Minimizing the house in the chosen location does not remove the need for fuel modification in H1 habitat.
18. Some H1 habitat impacts of this project cannot be avoided. Percolation tests defined the only possible area for the septic area. The access appears to be determined.

#### **LANDSCAPE:**

19. The landscape plan should incorporate more plants that are butterfly and moth attractors.
20. The landscape plan should include understory plants of the type to be removed.

**LIGHTING**

20. For outdoor lighting use low temperature lamps within the yellow spectrum and avoid blue spectrum lights (LEDs).

21. Outdoor lighting should use timers so that lights are temporarily illuminated when needed.

**ERB RECOMMENDATIONS:**

1. Move the residence to the northern side of the access road and at least 30-ft. from the property line. Find the midpoint from all H1. Provide for maximum defensible space on all sides. Provide for defensible space on the access road and in fuel modification areas.

Motion/second Durbin/Ibarra **Ayes:** Unanimous

2. Place all of the septic system on the existing graded dirt road, acknowledging it is in H1 oak woodland. Use air spade and hand tools for the top 2-ft.; preserve roots 1-in. and larger as possible, threading equipment through the roots; and cover roots with moist cloths during time of exposure to air. Use other needed tools to finally penetrate 30-ft. or the needed depth for the septic system.

Motion/second Mongolo/Longcore **Ayes:** Unanimous

3. The project should be continued to the next available ERB meeting date and bring in for review a plan for a new site in the H2 habitat.

Motion/second Durbin/Longcore **Ayes:** Unanimous

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ERB Meeting Date: 19 June 2017, R2014-00461-(3)

ERB Evaluation:     Consistent     Consistent after Modifications  
                          Inconsistent     No decision, continued to 28 August 2017

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ERB Meeting Date: 19 June 2017, R2014-00461-(3)

Staff Biologist Recommendation:     Consistent     Consistent after Modifications  
    Inconsistent     No decision, continued to 28 August 2017

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**NEW BUSINESS**

**B. Project: T-Mobile WTF Renewal and Modifications, Malibu Canyon Road, Malibu**  
Project No. R2016-002947  
Location: East side of Malibu Canyon Road, Malibu Creek Watershed  
Permit Nos. CDP-RPPL2017005731; Env-RPPL2017005731  
APNs: Public right-of-way adjacent to APN 4457-002-905  
Applicant: Luke Snyder, Synergy Engineering  
Biologist: Kyle Workman  
Planner: Tyler Montgomery  
USGS Quad: Malibu Beach

Mr. Montgomery presented the project description.  
Mr. Decruyenaere presented the analysis of biological resource impacts.

**ERB RECOMMENDATIONS:**

**Provide the standard MBTA nesting bird survey of 500-ft. distance from work, 1 survey within bird nesting season (Feb.1-Aug.31), within 2 days of project implementation.**

Motion/second Griswold/Durbin Ayes: Unanimous

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ERB Meeting Date: 19 June 2017, R2016-002947-(3)  
ERB Evaluation:  Consistent  Consistent after Modifications  
 Inconsistent  No decision, continued to 19 June 2017

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ERB Meeting Date: 19 June 2017, R2016-002947-(3)  
Staff Biologist Recommendation:  Consistent  Consistent after Modifications  
 Inconsistent  No decision

**C. T-Mobile WTF Renewal and Modifications, Mulholland Highway, Malibu, CA**  
Resources: Malibu Creek Watershed, Stokes Ridge Trail  
Project No. 2016-002944  
Permit Nos. CDP-RPPL2017005730; Env-RPPL2017005730  
Location: West side of Mulholland Highway, Malibu Creek Watershed  
APNs: Public right-of-way adjacent to APN 4455-042-007  
Applicant: Luke Snyder, Synergy Engineering  
Biologist: Kyle Workman  
Planner: Tyler Montgomery

Mr. Montgomery presented the project description.  
Mr. Decruyenaere presented the analysis of biological resource impacts.

**ERB RECOMMENDATIONS:**

**Provide the standard MBTA nesting bird survey of 500-ft. distance from work, 1 survey within bird nesting season (Feb.1-Aug.31), within 2 days of project implementation.**

Motion/second Griswold/Durbin Ayes: Unanimous

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ERB Meeting Date: 19 June 2017, R2016-002944-(3)  
ERB Evaluation:  Consistent  Consistent after Modifications  
 Inconsistent  No decision, continued to 19 June 2017

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ERB Meeting Date: 19 June 2017, R2016-002944-(3)  
Staff Biologist Recommendation:  Consistent  Consistent after Modifications  
 Inconsistent  No decision



**D. Martinez SFR, 26347 Ingleside Way, Malibu**  
**Project No.: R2015-00833-(3)**  
**Minor Coastal Development Permit No.:**  
**RPPL 2016004875, ENV-RPPL2017007297**  
**Assessor Parcel Number: 4457-006-004**  
**Location: adjacent Malibu Bowl Rural Village,**  
**northeast of Corral Canyon Road, Corral Canyon Watershed**  
**USGS Quad: Malibu Beach**  
**Applicant: Victor Martinez**  
**Biologist: Jacqueline B. Worden, Impact Sciences, Inc.**  
**Planner: Shanna Farley-Judkins**

**This project is now continued to ERB meeting of 28 August 2017**

Ms. Farley-Judkins explained that the project was continued due to public comment received and further documents needed for ERB review.

Mr. Martinez submitted an open space deed, referring to Section 1114 showing easement allowing access through a neighboring parcel.

The applicant, Mr. Martinez, requested review in July, but he was informed that the July date was filled, and that he should provide the documents needed for ERB review in August by the date July 13, 2017, for the August 28 meeting.

**ERB Recommendation: The project should be continued to the 28 August 2017 meeting.**

**Motion/second** Griswold/Durbin **Ayes:** Unanimous

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**OTHER ITEMS:**

**E. Public comment pursuant to Section 54954.3 of the Government Code:**

No public comment was given.

## APPENDIX 1: ERB Meeting Rules – Time Limits

### ERB MEETING RULES

**TIME LIMITS:** The Director of Regional Planning has established time limits with respect to receipt of testimony regarding matters on this Agenda. Applicants will be allowed fifteen (15) minutes to present testimony in support of their application, with an additional ten (10) minutes for responses to issues raised by other witnesses. Other proponents and opponents will be limited to three (3) minutes per speaker. Responses to questions from the Environmental Review Board members will not be included in these time limitations. All speakers are urged to refrain from repeating testimony presented by others. The Coordinator may impose different time limits, depending upon the length of the agenda, the number of speakers wishing to give testimony and/or the complexity of an agenda item.

**WRITTEN TESTIMONY:** Written testimony that is received prior to the public meeting will be made a part of the record and need not be read into the record.

**LOBBYIST REGISTRATION:** Any person who seeks support or endorsement from the Environmental Review Board on any official action may be subject to the provisions of Ordinance No. 93-0031, relating to lobbyists. Violation of the lobbyist ordinance may result in a fine and other penalties. FOR INFORMATION, CALL (213) 974-1093.

**MEETING MATERIALS:** The agenda package is available at the Department of Regional Planning ("Department"), 320 West Temple Street, 13th Floor, Los Angeles, California 90012, and may be accessible on the Department's website at <http://planning.lacounty.gov/>. Any meeting-related writings or documents provided to a majority of the Environmental Review Board after distribution of the agenda package, unless exempt from disclosure pursuant to California law, are available at the Department and are also available in the Environmental Review Board meeting room on the day of the Board's meeting regarding that matter.

## APPENDIX 2 STAFF REPORTS

### Kay SFR Project, R2014-00461

Project description, Joshua Huntington, **Coastal Development Permit No. RCDP 201500007** was not repeated from the May meeting, but is in the agenda for the June 19 meeting.

### Biological Resources, Shirley Imsand, Ph.D., **Environmental Review RENV 201400038**

Biological Resources of Project Vicinity: Vicinity preserved natural land; Riparian oak woodland of Ramirez Canyon in the H1 habitat category; Ramirez Canyon seasonal tributary; Chaparral in the H2 habitat category

**Location:** The project parcels are in the Ramirez Canyon Watershed. The structure will be east of Kanan-Dume Road at the base of a 45% grade fill slope of about 200-250-ft. elevation that supports Kanan-Dume Road over a previous drainage that was a tributary to Ramirez Canyon. The planned residence is about at the level of the previous drainage bank and partially on an existing fire road. The fill may end west of the residence or continue to Ramirez Canyon along the south side of the planned residence. On previous topographic maps a drainage is shown in this area south of the residence. The grassland could be fill with a cover of non-native grassland. It is evaluated in the Biological Assessment as "cleared." A natural, chaparral-covered slope is on the north of the residence (H2). On the south of the residence is the head of a seasonal tributary of Ramirez Canyon (H1). The fire turn-around is planned to be about 25-ft. from the bank of this tributary, and the residence is set back 100-ft. from the bank. The tributary accepts the runoff from Kanan-Dume Road and runoff of extension of the tributary on the west side of Kanan-Dume from a culvert embedded in the fill slope. The runoff of the residence is planned to empty into this culvert after unspecified filtration. Ramirez Canyon is about 180 ft. west of the planned residence, so the stream bed of Ramirez is at the outer edge of the 200-ft. fuel modification required (H1). The planned driveway is on a fire road, currently paved between culverts draining from Kanan-Dume for about 440-ft. of the 1620-ft total length (H1). The residence will have a well chosen from sites in either the tributary stream course or in the existing fire road on the west side of the residence. Tanks for water storage will be near Kanan-Dume Road at the top of the west fill-slope (H3). The septic system is planned to be uphill, north of the residence in the existing fire road near the former connection to one of the paved driveways of the parcel to the north in H1 oak woodland habitat.

#### **Habitat Impacts:**

Habitat impact is an issue with this project. LUP mapping with the residence overlay shows

- the residence and access are chiefly in H1-mapped habitat, which is chiefly riparian woodland, not previously modified.
- Fuel modification extends into H1 habitat of riparian sycamore-oak-willow woodland in the tributary to the south and
- into H1 riparian oak woodland and part of the drainage course of Ramirez Canyon to the east.
- The septic system is planned to be in H1 oak woodland on the western slope of Ramirez Canyon.
- The access road will need widening and paving of an existing fire road that is entirely in oak woodland mapped as H1.

Residence siting, septic system, and fuel modification for development are not permitted uses in H1 habitat. §22.44.1890.C. Access impacts through H1 are permitted when there is no other feasible means of access §22.44.1890.C.

**Fuel modification/Brush clearance/Road widening** all remove dead wood and understory and thin and remove flammable plants that are also part of the oak woodland and riparian community. These are important constituents of the riparian woodland biological ecosystem. All these elements provide important ecological functions, connections, diversity, and resilience to adversity among community members. The understory is the chief location for the next generation of the plant community and some of the animals. All these constituents provide services to the whole habitat and environment of the Santa Monica Mountains. Even with some modifications to the usual requirements by County Fire, these necessary actions of development are impacts to the H1 habitat community and, except for road widening, are not permitted uses according to the LIP.

#### **Impacts to Oaks, Other Native Trees, and Woodland:**

The access route is proposed through H1-mapped coast live-oak woodland, where an existing 1620-ft. road (fire road or ranch road) will be widened and paved and tree branches cut as required for fire safety. One oak is to be removed, encroachments will affect 87 trees requiring mitigation and 103 trees requiring monitoring for 10 years. There will be 515 oaks required for mitigation under the LIP for impacts to oaks on the access road. The landscape plan shows planting of 25 coast-live oaks, so a mitigation plan for these and the remaining 490 oaks is needed. The mitigation oaks will need to be oak woodland replacement with incorporation of typical understory in the mitigation area.

Other native trees were assessed in the Preliminary Native Tree Replacement Plan, but apparently the drip-line was used instead of the TPZ, and therefore, encroachment mitigations needed are uncertain. Percent encroachment was not tabulated. Large-trunked chaparral plants in the area planned for the residence were not assessed by the Applicant's biologist but were measured by the DRP biologist, and these will be removed. Well placement will determine whether other protected trees are removed.

Fuel modification, brush clearance, and access road widening and paving will impact oaks, oak woodland, and riparian habitat in H1 habitat that has not been previously fuel-modified. Except for impacts along the access road, this is not an allowed use under the LIP.

Septic systems are planned to be located to the northeast of the structure along the fire road and may impact oaks and oak woodland there. One oak near the septic pits has canopy over a pit and requires mitigation; other oaks are upslope 7 feet and downslope an unspecified amount, so although the tree protected zone (TPZ) may overlap the seepage pits, they are considered to be without impact according to the Protected Oak Report (2017.04). One oak with canopy overlap will have mitigation.

**Remapping:**

The Biological Assessment has proposed remapping the residence location as H2 and the annual grassland to the south as H3, thus changing some H1 to H2 and H3. Nevertheless, impacts remain from having fuel modification in H1 riparian oak woodland in the southwest area, fuel modification in the sycamore-oak-willow woodland in the tributary to the south, brush clearance (fuel modification) in Ramirez Canyon riparian oak woodland to the east, and placing the septic system and fuel modification on the west slope riparian oak woodland of Ramirez Canyon to the northeast.

Redefining the residence location habitat as H2 may not be accurate in that the chaparral plants there (*Sambucus nigra* ssp. *caerulea* and *Ceanothus spinosus*) have large, tree-sized trunks, are arboreal in form, and were probably south-facing riparian flora on the drainage bank at the time before probable filling of the former tributary channel south of the residence. These large-trunked plants were not evaluated in the tree reports. There are N-S lines of mugwort (*Artemisia douglasiana*), sometimes apparent, between the south tributary head and the *Elymus condensatus* that is in clumps beneath the chaparral plants with large trunks. Mugwort is also on the bank north of the stream course, in the west side of the grassland, and in the fire road west of the chaparral plants with large trunks. This area is mapped in the LCP as riparian and fits riparian H1 definitions in the coastal zone (§22.44.630-Riparian Habitat and 22.44.1810). It has chaparral species near a water course, differing from habitat more distant from the water course in composition and more vigorous and robust form. Elderberry and mugwort are specifically named as riparian species in the LIP.

There are some areas in the H2 habitat more distant from mapped H1 than the chosen site that have lesser slopes where the residence might be sited to have less impact on the H1 oak woodland and LCP-mapped H1 riparian area.

**Wildlife Movement:** The project is sited on a dirt fire road that connects to Kanan-Dume Road in the south and the paved driveway on the parcel under different ownership to the north. This route is cited as a wildlife movement area together with Ramirez Canyon watershed in the original Biological Assessment (2013.01) and was mapped as a wildlife movement area in the Malibu Local Coastal Plan of 1982. At the southern area of the project parcel, the access road joins the fire road that crosses Ramirez Canyon and connects to fire roads that go both north and south along Ramirez Canyon. The house will be placed on a fire road, but couldnt block movement. Due to adjacent open space the Biological Assessment (2013.01) determined no impact on wildlife movement, although this remaining area is very steep on the upslope sides of the planned residence.

**Landscape elements:** The landscape plan shows existing native trees to be retained, has a combination of ornamental and natives in Zone A, some turf in both Zones A and B, and all SMM natives in Zones B and C. The landscape is acceptable under the SMM LIP.

- To the west near the summit next to Kanan Dume, the slope is planted with non-natives with extensive Spanish Broom (*Spartium junceum*), locust (*Robinia* sp.), and pines (*Pinus eldarica* and *P.halepensis*.) Some of this is retained for erosion control, although these plants are exotics and some are considered invasive in the Santa Monica Mountains (SMM).
- Most of the slope on the west is in Zone C and has native plants including trees. Twenty-five (25) of the 515 coast live-oak trees needed for mitigation of impacts to oaks are planned for this slope, replacing some of the exotic trees.
- Potential fuel modification extends north upslope into H2 chaparral, and thinning is accurately described on the landscape plans.
- Brush clearance fuel modification will extend into the riparian tributary to the south and into riparian oak woodland of Ramirez Canyon on the southwest, south, east and northeast.
- The applicant has an approved fuel modification plan that requires minimal fuel modification in the applicant's defined riparian habitat. Dead wood clearance, limbing up, and clearing of understory along the access and perhaps other areas will be what is needed.

**Water provision:** Water will be provided by a well (locations shown in the Hydrogeologic Report). Evaluation of the impact on the environment is that there is no impact due to a projected well depth of hundreds of feet, although hydrological connections of deep aquifers are not discussed, and the impact of well placement is not discussed. Water use projections are not discussed and drawdown is not discussed. Water storage tanks are to be placed among some of the pines on the upper slope near Kanan-Dume Road. Trucked water is not an allowed provision method in the SMM Coastal Zone (§22.44.1340.D)

**Hazards:** The project is in a high fuel hazard area and an earthquake-induced landslide hazard area but is not in a liquefaction zone.

**Special Status:** There are no CNDDDB reports of special status species in the project area, nor any critical habitat areas. The Biological Assessment found *Calochortus catalinae*, *Lilium humboldtii* ssp. *ocellatum*, possible nests of Desert Woodrat *Neotoma lepida intermedia* nearby. None of these were mapped, and they all should be avoided for impact if possible.

## **T-Mobile WTF Renewal and Modifications, Malibu Canyon Road, Malibu, R2016-002947**

Project Description, Tyler Montgomery, **Coastal Development Permit No. RPPL 2017005731**

Applicant proposes the continued operation and minor modifications to an existing pole-mounted wireless telecommunications facility ("WTF") in the public right-of-way. The WTF is located on the east side of Malibu Canyon Road, adjacent to APN 4457-002-905. ERB review is required, as the right-of-way is within designated H2 Habitat, and the site is also located within 200 feet of an H1 Habitat. The existing pole-mounted antennas would be replaced, a pole-mounted cabinet would be added. A power pedestal and H-frame mounted cabinet would also be placed within the right-of-way, 10 feet south of the existing utility pole. This would require excavation of a trench 13 feet long and 36 inches deep. The project site is located near the intersection of Malibu Creek Trail and the Coastal Slope Trail. Land use designation is OS-P, open space parks; Zoning Code is O-S-P, open space parks.

Biological Resources, Joseph Decruyenaere, **Environmental Review RPPL 2017005731**

### **Resources: Malibu Creek Watershed, Malibu Creek Trail, Coastal Slope Trail**

The site is primarily associated with bush mallow-greenbark ceanothus chaparral which covers the nearby slopes; however, the immediate area of the site is within the disturbed shoulder of Malibu Canyon Road and supports no natural or native vegetation within the proposed work area.

Ground-breaking activity is limited to that associated with a 13 ft. long X 36 in. deep trench for the new power pedestal and H-frame mounted cabinet, and would not impact any sensitive biological resources.

Landscape and Fuel Modification: No new landscaping is proposed. Brush clearance requirements for the proposed project would be 10 ft. surrounding the pole and cabinet in all directions. The current pole is already subject to these requirements and the proposed cabinet would be sited within an area currently devoid of vegetation; hence, no new vegetation clearance would be required as part of proposed project operation.

### **ERB PROJECT SPECIFIC RECOMMENDATIONS:**

The biological report prepared for the project recommends prohibition of construction activity within 500 ft. of any active bird nests except at the discretion of the biological monitor. Due to the limited scale of work that is proposed, including no removal of vegetation and groundbreaking that is limited to trenching adjacent to a busy roadway, staff agrees and recommends a provision allowing for reduction of this protective buffer at the monitoring biologist's discretion. Nesting bird survey within nesting season, and within 2 days prior to construction.

The Biological Assessment is complete.

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## **T-Mobile WTF Renewal and Modifications, Mulholland Highway, Calabasas, R2016-002944**

**Coastal Development Permit No. RPPL 2017005730**

Applicant proposes the continued operation and minor modifications to an existing pole-mounted wireless telecommunications facility ("WTF") in the public right-of-way. The WTF is located on the west side of Mulholland Highway, adjacent to APN 4455-042-007. ERB review is required, as the right-of-way is within 200 feet of H1 and H2 Habitats. The existing pole-mounted antennas would be replaced, a pole-mounted cabinet would be added. Two existing pedestals approximately 13 feet south of the utility pole would remain. The project site is located near the intersection of Mulholland Highway and Stokes Ridge Trail. Land use designation is RL5, Mountains Lands—5 du/ac; Zoning Code is R-C-5, Rural Coastal—5 Acre min. lot size.

**Environmental Review RPPL2017005731**

### **Resources: Malibu Creek Watershed, Stokes Ridge Trail**

The project location is mapped as H3 habitat, and is within 200 ft. of mapped H1 associated with an ephemeral drainage to the north. The immediate area of the site is within the disturbed shoulder of Mulholland Highway and supports no natural or native vegetation within the proposed work area.

No ground-breaking activity is proposed as a part of the project, and no impacts to any sensitive biological resources are anticipated.

Landscape and Fuel Modification: No new landscaping is proposed. Brush clearance requirements for the proposed project would be 10 ft. surrounding the pole and cabinet in all directions. The current pole and cabinet are already subject to these requirements; hence, no new vegetation clearance would be required as part of proposed project operation.

### **ERB PROJECT SPECIFIC RECOMMENDATIONS:**

The biological report prepared for the project recommends prohibition of construction activity within 500 ft. of any active bird nests except at the discretion of the biological monitor. Due to the limited scale of work that is proposed, including no removal of vegetation and groundbreaking that is limited to trenching adjacent to a busy roadway, staff agrees and recommends a provision allowing for reduction of this protective buffer at the monitoring biologist's discretion. Nesting bird survey within nesting season, and within 2 days prior to construction.

The Biological Assessment is complete.

## **APPENDIX 3: APPLICANT RESPONSES TO ERB QUESTIONS**

### **Kay SFR Project, R2014-00461**

#### **Applicant response to ERB inquiries:**

The access road predates Kanan-Dume Road. The footprint proposed is 3500 sq.ft. for the residence, which is not sprawling. The residence is deeply notched into the slope where proposed. County Fire allowed reduction of the access road width in many parts that reduced oak removals from 27 oaks to 1 oak. County Fire will allow large branches on the ground to remain, but require removal of small branches for fuel modification. This material will be chipped and left onsite. No understory plant to be removed is sensitive. Last fire to affect the parcel was in 1978. Onsite water storage is 2 tanks near Kanan-Dume with 30,000 gal. capacity. Applicant states that no other coastal area in California prohibits fuel modification in oak woodland or riparian areas, not even in areas under direct review by the California Coastal Commission, so it should be permitted for this project. It is not realistic to require this in the SMM Coastal Zone in that many parcels in the Coastal Zone do not have the needed setback of 200-ft. from H1 habitat. Placing the SFR in the H2 is very difficult because of the large amount of grading required on the steep slopes, and placing it 100-ft. from H1 is also going to be very difficult. An entry from Kanan-Dume at the northwest corner of the parcel is not possible due to the steep slopes there. Fire access and turnaround could not be constructed in that area.

#### **Habitat and Biology:**

The house site trees were not surveyed due to dense brush. Applicant contends they are not tree-sized and not different from the rest of the H2 chaparral, but this is not based on survey. Applicant states that *Elymus condensatus* and mugwort are upland species even within 100-ft of the tributary.



**MINUTES OF THE ENVIRONMENTAL REVIEW BOARD (ERB)  
Unincorporated Coastal Zone, Santa Monica Mountains, Los Angeles County  
Meeting of August 28, 2017**

(Minutes approved as amended, 16 October 2017)

PRESENT:

**ERB Members**

Travis Longcore, PhD (Chair)  
Ron Durbin  
Suzanne Goode  
Margot Griswold, PhD  
Richard Ibarra  
Katherine Pease, PhD

**Regional Planning Staff**

Jennifer Mongolo, Biologist, ERB Coordinator  
Shirley Imsand, PhD, Senior Biologist,  
Joseph Decruyenaere, Senior Biologist  
Shanna Farley-Judkins, Planner  
Martin Gies, Planner  
Rob Glaser, Planner  
Joshua Huntington, Planner

Case materials, ERB Resource descriptions, and a full video recording of the ERB meeting are posted under August 28, 2017: <http://planning.lacounty.gov/agenda/erb>

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**APPROVAL OF MINUTES**

**Minutes of 17 July 2017**

At the direction of the Chair, the minutes were adopted as amended with Longcore, Durbin, Goode, Griswold, and Ibarra in support for approval and Pease and Dagit recorded as absent from voting.

Amend Item B, ERB Motions, Restoration Plan: The motion regarding amending staff recommendations for the Restoration Plan refers to Staff Recommendation #34, namely that reference sites for the purple sage scrub habitat need to be identified in advance, but that measurement of reference site conditions can occur at the time of monitoring. This amendment does not apply to Staff Recommendation #37 for Catalina mariposa lilies, which stands as written.

**OLD BUSINESS**

- A. Martinez SFR, 26347 Ingleside Way, Malibu**  
**Project No. R2015-00833-(3)**  
**Permit Nos. CDP-RPPL 2016004875, Env-RPPL2017007297**  
**APNs: 4457-006-004, access over 4457-006-018 and 4457-006-017**  
**Location: 26347 Ingleside Way (adjacent Malibu Bowl Rural Village, northeast of Corral Canyon Road, Corral Canyon Watershed)**  
**USGS Quad: Malibu Beach**  
**Applicant: Victor Martinez**  
**Biologist: Jacqueline B. Worden, Impact Sciences, Inc.**  
**Planner: Shanna Farley-Judkins**

### **Project Description:**

The project consists of the construction of a new 3,838 sq.ft. two-story, single family residence with a 700 sq.ft. garage, swimming pool, spa, patio, onsite waste-water treatment system, and fire turnaround on a two-acre parcel immediately to the north of Malibu Bowl Rural Village. The planned driveway enters the subject property from Ingleside Way via an easement over adjacent properties to the west, following an existing dirt road. The parcel is bordered on the north and east by Malibu Creek State Park, and on the northern half of its western boundary by privately-owned protected open space. Grading will consist of 1,500 cubic yards of cut and 400 cubic yards of fill, totaling 1,900 cubic yards of grading. Of the soil graded, 1,100 cubic yards of materials will be exported offsite. The project will take access across two neighboring parcels, via a recorded easement. The proposed driveway exceeds 300 feet in length and will require a Variance. Water will be provided by Las Virgenes Municipal Water District. The project is located within the Rural Coastal R-C-20 Zone and Land Designation of Rural Land RL-20.

DISCLOSURES/RECUSALS: Mr. Ibarra recused himself from hearing this item due to conflict of interest, as he was a consultant to the applicant on the project. Chair Longcore confirmed that there was still a quorum to hear the item.

PRESENT: Victor Martinez, Jackie Worden (Biologist, Impact Sciences), Richard Ibarra (Arborist, TREES, etc.)

### **ERB Comments:**

1. State Parks only observes a 100 foot fuel modification zone (not 200 foot), and would not allow brush clearance on their land to north or east for this project even if the Fire Department or Agricultural Commission were to require it (which they are not).
2. Basing remapping of habitat on theoretical fuel modification zones for residences that do not actually exist, even though there may be an approved permit, assumes facts and conditions not actually on the ground. Assuming changes to habitat based on impacts that have not yet occurred runs counter to basic environmental review principals (i.e. CEQA review).
3. For environmental review under CEQA, the standard is to look at the conditions in the field at the time of the proposal. However, in this case the LIP specifically directs that habitat should be based on what the vegetation community would be in the absence of fire and inappropriate fuel modification, which is evidenced by regenerating oaks and historic aerial imagery that suggest a more extensive oak woodland area should be mapped.
4. Defensible space will be shrunk down severely due to remapping of H1 habitat to include disturbed and regenerating oak woodland. ERB needs to see the remapping in relation to the structure to determine if project is consistent.
5. Fire department would not have required the fuel modification on the unimproved parcel, and the Ag Commission would not have required brush clearance beyond 200 feet from existing structures.

### **ERB Motions:**

#### **Habitat Remapping**

Motion/Second by Longcore/Durbin: Deny Staff Recommendation #1 to modify habitat mapping in existing lawfully-established fuel modification zones, which are in part based on structures that do not exist.

**Vote – Ayes: Longcore, Durbin, Goode, Griswold, Pease  
Abstaining: Ibarra**



Motion/Second by Goode/Griswold: Approve Staff Recommendation #2 to deny the request to modify mapped habitat in cleared areas outside of lawfully-established brush clearance zones.

**Vote – Ayes: Longcore, Durbin, Goode, Griswold, Pease**  
**Abstaining: Ibarra**

Motion/Second by Goode/Pease: Regarding Staff Recommendation #3, deny remapping of H1 habitat in the northern portion of the parcel, and instead remap to extend the H1 habitat to include the oak woodland in recovery mode that is located in the northern part of the site.

**Vote – Ayes: Longcore, Durbin, Goode, Griswold, Pease**  
**Abstaining: Ibarra**

### **Sensitive Habitats, Plants, and Animals**

Motion/Second by Goode/Griswold: Incorporate staff's recommended conditions for Biological Monitor, Staking of Grading Limits and Screening, Nesting Bird Surveys, Woodrat Survey, Avoidance, and Relocation, Oak Tree Protection, Glass, and Exterior Lighting.

**Vote – Ayes: Longcore, Durbin, Goode, Griswold, Pease**  
**Abstaining: Ibarra**

### **Adequacy of Biological Report**

Motion/Second by Griswold/Goode: The project's biological report, as reviewed by the staff biologist, adequately addresses the requirements of the SMMLCP, after incorporation of ERB remapping recommendations.

**Vote – Ayes: Longcore, Durbin, Goode, Griswold, Pease**  
**Abstaining: Ibarra**

### **Consistency**

Motion/Second by Durbin/Goode: Continue project review at a subsequent meeting when applicant can return with new mapping and consideration of the site in reference to remapping.

**Vote – Ayes: Longcore, Durbin, Goode, Griswold, Pease**  
**Abstaining: Longcore, Ibarra**

- B. Kay SFR Project, 3300 Kanan Dume Road, Malibu**  
**Project No. R2014-00461**  
**Permit Nos. RCDP 201500007, RENV 201400038**  
**APNs: 4465-002-023 and access 4465-002-028**  
**Location: 3300 Kanan Dume Road, Malibu, CA 90265 (Ramirez Canyon Watershed)**  
**USGS Quad: Point Dume (residence and access)**  
**Applicant: Nicole Farnoush, Schmitz & Associates**  
**Biologist: Jacqueline Worden, Impact Sciences**  
**Planner: Joshua Huntington**

### **Project Description:**

Applicant proposes construction of a 40-foot tall, 8,724 sq. ft., 3-story, single-family residence, turnaround meeting the Fire Dept. requirements, landscaping, hardscaping, retaining walls, a water well, two 30,000 gallon water storage tanks, drainage devices, and a private septic system.

The driveway is a 1,550-ft. fire road approaching from the south. The driveway will need to have road improvements of grading, paving, drainage devices, widening to 15-20-ft., and retaining walls to meet Fire Dept. requirements. Grading is estimated at 6,310 CY total with 200 CY of imported material. The grading for the building site area is 2,330 CY, and the grading for the access driveway/fire lane is 3,980 CY. The septic system is to be on a fire road northeast of the residence. The project will encroach on 190 coast live-oaks, one bigpod ceanothus, one big-leaf maple, and one toyon. One coast live-oak, and California black walnut, and one toyon are proposed to be removed as part of this project. The required mitigation trees include 515 coast-live oaks, 15 toyon, 10 California black walnut, five big-leaf maple, and five bigpod ceanothus. One black locust is also proposed to be removed as part of this project. This is a non-native tree and will not require mitigation. No runoff control plans were provided.

PRESENT: Don Schmitz, Jackie Worden (Biologist, Impact Sciences)

### **ERB Comments:**

1. There is no adopted standard for minimum mapping unit of habitat areas. The LCP specifically invites this kind of debate, recognizing that the resolution of the habitat maps in the adopted plans was not fine enough to incorporate all the variability that might happen. For this case the question is whether a grassland that you can see in aerials from the 60s should be carved out separately or included as a variation inside of the riparian zone.
2. To call the slope area in question riparian habitat, ERB needs to make a finding that it is connected hydrologically to the stream. The question is whether the large shrubs are influenced by the stream drainage. ERB does not think the area meets the definition of riparian habitat for the following reasons:
  - This area occurs on an incredibly steep slope.
  - The dirt road next to the area in question creates a water condition that is unnatural relative to the original slope, and likely results in increased runoff/sheet flow onto the slope from the road. It is a common phenomenon to find bigger shrubs downslope from a road because of the drainage off the road.
  - It has been 40 years since the last fire, and there are other big shrubs on the site.
  - The occurrence of greenbark ceanothus on a south-facing slope is unusual and indicates a presence of water; however, the water is probably drainage from the road.
  - Not all slope moisture is considered riparian. Some slopes have more moisture than other slopes. The fill slope is likely impacting how water is moving.
3. The applicant has indicated that it was their intent for the sycamore canopy to be included in the riparian area. If it is not clear, they will clarify that it is.
4. In areas with native herbaceous vegetation along the access road, fuel modification should consist solely of weed-whipping vegetation down to a few inches, rather than mowing, scraping or disking. This may benefit native grasses by cutting back the annual grasses and eliminating the seed source.
5. Defensible space – first 100 feet is subject to state fire code, which would extend into H1. There would have to be modification of oak woodland on both sides of the road. State fire code does not require irrigation in the first 100 feet, County fire code does. Irrigation may not be required in oak woodland. Thinning of understory would be required.
6. Understory plants in an oak woodland have a large amount of ecological value.
7. In terms of fire the new configuration is better for defensible space. This configuration is also superior from the habitat point of view.
8. Location of seepage pits was discussed in a previous meeting.
9. Even if project was reduced to the size of a pinpoint, it will never get to a place where it doesn't impact H1 with defensible space alone. Impacts to H1 seem unavoidable in this

location, regardless of the size of the structure. The question then becomes whether the structure is located in the right place that minimizes impacts.

### **ERB Motions:**

#### **Habitat Remapping**

Motion/Second by Goode/Durbin: Accept remapping of annual grassland as H3 habitat, and accept remapping of the slope area as H2, recognizing it as very mature chaparral and acknowledging that some species present can be riparian but are not always.

**Vote – Ayes: unanimous**

#### **Adequacy of Biological Report**

Motion/Second by Longcore/Durbin: The project's biological report, as reviewed by the staff biologist, adequately addresses the requirements of the SMMLCP, after identification and mapping of understory species along the access road and consideration of the jurisdictional nature of some of the storm water drainage areas.

**Vote – Ayes: unanimous**

#### **Consistency**

Motion/Second by Durbin/Pease: The project, even after incorporation of ERB recommendations, is not consistent with the biological resource protection policies and development standards of the Santa Monica Mountains Local Coastal Program and Local Implementation Program, chiefly due to planned impacts in H1 riparian habitat that are not permitted uses in that habitat category. (§22.44.1890.C)

**Vote – Ayes: unanimous**

### **NEW BUSINESS**

- C. Van Ruitenbeek SFR, 3806 Latigo Canyon Road, Malibu**  
**Project No. R2016-000392-(3)**  
**Permit Nos. CDP & VAR-RPPL2017005685; Env-RPPL2017005685**  
**APNs: 4461-042-002**  
**Location: 3806 Latigo Canyon Road, Malibu (Baller Road, Malibu Creek Watershed)**  
**USGS Quad: Point Dume**  
**Applicant: Vitus Matare**  
**Biologist: Andrew Forde**  
**Planner: Tyler Montgomery**

#### **Project Description:**

Applicant proposes the construction of a 3,401-square-foot single-family residence and 1,600-square-foot garage on an existing graded pad in the Santa Monica Mountains Local Coastal Plan Area. Because development would occur on a designated Significant Ridgeline, a variance is required. The residence would have a maximum height of 18 feet above grade, and a total of 1,816 cubic yards of grading would occur (1,116 c.y. cut, 700 c.y. fill, 413 c.y. export). The project would also include a swimming pool, septic system, driveways, retaining walls, and other appurtenant facilities on a total building site of approximately 8,000 square feet. ERB review is

required, as the project site is within 200 feet of H1 and H2 Habitats, although development would occur within H3 Habitat only. The pad has an elevation of approximately 1,780 feet and has views of the Pacific Ocean to the south and the Santa Monica Mountains to the north and east. Four single-family residences and a Las Virgenes Municipal Water District water tank are immediately adjacent to the south and west, and mountainous vacant land is located further out in all directions. The project site is accessed by Baller Road, a long, winding private driveway that connects to Latigo Canyon Road, approximately two miles to the west. Land use designation is RL40, Mountains Lands—1 du/40ac; Zoning Code is R-C-40, Rural Coastal—40 Acre min. lot size.

PRESENT: Mr. and Mrs. Van Ruitenbeek, Andy Forde (Biologist, Forde Biological Consultants)

### **ERB Comments:**

1. Pepper trees are highly invasive and should be removed.
2. Since some chaparral will be removed, ERB would like to see an additional mitigation measure consisting of restoration of chaparral in an amount equal to the area of chaparral being removed for fuel modification for the proposed residence, to be planted onsite along the top of the plateau, outside of the fuel modification zones of any adjacent structures.

### **ERB Motions:**

#### **Habitat Remapping**

Motion/Second by Goode/Durbin: Accept remapping of habitat as specified in the Staff Report and documented in the project's Biological Assessment Report.

**Vote – Ayes: unanimous**

#### **Adequacy of Biological Report**

Motion/Second by Griswold/Pease: The Biological Report, as reviewed by the staff biologist, adequately addresses the requirements of the Santa Monica Mountains Local Coastal Program.

**Vote – Ayes: unanimous**

#### **Consistency**

Motion/Second by Goode/Durbin: The project is consistent with the biological resource protection policies and development standards of the SMMLCP and meets the Burden of Proof after incorporation of the project specific recommendations proposed by staff, and with additional mitigation consisting of removal of the pepper trees and restoration of chaparral in nonnative grassland areas that are outside of fuel modification zones.

**Vote – Ayes: unanimous**

#### **D. Trujillo SFR, 24600 Thousand Peaks Road, Calabasas**

**Project No. R2014-03698-(3)**

**Permits Coastal Development RPPL 201400019**

**APN 4455-052-002**

**Location: 24600 Thousand Peaks Road, Calabasas (Dry Canyon-Cold Canyon Watershed / Malibu Creek Watershed)**

**USGS Quad: Malibu Beach**

**Applicant: Erfan Zamani, John Andrews Architects**

**Biologist: DUDEK: John Davis**

**Biologist: Erin Roberts, Envicom**  
**Planner: Martin Gies**

**Project Description:**

The applicant is requesting a Minor Coastal Development Permit to authorize the construction of a new 18-foot tall, 8,018 sq. ft., two-story single-family residence with a basement, an attached 932 square foot four-car garage, and 4,175 cubic yards of grading with 2,943 cubic yards of export in the R-C-20 (Rural Coastal) Zone. The project is located within H3 and a portion of the required Fuel Modification radius is within H2 Habitat, which requires review by the Environmental Review Board. The project is within a Scenic Resource Area because of its proximity to scenic resources being the Stokes Ridge Trail and Mulholland Highway, a designated Scenic Route. The height of the proposed residence is restricted to an 18-foot maximum height because of its proximity to scenic resources. The access driveway paving will remove 3 and encroach on 12 other Fremont Cottonwood (*Populus fremontii*) trees, requiring 95 mitigation trees. The applicant proposes removal of the numerous invasive species on the development pad, and planting all mitigation trees in the manmade, seasonally dry, drainage feature, which is chiefly in Zone B but partially in Zone C. The Native Tree Replacement plan has substituted a mix of appropriate natives for the site: 25 *Heteromeles arbutifolia*, 15 *Platanus racemosa*, 15 *Populus fremontii*, 15 *Quercus agrifolia*, 25 *Sambucus nigra* ssp. *caerulea*. The landscape plan has all natives in Zone B, and a native seed mix in a cleared part of Zone C. The landscape plan needs to integrate the Native Tree Replacement Plan.

PRESENT: John Andrews (Architect and owner), Erin Roberts (Biologist, Envicom)

**ERB Comments:**

1. All trees should be mapped, clearly identified by species, and marked as retained or removed on a site plan.
2. Mitigation plantings:
  - Mitigation trees should be spread out and incorporated into the landscape.
  - Trees should be grouped by hydrozone depending on water needs.
  - Trees need to be drawn at  $\frac{3}{4}$  mature size for landscape plan. This helps with determining appropriate spacing.
  - Species selection and location should be driven by water availability so that irrigation is not needed, i.e. sycamores and cottonwoods are riparian species and should only be planted where there is sufficient water.
  - Mitigating using a mix of native species is appropriate.
  - There is some skepticism over whether mitigation should be required for plants that the owner planted in the first place.
3. There is general agreement with the proposed herbicide protocols. A good alternative to cut and paint would be to drill holes in the stems and pour the herbicide into the holes. Herbicides work best when warm or hot outside. Spanish broom can be pulled out by the roots with a weed wrench.
4. Planting smaller trees (one gallon as opposed to 5 or 15 gallon) is better because they require less disturbance, are easier to get going, and require less water to get established.
5. Fencing should follow LIP requirements.

## **ERB Motions:**

### **Consistency**

Motion/Second by Goode/Durbin: The project is consistent with the biological resource protection policies and development standards of the SMMLCP and meets the Burden of Proof after incorporation of ERB recommendations regarding the landscape plan, size of mitigation trees, out of kind mitigation, and the recommendations from the staff biologist report.

**Vote – Ayes:** Longcore, Durbin, Goode, Ibarra, and Pease in support for approval and Griswold recorded as absent from voting.

- E. Abronson, Retroactive Horse Facility Fencing, 543 Cold Canyon Road, Calabasas**  
**Permit Nos. CDP RPPL 2016001512**  
**APNs: 4456-012-022; 4456-012-023; 4456-014-004**  
**Location: 543 Cold Canyon Road, Calabasas (Monte Nido, Cold Canyon Watershed)**  
**USGS Quad: Malibu Beach**  
**Applicant: Charles & Stephanie Abronson**  
**Biologist: Daniel Cooper**  
**Planner: Joshua Huntington**

### **Project Description:**

The project consists of retroactive permit for fencing on horse facilities. These have been in place since 1983. The Barn was included with the California Coastal Permit and residence. The Barn has an LA County building permit. At the time the permit was obtained, the Abronsons were told by LA County that no permits were required for fencing. All fencing materials are made of metal and are fire proof. Corral fencing is 5-6 ft. high with 4-5 pipe rails. Arena fencing is 4 feet high with a three pipe rails. The owners have used LA County Best Management Practices since the beginning of the project. The property was used by the Resource Conservation District SMM for their video/DVD “Horse Management Program.” All corrals and arenas are maintained to prevent any waste materials from contaminating local streams. A large grass/wood chip area lies between corrals and local streams to filter all water runoff. Most trees have roots and trunks protected from equine damage with chainlink or plastic mesh fencing, pipe corral fencing, and/or treated wood boxes. The southwestern border has a 20-ft. wide trail easement required by the California Coastal Commission in 1983 at the time of residence construction approval. Protected oaks on the property number 74.

PRESENT: Stephanie and Charles Abronson, Daniel S. Cooper (Biologist, Cooper Ecological)

### **ERB Comments:**

1. In areas where soil is heavily compacted, some of the soil should be carefully decompact in such a way as to not damage the root zone of the oaks.
2. If bank repair is needed, applicant should explore soft engineering for protecting the road from creek erosion. Examples include brush boxes or grape stakes woven together with wire and stuffed with brush, which will accumulate sediment as the creek flows through them. Suzanne Goode can provide guidance on methodology upon request.
3. Investigate the root-flare at the base of oak trees and potentially expose the trunk down to the root crown if it appears to be the appropriate solution for the health of the tree.

## **ERB Motions:**

### **Adequacy of Biological Report & Consistency**

Motion/Second by Ibarra/Pease: The Biological Report, as reviewed by the staff biologist, adequately addresses the requirements of the SMMLCP, and the project is consistent with the biological resource protection policies and development standards of the SMMLCP and meets the Burden of Proof after modifications as recommended by staff and as further elaborated by ERB comments.

**Vote – Ayes:** Longcore, Durbin, Goode, Ibarra, and Pease in support for approval and Griswold recorded as absent from voting.

## **OTHER ITEMS**

**Update on ERB Coordinator Changes:** Jennifer Mongolo will be taking over the ERB Coordinator role from Dr. Shirley Imsand moving forward.



**Cox, Castle & Nicholson LLP**  
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Los Angeles, California 90067-3284  
P: 310.284.2200 F: 310.284.2100

Stanley W. Lamport  
310.284.2275  
slamport@coxcastle.com

File No. 078759

March 29, 2023

**VIA EMAIL AND U.S. MAIL**

Mr. Rob Glaser ([rglaser@planning.lacounty.gov](mailto:rglaser@planning.lacounty.gov))  
Mr. Nathan Merrick ([NMerrick@planning.lacounty.gov](mailto:NMerrick@planning.lacounty.gov))  
Los Angeles County Department of Regional Planning  
Coastal Development Services  
26600 Agoura Road  
Calabasas, CA 91302

**Re: 3300 Kanan Dume Road**

Dear Mr. Glaser and Mr. Merrick:

This firm represents Gregory and Susan Kay, the owners of 3300 Kanan Dume Road (“Kay Property”). The Kays have submitted an application to develop an approximately 5,535 square-foot residence and associated 907 square-foot garage within a building site located at the end of an existing roadway access into the Kay Property (“Proposed Project”). Department of Regional Planning staff has proposed an alternative building site in the north westerly corner of the Kay Property (“Alternative Building Site”).

As this letter will explain, the Alternative Building Site is an infeasible alternative because the cost to develop the Alternative Building Site would exceed the resulting value of the house and lot by two to five million dollars depending on the size of the house in that location. Limiting development to the Alternative Building Site would result in a regulatory taking for the same reasons. Accordingly, our clients request that the County discontinue consideration of the Alternative Building Site as an alternative to the Proposed Project.

**1. Development of the Alternative Building Site**

The Alternative Building Site is partly located on steep, uncertified road fill, adjacent to Kanan Dume Road. Kanan Dume Road was cut through the mountainside in this location. The slope gradient is approximately 1:3:1 (H:V), with portions of the slope at or exceeding 50 percent. The road spoil filled a deep natural canyon resulting in a fill depth of up to 200 feet. Geotechnical investigations of the Alternative Building Site found that the site is not considered suitable for foundation support. The site would need to be penetrated with piles extending deep enough into the bedrock to support the anticipated creep load, retaining walls and seismic loads.



The only access to the Alternative Building Site is directly from Kanan Dume Road. There is no way to access the Alternative Building Site from the existing roadway access into the Kay Property. There are no easement rights to access the Alternative Building Site from the property to the north, which the Kays do not own. We reached out to the owner of the adjacent property to the north of the Kay Property, who declined to grant an easement.

As a result, access to the Alternative Building Site would need to be developed at Kanan Dume Road. The construction of the single-family residence would require a fire department-compliant hammerhead turnaround that would allow both private vehicles and fire equipment to exit the site at Kanan Dume Road, an arterial highway with a 50 mile per hour speed limit, and a poor line-of-site that would need to be improved to provide adequate egress.

Construction of the building pad, driveway, required fire department hammerhead turnaround, as well as any yard and related infrastructure would, by necessity, occur on slopes considerably steeper than allowed under the Building Code, and, as a result, would require retaining walls that will exceed 30 feet in some places. Due to the Building Code requirements for horizontal setbacks from the foundations to the face of the bedrock, all structures and retaining walls would need to be supported on very deep piles.

## **2. The Alternative Building Site Is Economically Infeasible to Develop**

As a result of the foregoing conditions, the Alternative Building Site would be prohibitively expensive to develop. Our clients obtained construction cost estimates to develop a single-family residence on the Alternative Building Site from Dennis Robert Smith Construction LLC, a general contractor who has years of experience building residential properties in the Santa Monica Mountains. Our clients asked the contractor to provide construction cost estimates for development on the Alternative Building Site of (i) a residence that was comparably sized and had the same amenities as the proposed residence, and (ii) a 3,000 square foot residence with a 500 square foot garage. The contractor was provided a conceptual site plan for both alternatives, copies of which are attached as Exhibit 1, which the contractor used to estimate construction costs. The contractor based the construction cost estimates on current bids from comparable projects in the Santa Monica Mountains so that the estimates reflect current construction costs.

The two construction cost estimates for the Alternative Building Site are attached as Exhibit 2. The estimated construction cost for a 5,535 square-foot residence and associated 907 square-foot garage on the Alternative Building Site is \$10,301,115.22. The estimated construction cost for a 3,000 square foot residence and associated 500 square-foot garage on the Alternative Building Site is \$4,445,763.15.

The cost to develop the Alternative Building Site vastly exceeds the resulting value of any residence on the Alternative Building Site, which results in the project being economically infeasible. To determine the resulting value, our client also obtained an appraisal of the fair market value of the comparably sized residence and a 3,000 square foot residence on the

Alternative Building Site. A copy of the appraisal is attached as Exhibit 3. The appraisal was prepared by Thomas W. Erickson, MAI, a Certified General Appraiser (CA License No. AG002373). Mr. Erickson has 50 years of experience valuing residential property in Southern California in general and in the Santa Monica Mountains in particular.

Mr. Erickson appraised the value of residences on the Alternative Building Site based on current land values. His appraisal concludes that the fair market value of a 5,535 square-foot residence on the Alternative Building Site is \$5,260,000. The fair market value of a 3,000 square foot residence on the Alternative Building site is \$2,250,000.

When the fair market value is compared to the construction cost, both residences have a substantial negative economic value.

#### ALTERNATIVE BUILDING SITE

	5,535 Sq. Ft. Residence	3,000 Sq. Ft. Residence
Fair Market Value	<b>\$5,260,000.00</b>	<b>\$2,250,000.00</b>
Estimated Construction Cost	<b>\$10,301,115.22</b>	<b>\$4,445,763.15</b>
Difference	<b>(\$5,041,115.22)</b>	<b>(\$2,195,763.15)</b>

The size reduction reduces the construction cost, but also reduces the resulting fair market value of the residence. In both scenarios, the Alternative Building Site is not economically viable in that it would cost far more to develop either residence on the Alternative Building Site than the residence would be worth. Stated differently, developing the Alternative Building Site would produce a negative economic return.

As a result, the Alternative Building Site is economically infeasible. Whether an alternative is feasible turns on whether it is ‘capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors’ (See Public Resources Code § 21061.1). “Economic viability” is one measure of feasibility. (See Cal. Code of Regs., Title 14, § 15126.6(f)(1).) These concepts are consistent with the common meaning of “feasible” as “capable of being used or dealt with successfully.” (Merriam-Webster Dictionary: <https://www.merriam-webster.com/dictionary/feasible>.)

The point at which the cost to construct exceeds the resulting value is the difference between a use that is economically viable and one that is not. In practical terms, one would not spend \$10 to produce something that would be worth \$5. In this case, one would not expend millions of dollars to develop a home on a property that would be worth roughly two to five million less than what was expended to develop it. This comports with the common meaning of “economic viability” as “capable of producing a profit.” (MacMillan Dictionary: <https://www.macmillandictionary.com/us/dictionary/american/viable>.)

California courts have routinely recognized that a project is not economically feasible if the cost to develop the project exceeds its resulting value. For example, in *San Franciscans Upholding the Downtown Plan v. City and County of S.F.* (2002) 102 Cal.App.4th 656, 671, 673, the court concluded that an EIR was not required to consider certain rehabilitation alternatives in lieu of demolishing a historic building because the property “would cost more to rehabilitate than it would thereafter be worth on the market [and therefore] . . . would be financially infeasible.” The court held that the method of comparing project costs to project value in analyzing economic infeasibility—considering, among other things, construction cost estimates—was an appropriate, common method of valuation. The court stated, “it is well established that impaired property may have little or no market value if the costs of necessary repairs, remediation or rehabilitation would approximate or exceed the value of the property in its repaired or rehabilitated condition.” (*San Franciscans Upholding the Downtown Plan v. City and County of S.F.*, *supra*, at 685.)

Similarly, in *Association of Irrigated Residents v. County of Madera* (2003) 107 Cal.App.4th 1381, 1401, the court held a county was not required to consider an alternative that vastly reduced the size of the herd on a dairy farm based on evidence from the applicant demonstrating the alternative would produce a negative economic return.

For these reasons, the Alternative Building Site is an economically infeasible alternative.

### **3. Compelling Development of the Alternative Building Site Would Constitute a Regulatory Taking**

Limiting a landowner to a use that would have a negative economic value denies the owner an economically viable use of the property, which constitutes a regulatory taking. (*Lucas v. South Carolina Coastal Council* (1992) 505 U.S. 1003.)

In determining whether a government action constitutes a regulatory taking that deprives the owner of all economically viable use of land, courts around the United States have found a use is not economically viable when the cost to develop the permitted use exceeds the resulting value.

For example, in *City of Sherman v. Wayne* (Tex. App. 2008) 266 S.W.3d 34, the court held that a city’s residential zoning ordinance deprived the plaintiff of all economically viable use because the record showed it would cost \$16,000 to \$23,000 per lot to develop the property for residential structures, but the resulting value of the developed lots would be no higher than \$7,500 per lot. The court concluded that restricting the property to residential use resulted in no economically viable use, and the property would have no value, because the costs to construct would exceed the value of the developed property.

In *Resource Investments, Inc. v. U.S.* (2009) 85 Fed.Cl. 447, the court held that the Army Corps’ denial of a permit to operate a landfill left the plaintiff’s property without any economically viable use. The Army Corps proffered a residential development as an alternative use. The court found even if the property could be developed for residential use, the

Mr. Rob Glaser and Mr. Nathan Merrick  
March 29, 2023  
Page 5

development cost would exceed the sales price, “so such development was not economically feasible.”

In *Arastra Ltd. Partnership v. City of Palo Alto* (N.D. Cal. 1975) 401 F. Supp. 962, vacated by stipulation (N.D. Cal. 1976) 417 F. Supp. 1125, the court held that permitted uses allowed on the land were not economically viable because the cost to develop the uses exceeded the prices at which the developed property could be sold

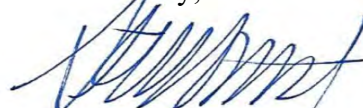
By contrast, the Proposed Project is economically viable. Attached as Exhibit 4 is a construction cost estimate for the Proposed Project. The estimated construction cost for a 5,535 square-foot residence and associated 907 square-foot garage on the Proposed Project building site is \$4,940,555.25. Mr. Erickson’s appraisal concludes that the fair market value of a 5,535 square-foot residence on the Proposed Project building site is \$6,365,000, which yields a positive return of \$1,424,444,75.

#### **4. Conclusion**

The Alternative Building Site is not economically viable and, therefore, not a feasible alternative. Limiting development of the Kay Property to the Alternative Building Site would deny the Kays an economically viable use of their land, which would result in a regulatory taking. Accordingly, our clients request that the County cease considering the Alternative Building Site as an alternative to development of the Proposed Project.

If you have any questions or would like to discuss this matter further, please let us know.

Sincerely,



Stanley W. Lampert

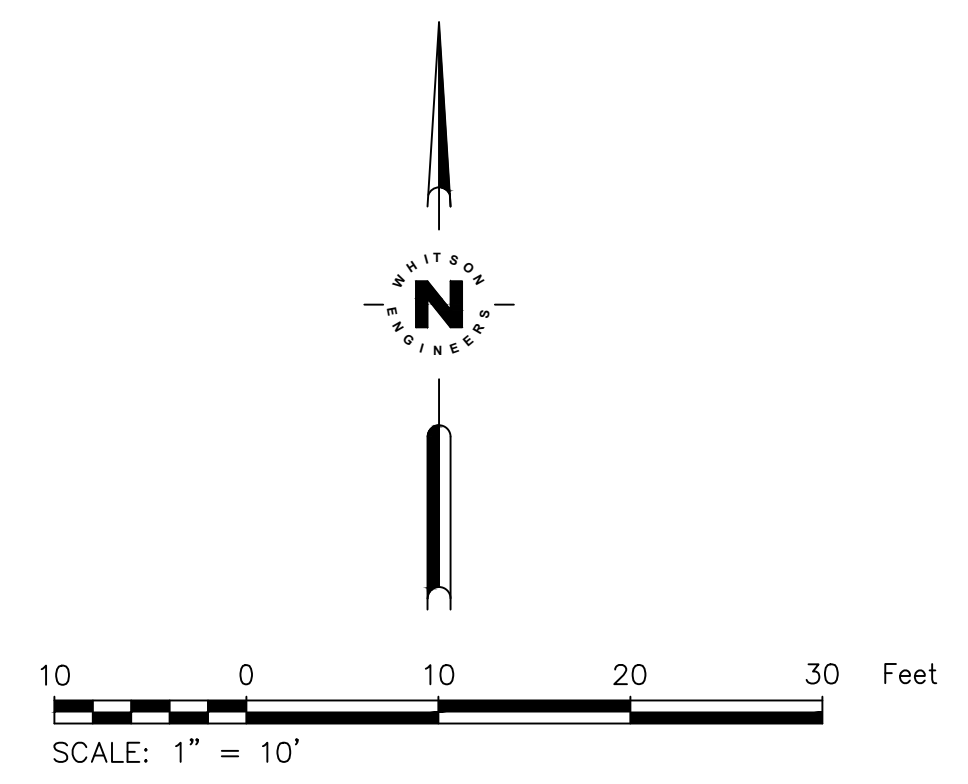
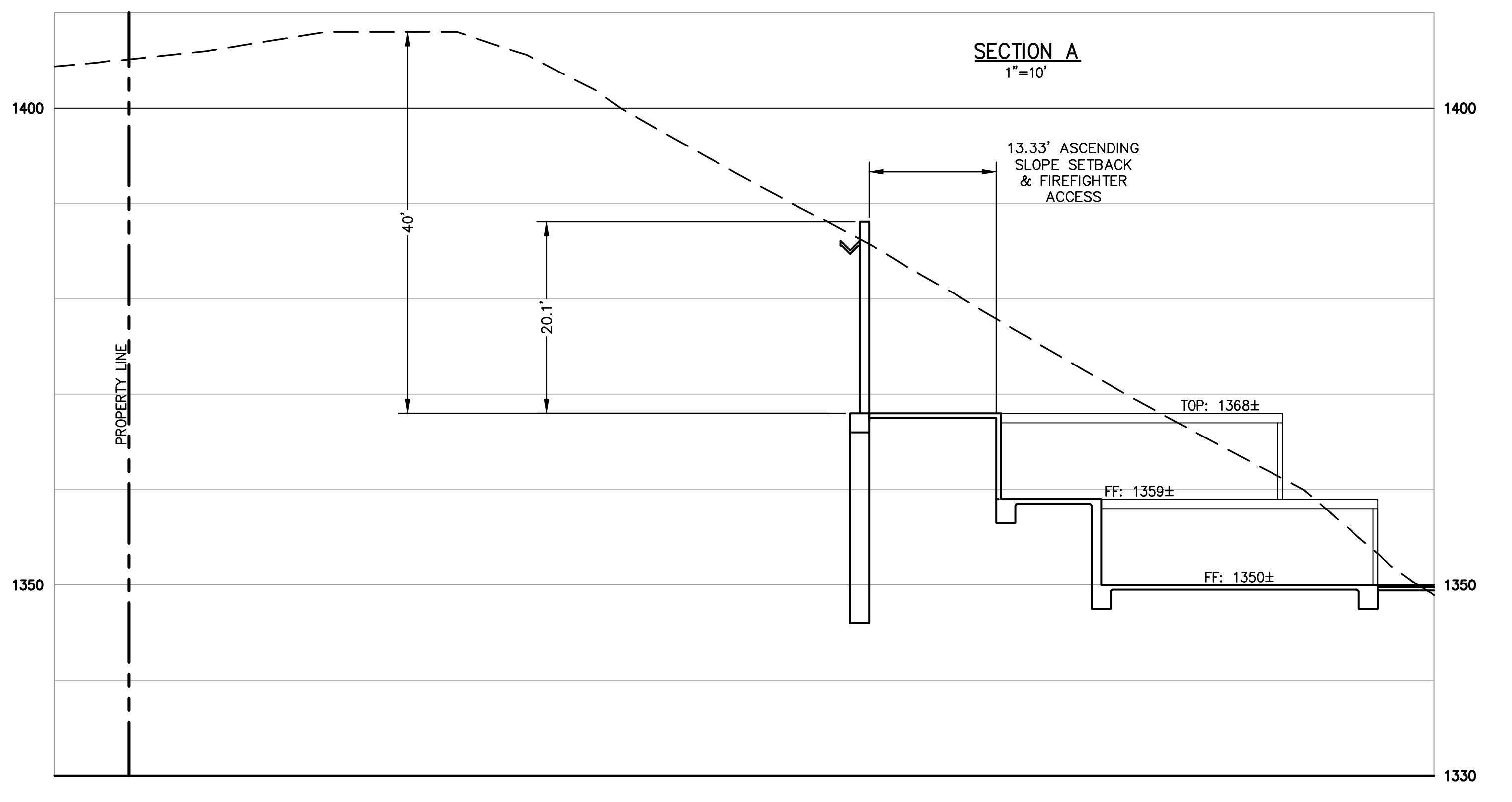
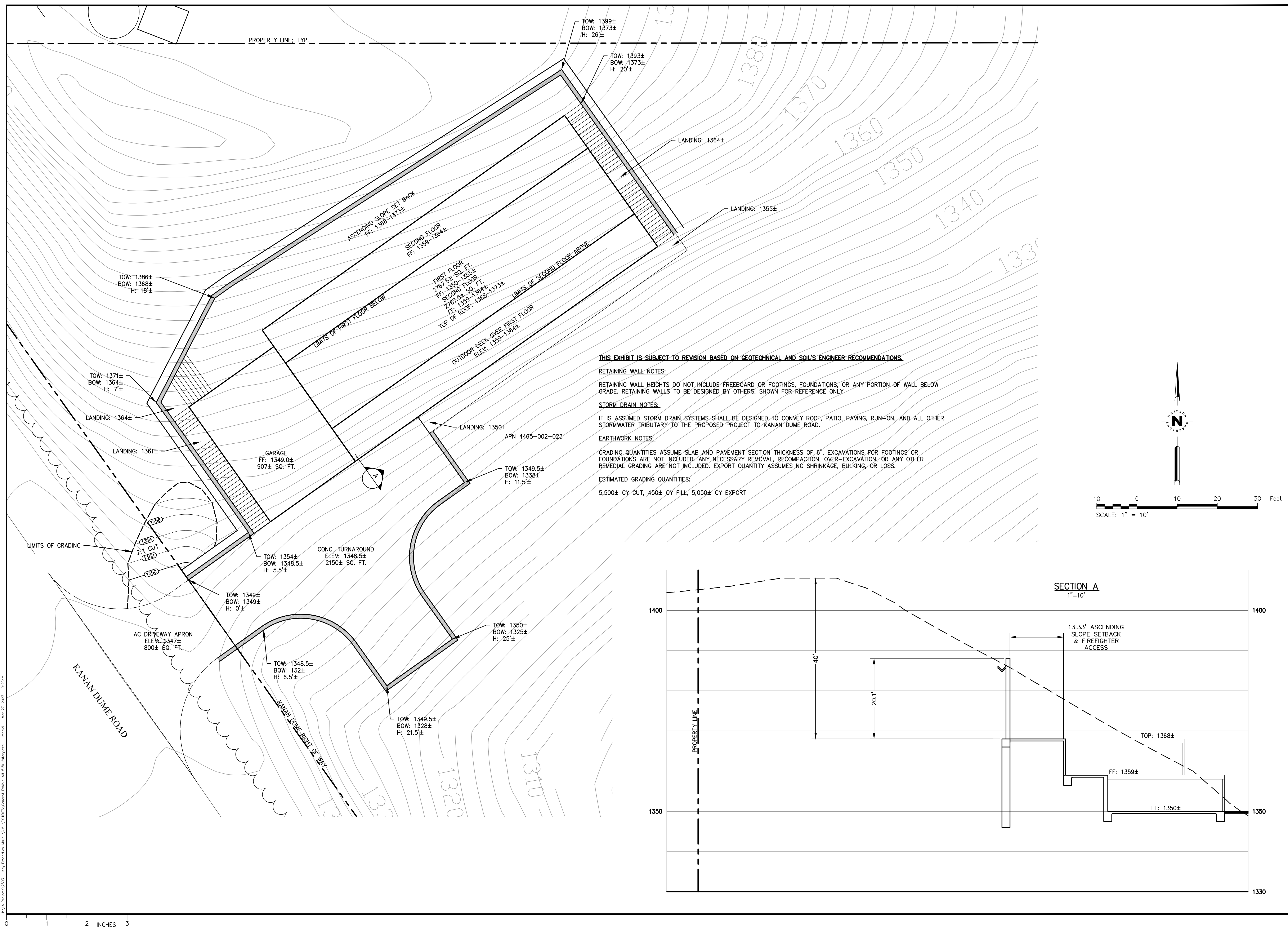
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Enclosures

cc: Gregory & Susan Kay  
Donald W. Schmitz II

103448\16567593

# EXHIBIT 1



**Civil Engineering**  
**Land Surveying**  
4 Hartz Court  
Monterey, California  
831.449.5225  
whitsonengineers.com

**Whitson ENGINEERS**

NOT VALID WITHOUT SIGNATURE

SUBMITTAL / REVISION

Monterey, California APN

SCALE:  
DRAWN:  
JOB No.:  
SHEET  
OF

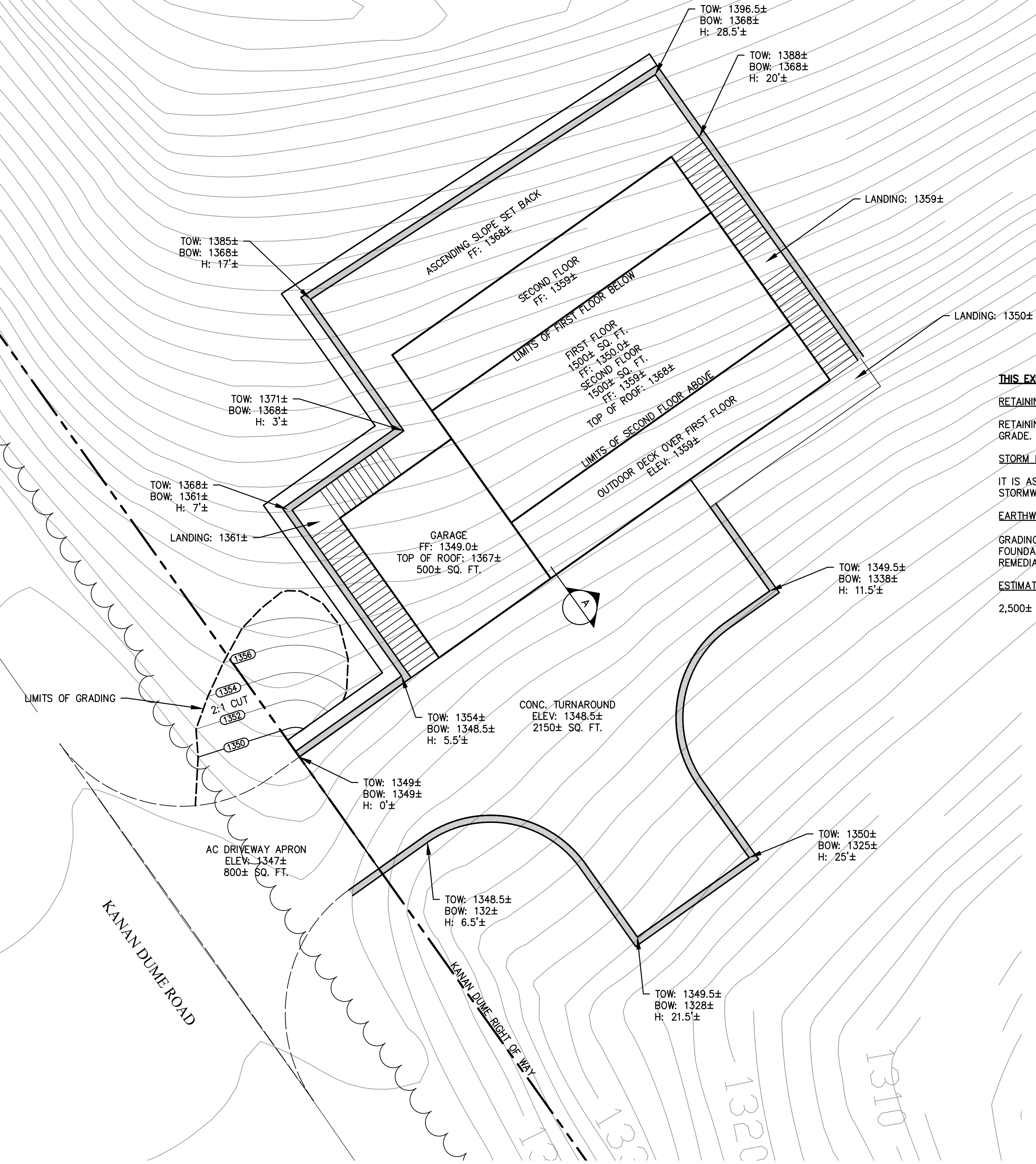
**FOR CONCEPTUAL USE ONLY**

U:\LA Projects\3883 - City Properties - Mobile\CONCEPT\3883.dwg - Mar 27, 2023 - 9:20am - mhd

0 1 2 3 INCHES

PROPERTY LINE, TYP.

APN 4465-002-023



THIS EXHIBIT IS SUBJECT TO REVISION BASED ON GEOTECHNICAL AND SOILS ENGINEER'S RECOMMENDATIONS.

RETAINING WALL NOTES:

RETAINING WALL HEIGHTS DO NOT INCLUDE FREEBOARD OR FOOTINGS, FOUNDATIONS, OR ANY PORTION OF WALL BELOW GRADE. RETAINING WALLS TO BE DESIGNED BY OTHERS, SHOWN FOR REFERENCE ONLY.

STORM DRAIN NOTES:

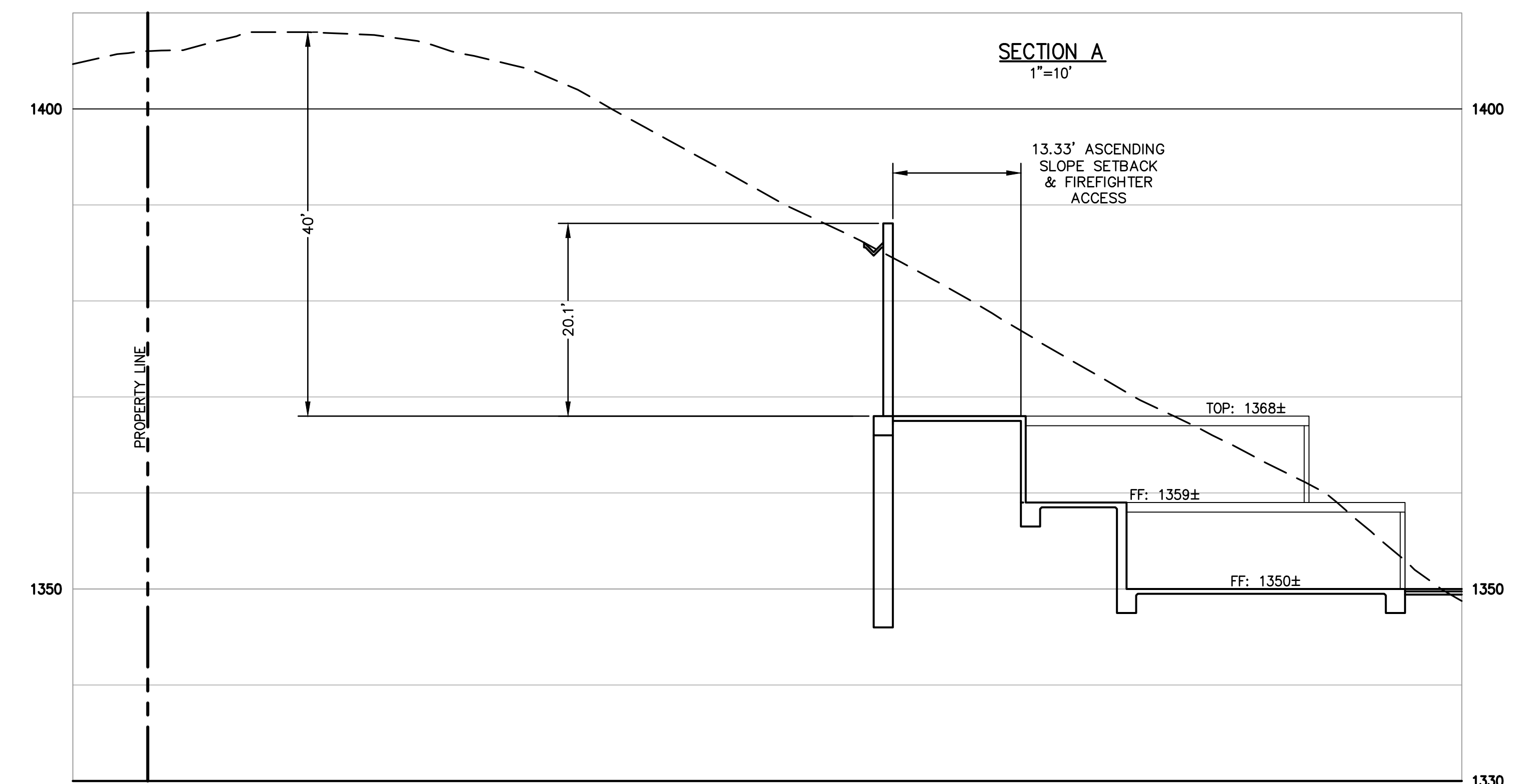
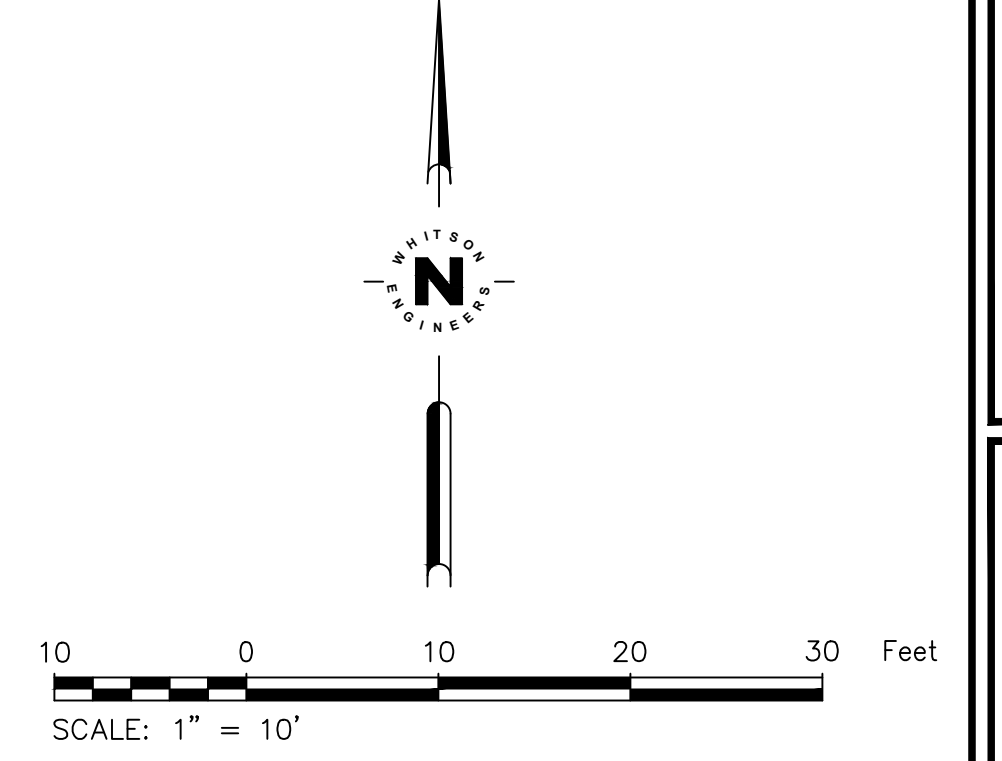
IT IS ASSUMED STORM DRAIN SYSTEMS SHALL BE DESIGNED TO CONVEY ROOF, PATIO, PAVING, RUN-ON, AND ALL OTHER STORMWATER TRIBUTARY TO THE PROPOSED PROJECT TO KANAN DUME ROAD.

EARTHWORK NOTES:

GRADING QUANTITIES ASSUME SLAB AND PAVEMENT SECTION THICKNESS OF 6". EXCAVATIONS FOR FOOTINGS OR FOUNDATIONS ARE NOT INCLUDED. ANY NECESSARY REMOVAL, RECOMPACTION, OVER-EXCAVATION, OR ANY OTHER REMEDIAL GRADING ARE NOT INCLUDED. EXPORT QUANTITY ASSUMES NO SHRINKAGE, BULKING, OR LOSS.

ESTIMATED GRADING QUANTITIES:

2,500± CY CUT, 450± CY FILL, 2,050± CY EXPORT



Civil Engineering  
 Land Surveying  
 4 Hartz Court  
 Monterey, California  
 831.498.5233  
 whitsonengineers.com

**Whitson ENGINEERS**

NOT VALID WITHOUT SIGNATURE

SUBMITTAL / REVISION

Monterey, California APN

SCALE:  
 DRAWN:  
 JOB No.:  
 SHEET  
 OF

FOR CONCEPTUAL USE ONLY

# EXHIBIT 2



**Dennis Robert Smith Construction LLC**

**30765 Pacific Coast Hwy # 313**

**Malibu CA, 90265 Lic#634750**

**(909)731-7777 (619)846-8616**

**3300 Kanan rd**

**3/23/2023**

**Scope of work-**

County Suggested Plan # 5535

<u>R&amp;R Over-Ex Pad and grading-</u>	<u>205,122.50</u>
<u>Walls and footing for house and driveway-</u>	<u>385,550.00</u>
<u>Caissons (36)- 48x60</u>	<u>4,968,000.00</u>
<u>Driveway fire department turnaround 9 caissons-</u>	<u>186,875.00</u>
<u>Foundation w/ garage-</u>	<u>459,250.00</u>
<u>Outside stairs-</u>	<u>72,125.00</u>
<u>Fire department turnaround concrete pad</u>	<u>75,250.00</u>
<u>Staging traffic control-</u>	<u>57,830.00</u>
<u>Framing-</u>	<u>292,500.00</u>
<u>Rain Harvesters-</u>	<u>64,125.00</u>
<u>Plumbing rough-</u>	<u>109,355.00</u>
<u>Erosion control BMP's-</u>	<u>66,735.00</u>
<u>Electrical-</u>	<u>112,500.00</u>
<u>Water well-</u>	<u>141,000.00</u>
<u>Water tank 12,000 Gal and foundation-</u>	<u>227,500.00</u>
<u>HVAC rough-</u>	<u>67,730.00</u>
<u>Septic tank-</u>	<u>165,000.00</u>
<u>Steel roof-</u>	<u>133,880.00</u>
<u>Windows-</u>	<u>181,000.00</u>
<u>Insulation-</u>	<u>73,521.00</u>
<u>Stucco-</u>	<u>162,665.00</u>
<u>Dry wall-</u>	<u>89,990.00</u>

Paint-	82,565.00
Cabinets-	175,000.00
Finish carpentry-	175,000.00
Plumbing finishes-	71,520.00
Electrical finishes-	66,750.00
Landscaping-	50,485.00
HVAC Finishes-	38,668.00
G.C. Fees 15%-	1,343,623.72
Total-	10,301,115.22

**Thank you for giving us the opportunity to bid on this job for you. If you have any questions or concerns  
Please call Dennis at the number above**

*\*The most difficult problem with this job site is there is no room for the staging of equipment and materials. Everything from foundation through framing will have to be offloaded immediately and put into place. Traffic plans will have to be submitted to the county for lane closures. The condition of the material under the surface where we need to drill for the caissons is extremely rocky. More than one drill will need to be changed because of the rocky conditions.*

*\*NOTE: City fees, street use fees and permits, parking, encroachment fees or other city costs incurred to be paid by Owner.*

ALLOWANCE: The minimum charge for an item or line item. If the item exceeds this amount, it will be charged as an extra.

#### EXCLUSIONS AND CONDITIONS OF SCOPE OF WORK:

We have listed below items not covered in our Scope of Work to help clarify what work we are proposing to do and what work we are not. PLEASE REVIEW THE LIST BELOW CAREFULLY. IF YOU HAVE ANY QUESTIONS REGARDING THESE EXCLUDED ITEMS OR CONDITIONS, PLEASE CALL TO DISCUSS.

1. Any conditions not reasonably apparent and which require further, and/or additional labor and materials not included in the work listed under "Scope of Work". These conditions or any extras chosen by customer will be addressed in "change orders" (see "About Change Orders" below).
2. Materials including, but not limited to, steel, copper and concrete, may be subject to price adjustments at 60-day intervals, depending on the market.
3. Above grade forms, form stripping. If not providing hardscapes.
4. Removal of grass, trees, and shrubs (unless stated in estimate.)
5. Removal, repair or replacement of sod, sprinkler drains, or of any hidden obstructions
6. Concrete wall, fence demolition or removal.
7. Concrete cracking is natural tendencies and not the responsibility of DRS Construction LLC.

8. Protective fencing during construction.
9. City fees, any and all permits including but not limited to pool and spa, street use, encroachment, hauling, and any and all expediter fees (the expediter's time to secure these permits).
10. Deputy inspection fees not included.
11. Materials including, but not limited to, steel, copper and concrete, may be subject to price adjustments at 60-day intervals, depending on the market.
12. No finish concrete included.
13. No lightweight concrete.
14. No structural steel.
15. No ASTM A706 weldable rebar.
16. Price based on one (1) move in and continuous operations, extra mobilization @ \$1,500.00 each
17. Hard Rock Drilling and Delays Billed @ \$450.00/hr + contract price listed below. Tooling Charge/  
Tooth Replacement \$ 35.00 ea. tooth
18. Access by Others
19. Waterproofing & drainage by others wherever applicable
20. Overhead Obstructions to be removed by others
21. No Casing, Drilling Fluids, Hard Rock, Raveling or Hole enlargement is not included in price.
22. Flat level access by others. Drill Rig Pad by Others
23. Dig Alert and All Utilities above ground or below protected, removed or shielded by others
24. Engineering, Survey, Layout, Center hubs, Offsets and Elevations by others
25. Erosion Control, Safety Barricades and Hole covers by others unless stated on the bid
26. Spoils Removal by others. Stockpiling of spoils by Others
27. Any items not included in the scope above.
28. No Concrete additives
29. Soffits and chases for mechanicals not included.
30. Trash bins provided by others

**Dennis Robert Smith Construction LLC**

**30765 Pacific Coast Hwy # 313**

**Malibu CA, 90265 Lic#634750**

**(909)731-7777 (619)846-8616**

**3300 Kanan Rd**

**3/23/2023**

**Scope of work-**

County suggested site plan # 3000

<u>R&amp;R Over-Ex Pad and grading-</u>	<u>136,755.00</u>
<u>Walls and footing for house and driveway-</u>	<u>363,775.00</u>
<u>Concrete pad for turnaround</u>	<u>73,500.00</u>
<u>Foundation with garage and caissons</u>	<u>663,000.00</u>
<u>Outside stairs-</u>	<u>53,166.00</u>
<u>Fire department turnaround with caisson-</u>	<u>186,875.00</u>
<u>Rain Harvesters-</u>	<u>64,125.00</u>
<u>Erosion Control BMP-</u>	<u>66,735.00</u>
<u>Water Well-</u>	<u>141,000.00</u>
<u>Septic tank-</u>	<u>165,000.00</u>
<u>Water tank 12,000 Gal and foundation-</u>	<u>227,500.00</u>
<u>Framing-</u>	<u>225,000.00</u>
<u>Plumbing rough-</u>	<u>99,650.00</u>
<u>Electrical-</u>	<u>101,825.00</u>
<u>HVAC rough-</u>	<u>62,430.00</u>
<u>Steel roof-</u>	<u>122,230.00</u>
<u>Windows-</u>	<u>162,920.00</u>
<u>Insulation-</u>	<u>66,145.00</u>
<u>Stucco-</u>	<u>153,550.00</u>
<u>Dry wall-</u>	<u>81,155.00</u>
<u>Paint-</u>	<u>76,835.00</u>
<u>Cabinets-</u>	<u>165,110.00</u>
<u>Finish carpentry-</u>	<u>162,835.00</u>

Plumbing finishes-	61,410.00
Electrical finishes-	62,330.00
Landscaping-	46,290.00
Staging and traffic control-	41,950.00
HVAC Finishes-	32,785.00
G.C fee	579,882.15
<b>Total-</b>	<b>4,445,763.15</b>

**Thank you for giving us the opportunity to bid on this job for you. If you have any questions or concerns  
Please call Dennis at the number above**

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*\*NOTE: City fees, street use fees and permits, parking, encroachment fees or other city costs incurred to be paid by Owner.*

30% will be added for general construction changes and add ons

ALLOWANCE: The minimum charge for an item or line item. If the item exceeds this amount, it will be charged as an extra.

**EXCLUSIONS AND CONDITIONS OF SCOPE OF WORK:**

We have listed below items not covered in our Scope of Work to help clarify what work we are proposing to do and what work we are not. PLEASE REVIEW THE LIST BELOW CAREFULLY. IF YOU HAVE ANY QUESTIONS REGARDING THESE EXCLUDED ITEMS OR CONDITIONS, PLEASE CALL TO DISCUSS.

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9. City fees, any and all permits including but not limited to pool and spa, street use, encroachment, hauling, and any and all expeditor fees (the expeditor's time to secure these permits).
10. Deputy inspection fees not included.
11. Materials including, but not limited to, steel, copper and concrete, may be subject to price adjustments at 60-day intervals, depending on the market.
12. No finish concrete included.
13. No lightweight concrete.
14. No structural steel.
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16. Price based on one (1) move in and continuous operations, extra mobilization @ \$1,500.00 each
17. Hard Rock Drilling and Delays Billed @ \$450.00/hr + contract price listed below. Tooling Charge/  
Tooth Replacement \$ 35.00 ea. tooth
18. Access by Others
19. Waterproofing & drainage by others wherever applicable
20. Overhead Obstructions to be removed by others
21. No Casing, Drilling Fluids, Hard Rock, Raveling or Hole enlargement is not included in price.
22. Flat level access by others. Drill Rig Pad by Others
23. Dig Alert and All Utilities above ground or below protected, removed or shielded by others
24. Engineering, Survey, Layout, Center hubs, Offsets and Elevations by others
25. Erosion Control, Safety Barricades and Hole covers by others unless stated on the bid
26. Spoils Removal by others. Stockpiling of spoils by Others
27. Any items not included in the scope above.
28. No Concrete additives
29. Soffits and chases for mechanicals not included.
30. Trash bins provided by others

# EXHIBIT 3

## **APPRAISAL REPORT**

3300 Kanan Dume Road, Malibu, CA 90265  
Four Scenarios for Two Proposed Residences  
on 6.61 Acres of Vacant Land

### **PREPARED FOR:**

Cox, Castle & Nicholson  
Stanley W. Lamport, Esq.

### **EFFECTIVE DATE OF THE APPRAISAL:**

February 24, 2023

### **DATE OF THE REPORT:**

February 25, 2023

### **PREPARED BY:**

Thomas W. Erickson, MAI  
Certified General Appraiser  
CA License No. AG002373

650 S. Rancho Santa Fe Rd. #323  
San Marcos, CA 92078



Thomas W. Erickson, MAI

REAL ESTATE APPRAISER ♦ CONSULTANT

650 S. RANCHO SANTA FE RD. #323, SAN MARCOS, CA 92078 P-310/453-1978 . M-310/570-5180  
thomaswerickson@gmail.com

February 25, 2023

Cox, Castle & Nicholson  
Stanley W. Lamport, Esq.  
2029 Century Park East, Ste. 2100  
Residences  
Los Angeles, CA 90067

Re: Market Value Appraisal  
Four Scenarios for Two  
Proposed Single

Job No. 1877-C

Dear Mr. Lamport:

In accordance with your authorization I have undertaken and completed all necessary inspections, investigations and analyses and have reached final market value estimates concerning the four scenarios for the two above referenced single residences as follows: A 5,535 sf residence and a 3,000 sf residence on the owner's preferred site location; and a 5,535 sf residence and a 3,000 sf residence on the county's suggested site location. The effective date of the appraisal is February 24, 2023, and the following writing represents a narrative Appraisal Report.

The appraisal report which follows has been prepared in accordance with the Standards of Professional Practice of the Appraisal Institute, and with the Uniform Standards of Professional Appraisal Practice (USPAP). This report, including all analyses, opinions and value conclusions, was not based on a requested minimum valuation, a specific valuation, or the approval of a loan.

Based upon all investigative efforts and analyses, I conclude that the fee simple hypothetical market values, assuming completion of construction, as of February 24, 2023, are as follows:

**OWNER'S PREFERRED SITE:**

5,535 sf Residence = \$6,365,000

3,000 sf Residence = \$2,850,000

**COUNTY'S SUGGESTED SITE:**

5,535 sf Residence = \$5,260,000

3,000 sf Residence = \$2,250,000

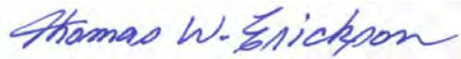
Mr. Lamport  
February 25, 2023  
Page 2

There is a 17.4% loss in value for the 5,535 sf residence due to the county's suggested site location compared to the owner's preferred site location; and a 21.0% loss in value for the 3,000 sf residence due to the county's suggested site location compared to the owner's preferred site location.

These value conclusions are based on cash equivalent prices and assume a 4 to 6 month exposure time which is typical for sales in the market. The four value conclusions are also based on the hypothetical condition of completion of construction with high-end custom quality materials and workmanship.

If you should have any questions concerning this report, please feel free to call. Thank you for this opportunity of providing appraisal service.

Respectfully submitted,



Thomas W. Erickson, MAI  
Certified General Appraiser  
CA License No. AG002373

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**CERTIFICATION AND RESTRICTION UPON DISCLOSURE AND USE**

I certify that, to the best of my knowledge and belief:

1. The statements of fact contained in this appraisal report, upon which the analyses, opinions and conclusions expressed herein are based, are true and correct.
2. The reported analyses, opinions and conclusions are limited only by the reported assumptions and limiting conditions, and are my personal, impartial, and unbiased professional analyses, opinions and conclusions.
3. I have no present or prospective interest in the property that is the subject of this appraisal report, and no personal interest with respect to the parties involved.
4. I have no bias with respect to the property that is the subject matter of this appraisal report or to the parties involved with this assignment.
5. My engagement in this assignment was not contingent upon developing or reporting predetermined results.
6. My compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal.
7. My analyses, opinions and conclusions were developed, and this report has been prepared, in conformity with and is subject to the requirements of the Code of Professional Ethics and Standards of Professional Conduct of the Appraisal Institute; and in conformity with the Uniform Standards of Professional Appraisal Practice.
8. I have not made a personal inspection of the property that is the subject of this report, but have viewed aerial imagery of the property.
9. No one other than the undersigned prepared the analyses, conclusions and opinions concerning real estate that are set forth in this appraisal report, unless specifically mentioned in the report itself.

**CERTIFICATION AND RESTRICTION UPON DISCLOSURE AND USE**  
**(Cont'd.)**

10. The use of this report is subject to the requirements of the Appraisal Institute relating to review by its duly authorized representatives.
11. This appraisal assignment is not based on a requested minimum valuation, a specific valuation, or the approval of a loan.
12. I, Thomas W. Erickson, am a Licensed and Certified General Real Estate Appraiser with the State of California, Office of Real Estate Appraisers, Identification No. AG002373, valid until March 4, 2024.
13. As of the date of this report, I, Thomas W. Erickson, have completed the requirements of the continuing education program for Designated Members of the Appraisal Institute.
14. I have appraised this property in the three years prior to accepting this assignment.

*Thomas W. Erickson*

---

CA License No. AG002373

**ASSUMPTIONS AND LIMITING CONDITIONS  
UPON WHICH APPRAISAL IS CONDUCTED**

This report is made expressly subject to the contingent and limiting conditions, factors and assumptions herewith:

1. That the vesting and legal description furnished your appraiser are correct.
2. That measurements and areas furnished by others are correct. No survey has been made for the purpose of this appraisal.
3. That the property is appraised as if free and clear of liens and that the title is good and merchantable.
4. That no guarantee is made as to the correctness of estimates or opinions furnished by others which have been used in conducting this appraisal.
5. That no liabilities be assumed on account of inaccuracies in such estimates or opinions. For the purpose of this appraisal assignment, I am reasonably comfortable with the data supplied by other parties.
6. That no liability is assumed on account of matters of a legal nature, affecting this property, such as title defects, liens, encroachments, overlapping boundaries, undisclosed litigation, etc.
7. The appraiser reserves the right to make such adjustments to the analyses, opinions and conclusions set forth in this report as may be required by consideration of additional data or more reliable data that may become available.
8. That the appraiser herein, by reason of this appraisal, is not required to give testimony or attendance in court or any governmental hearing with reference to the property in question, unless arrangements have previously been made therefore.
9. That the maps and exhibits found in this report are provided for reader reference purposes only. No guarantee as to accuracy is expressed or implied.
10. The appraiser assumes no responsibility for hidden or unapparent conditions of the property, subsoil, or structures that render it more or less valuable. No responsibility is assumed for arranging for engineering studies that may be required to discover them.
11. That the four value conclusions are based on the hypothetical condition of completion of construction with high-end custom quality materials and workmanship.

**EXECUTIVE SUMMARY**

**LOCATION:** 3300 Kanan Dume Road  
Malibu, CA 90265  
Thomas Guide: 627-E3  
Los Angeles County

**ASSESSOR'S PARCEL NO.:** 4465-002-023

**EFFECTIVE DATE OF VALUE:** February 24, 2023

**DATE OF REPORT:** February 25, 2023

**ZONING:** R-C-20, Rural-Coastal (1 DU/20 Ac.)

**LCP LAND USE PLAN:** RL20, Rural Lands (1 DU/20 Ac.)

**PROPERTY RIGHTS APPRAISED:** Fee Simple Interest

**HIGHEST AND BEST USE:** One single residence

**LAND DATA:**

<b>Size:</b>	6.61 acres gross
<b>Topography:</b>	Hilly; downslope
<b>Utilities:</b>	Electricity only
<b>Views:</b>	Local hills and canyon

**PROPOSED IMPROVEMENTS:** 5,535 sf and 3,000 sf single residences in two different locations. Very good quality construction.

**HYPOTHETICAL VALUE CONCLUSIONS:*****OWNER'S PREFERRED SITE:***

5,535 sf Residence = \$6,365,000

3,000 sf Residence = \$2,850,000

***COUNTY'S SUGGESTED SITE:***

5,535 sf Residence = \$5,260,000

3,000 sf Residence = \$2,250,000

There is a 17.4% loss in value for the 5,535 sf residence due to the county's suggested site location compared to the owner's preferred site location; and a 21.0% loss in value for the 3,000 sf residence due to the county's suggested site location compared to the owner's preferred site location.



## INTRODUCTION

### CLIENT AND OTHER INTENDED USERS

This report is intended for use by the client, Stanley W. Lamport, Esq. of Cox, Castle & Nicholson LLP. Use of this report by others is not intended by the appraiser.

### INTENDED USE OF THE APPRAISAL

This report is intended to assist you in providing legal advice to your clients, Gregory and Susan Kay. This report is not intended for any other use.

### PURPOSE OF THE APPRAISAL

The purpose of this appraisal is to provide my estimate of the subject properties' current market values - the most probable price in terms of cash or financial arrangements equivalent to cash.

### EFFECTIVE DATE OF THE APPRAISAL

The effective date of this appraisal is February 24, 2023.

### DATE OF THE REPORT

The date of this report is February 25, 2023.

### IDENTITY OF SUBJECT PROPERTY

The subject property consists of four scenarios for two proposed single residences on 6.61 acres of vacant land, located at 3300 Kanan Dume Road in Malibu, CA 90265, approximately 3.3 miles north of Pacific Coast Highway. The assessor parcel number is 4465-002-023.

### REAL PROPERTY INTEREST APPRAISED

The property rights herein appraised consist of the fee simple interest, excluding mineral rights which probably have no value.

### DEFINITION OF MARKET VALUE

Market value as used in this report is defined by federal regulatory agencies and quoted in Advisory Opinion 22 published in the 2018-2019 Edition of USPAP, page 127, as:

**DEFINITION OF MARKET VALUE (Cont'd.)**

"The most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller, each acting prudently, knowledgeably and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby: (1) buyer and seller are typically motivated; (2) both parties are well informed or well advised, and acting in what they consider their own best interests; (3) a reasonable time is allowed for exposure in the open market; (4) payment is made in terms of cash in U.S. dollars or in terms of financial arrangements comparable thereto; and (5) the price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale."

**CASH EQUIVALENT VALUE**

This valuation represents the normal consideration for the properties sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale. Cash equivalent price includes financing terms generally available in the market because the seller still receives cash under such typical terms.

**SCOPE OF THE APPRAISAL**

The scope of work is the amount and type of information researched and the analysis applied in an appraisal. The scope of work includes, but is not limited to the degree to which the property is inspected or identified; the extent of research into physical or economic factors that could affect the property; the extent of data research; and the type and extent of analysis applied to arrive at opinions or conclusions. To complete the valuation required the following primary steps:

1. Stanley Lamport, Esq. and James Purvis of Cox, Castle & Nicholson provided detailed information on the property, including site locations for the owner's preferred location and the county's suggested location.
2. The subject property was not inspected in the field, but photographs of the property were viewed, including aerial imagery.

### SCOPE OF THE APPRAISAL (Cont'd.)

3. Regional and neighborhood data were obtained from various periodicals, on-line web-sites and various industry publications.
4. The subject property site data is based on viewing photographs of the property, data obtained from the Los Angeles County Assessor's office, and miscellaneous data collected during the investigations.
5. In estimating highest and best use for the subject property, an analysis was made using the data compiled in the above steps.
6. In developing approaches to value, market data was collected from the Combined L.A./Westside Multiple Listing Service, as well as from Los Angeles County, and ParcelQuest.
7. After assembling and analyzing the above-mentioned data, final estimates of value for the four subject scenarios were made.

### ECONOMIC CONDITIONS

The quarterly UCLA Anderson Forecast, dated December 7, 2022, has economic outlooks for the U.S. and California, and is summarized as follows, with the heading "*UCLA Anderson Forecast Says Resilient U.S. Economy is Approaching Crossroads*":

"As 2022 draws to a close, the U.S. economy has reached a recession-related fork in the road. One path would lead to continued economic growth - although slower than the recent 2.4% growth rate - while the other would be a relatively mild, short-lived recession.

Despite dire predictions by some business leaders, the national economy has proved resilient as consumers continue to spend and businesses continue to invest. Whether the economy slips into a recession or doesn't will depend largely on inflation stickiness and any additional actions the Federal Reserve takes to bring down inflation.

The important difference between the two scenarios is the exogenous decision of the Federal Reserve in setting monetary policy. In the coming months, the Federal Reserve will have to decide between two paths: continued aggressive tightening and moderation. The two forecast scenarios provide the likeliest outcome of each.

## ECONOMIC CONDITIONS (Cont'd.)

### THE NATIONAL FORECAST

"Whether the United States avoids a recession or endures a short-lived economic downturn is dependent on the actions the central bank takes to curb inflation. Regardless, the UCLA Anderson Forecast expects the final quarter of 2022 to be a strong one for the nation, economically speaking, with conditions buoyed by consumption and business investment.

Beyond that, the two scenarios diverge. If the country does not go into a recession in 2023, economic growth is expected to slow in the first quarter of 2023 and to be virtually nonexistent in the second quarter. From there, the economy is expected to pick up again in the last six months of 2023.

By the same token, if there is a recession, the economy is expected to contract at an annual rate of 2% to 3% in both the second and third quarters, to be flat the last three months of 2023 and then to begin to rebound in 2024. If a recession occurs, it will be relatively mild and brief, the economists write, with consumer resilience the key factor. In the recession scenario, consumption is expected to stay flat for the first two quarters of 2023 and contract modestly during the next two quarters. The forecast projects consumption growth, under both scenarios, for 2024.

Historically, Fed-driven recessions have featured sharper declines in both business and residential investment. With higher interest rates and uncertainty surrounding consumption, businesses cut back on capital investment and inventory replacement. Both the recession and non-recession scenarios would be characterized by declining home prices, with slightly larger declines in the recession scenario.

In both cases, inflation eases at about the same rate through mid-2023. The Forecast economists reason that if there is not a recession, it would be in part because supply chain pressures will ease more rapidly and inflation will come down more quickly on its own. In the recession scenario, the decline in home prices would be tempered by a decrease in new housing supply.

### THE CALIFORNIA FORECAST

The good news is that the actions taken by the Federal Reserve will have a milder impact on California's economy. The employment picture in California remains in flux.

## ECONOMIC CONDITIONS (Cont'd.)

### THE CALIFORNIA FORECAST (Cont'd.)

"The state's non-farm payroll jobs now exceed its February 2020 pre-pandemic level by 31,000 jobs, although many of the new jobs are in different sectors than those in which loss was the most acute. Specifically, about 170,000 payroll jobs in leisure and hospitality and other services have not returned.

In the logistics, technology and health care sectors, rapid job creation has more than made up for those losses. This explains, in part, why California's GDP growth has been faster than that of the U.S. Rapidly growing sectors like tech and logistics are typically high-income sectors, while the slow-growth sectors are generally low-income.

Over the past three months, the picture has evolved slightly as the three sectors of health care and social services, leisure and hospitality, and education have shown the largest gains in jobs. And despite the statewide gains in leisure and hospitality employment, the landscape for that sector remains difficult in the major employment centers of San Francisco and Los Angeles. Ongoing flex work arrangements by California companies and the continued lack of Asian tourists arriving in the state have resulted in an incomplete recovery in both cities. With neither of those factors likely to change in the coming months, the recovery is expected to remain on a shallow trend.

The gain in education is partly a result of schools reopening after pandemic-era closures. The number of payroll employees in education has now returned to pre-pandemic levels, and significant additional gains are not expected.

Higher interest rates have led to a downturn in California's housing markets. The median price of single-family homes in the state has declined on a seasonally adjusted basis. As of October 2022, the median piece was 8.4% below its previous peak but had returned to early 2021 levels. Nevertheless, California housing is not overbuilt. The surge in construction of accessory dwelling units as well as new infrastructure and continued growth in construction of industrial space will shield the state from the more severe interest rate-induced contraction expected in the rest of the nation.

With employment growth in green tech, medical tech, aerospace and construction fueled by the infrastructure and defense budgets, and a healthy rainy-day fund in Sacramento, the 2023 forecast for California is for more a

**ECONOMIC CONDITIONS (Cont'd.)****THE CALIFORNIA FORECAST (Cont'd.)**

"moderate slowing, or, in the case of a recession, a milder turndown than for the U.S. overall."

**Conclusion for Subject Property**

The current and near future economic outlook is improving for personal income growth and demand for real estate in Los Angeles County. The subject's outlook is good, especially considering the current high demand for single residential homes in Malibu.

**NEIGHBORHOOD PROFILE**

The subject property is located along Kanan Dume Road 3.3 miles north of Pacific Coast Highway and 1.75 miles north of the City of Malibu in the unincorporated hills of Los Angeles County, in the westerly part of the Santa Monica Mountains Coastal Zone, with a Malibu mailing address.

This location is the unincorporated area west of the City of Los Angeles, east of Ventura County, and south of the Santa Monica Mountains North Area Plan, excluding the City of Malibu. The Coastal Zone extends inland from the shoreline approximately five miles and encompasses approximately 80 square miles.

This Plan Area is subject to considerable natural hazards that can affect people and property. Over 80% of the land in the Plan Area contains slopes of 25% grade or steeper. Consistent with sloping land, the area is subject to widespread slope instability and is entirely within the Very High Fire Hazard Severity Zone, the most dangerous classification for fire safety purposes. These and other factors have resulted in land use patterns remaining stable with limited growth and development throughout the Coastal Zone. Park lands cover approximately 53% of the planning area, and include parts of the Santa Monica Mountains National Recreation Area, Topanga State Park, Malibu Creek State Park, and Zuma Trancas Canyons.

The subject property is located in a sparsely developed neighborhood with mostly government owned open space on the west and undeveloped privately owned parcels to the east. The nearest residential developments can be found north of the subject near Mulholland Drive, and south of the subject in the City of Malibu. The privately owned property adjacent to the subject on the north at 2900 Kanan Dume Rd. consists of 73.6 acres of land improved with an 8,301 sf residential estate, owned by the merchant entrepreneur Fred Segal.

**RESIDENTIAL MARKET OVERVIEW**

Residential home prices in the City of Malibu are experiencing continued appreciation. A good source of Malibu area housing sales is Melissa Data. Home prices in the subject's 90265 zip code are shown to still be increasing. Annual recorded sales activity was reported as follows:

<u>Time Period</u>	<u>No. Sales</u>	<u>Average Price</u>	<u>% Price Change</u>
2/2021 - 1/2022	483	\$5,458,442	
2/2022 - 1/2023	381	\$5,863,710	+ 7.4%

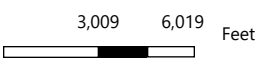
The current price trend continues to be upward, but at a slower pace. The annual increase is shown to be 7.4%. Sales volume has slowed by 21% due to the higher prices.



# LOCATION MAP

SUBJECT - 3300 KANAN DUME RD.

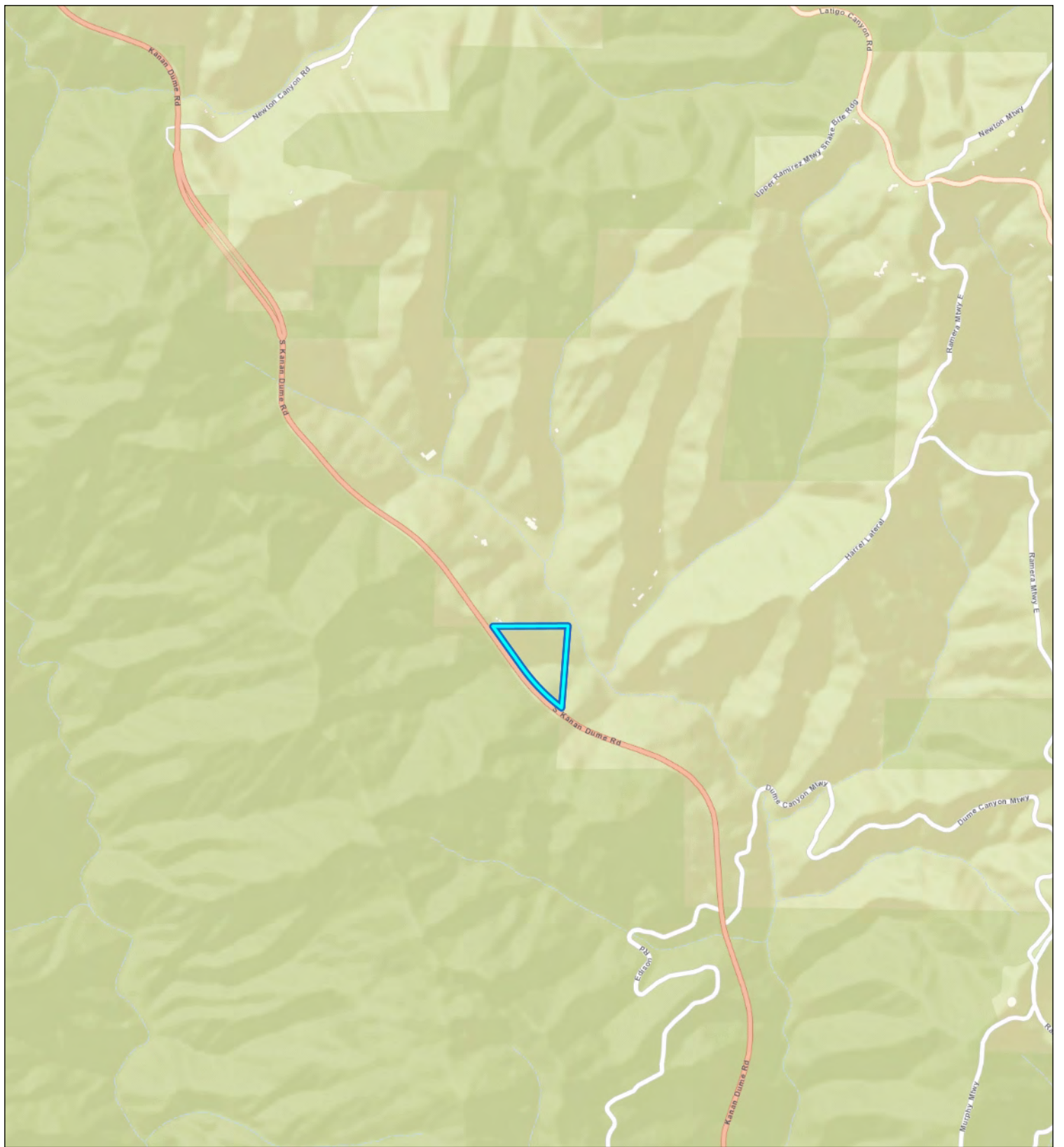
Printed: 10/18/21



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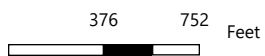




## VICINITY MAP

SUBJECT - 3300 KANAN DUME RD.

Printed: 10/18/21



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**SUBJECT PROPERTY**

**OWNER OF RECORD**

According to public records, title to the subject property is currently vested in:

Gregory L. and Susan B. Kay Trust

**LOCATION**

3300 Kanan Dume Road  
Malibu, CA 90265

Thomas Guide Map Page: 627-E3, Los Angeles County

Census Tract No. 8004.06

**LEGAL DESCRIPTION**

A portion of the SW Quarter of the SE Quarter of Section 19, Township 1 South, Range 18 West, SBBM.

**LAND DESCRIPTION**

The subject 6.61 acre ownership consists of one assessor parcel that is triangular in shape. There are two proposed building site locations. The first is the owners' preferred location and the second is the county's suggested location. The owner's preferred location is rather private at the east-central portion of the property with existing dirt and partly paved easement road access. The topography is sloped with a gentle land area adjacent on the south. The county's suggested location is at the very northwest corner of the property with no existing road access, and only approximately 100 ft. away from Kanan Dume Road, a very busy four lane major highway. This location has more severe sloped topography with no gentle usable area. Total property descriptions are as follows:

Shape:	Triangle.
Area:	6.61 acres per assessor map.
Topography:	Mostly sloped with steep downslope easterly from Kanan Dume Road encumbered with a slope easement.
View:	Local hills and canyon.
Flood Zone:	Not within a designated flood zone.

2017



MAPPING AND GIS SERVICES SCALE 1" = 400'

BK 4471

T1S R18W

PG 5

PG 3

USA (901) 64.42±AC -4.49±" S -0.08±" DR 59.85±AC

USA (900) 36.30±AC 4

USA (902) 36.28±AC

USA (903) 26.34±AC -1.36±" S -0.46±" DR 24.52±AC

19 5.40±AC -1.63±" S -0.29±" DR -3.48±" OS

21 34.69±AC -0.20±" S -0.08±" DR -29.66±" OS 4.75±AC

20 2.76±AC -0.67±" S -2.09±" DR 0 OPEN SPACE

23 6.61±AC -2.94±" S -0.22±" DR 3.45±AC

12 NE 1/4 SE 1/4 38.92±AC 38.92±" OS 0

27 10.20±AC

28 25.79±AC -5.22±" S -0.53±" DR 20.04±AC

SLOPE EASE DRAIN EASE SLOPE EASE DRAIN EASE

R S 150 - 38 R=1750 R=1850 R=1750

DRAIN EASE SLOPE EASE SLOPE EASE DRAIN EASE

DRAIN EASE SLOPE EASE SLOPE EASE DRAIN EASE

DRAIN EASE SLOPE EASE SLOPE EASE DRAIN EASE

SECTION LINES PER CSB-1390-1

**EARTHQUAKE ZONE**

The subject property is **not** located in an Alquist-Priolo special studies zone.

**SOILS AND GEOLOGY**

No environmental site assessment was provided. This appraisal assumes there are no adverse soils conditions that would affect the value or marketability of the property.

**ASSESSOR'S DATA**

<u>APN</u>	<u>Assessments</u>			<u>Approx.</u>
	<u>Land</u>	<u>Imps.</u>	<u>Total</u>	<u>2022</u>
4465-002-023	\$377,126	--	\$377,126	<u>Taxes</u> \$4,924.93

**EASEMENTS AND ENCROACHMENTS**

No copy of a policy of title insurance was submitted for review. Review of the Assessor's map reveals a large slope easement encumbering the property along Kanan Dume Road. Reportedly the existing access road is a non-exclusive easement benefitting the subject property and the adjacent property on the east (APN 4465-002-027). No other easements are apparent, excepting possible road and utility easements along Kanan Dume Road. There are no adverse effects on the subject's marketability or value due to the easements.

**UTILITY AVAILABILITY**

Electrical service is on the property. Water wells and a private sanitary system are planned for the future development.

**ACCESS AND STREET IMPROVEMENTS**

Current access to the owners' preferred site is via a non-exclusive dirt and partly paved easement road 1,550 feet off of Kanan Dume Road and across APN 4465-002-028, with a width between 10-15 feet. There is no current access to the county's suggested site even though it is close to Kanan Dume Road.

**ZONING/LAND USE**

The California Coastal Commission certified the County of Los Angeles Santa Monica Mountains Local Coastal Plan on October 10, 2014. The Plan shows the zoning for the subject parcel as R-C-20, Rural-Coastal, 1 dwelling per 20 acres. The Land Use designation is RL20, Rural Lands 20, 1 dwelling per 20 acres.

### ZONING/LAND USE (Cont'd.)

Both the zoning and land use designations are consistent. For the 6.61 acre subject property, only one dwelling is allowed. Other low impact uses are allowed, including confined animal facilities; retreats; public recreation areas; campgrounds; and trails that are sensitively located and consistent with all development standards.

### IMPROVEMENT DESCRIPTION

The subject property is currently unimproved vacant land, except for the dirt and partly paved easement road on the property. The planned improvements include a 5,535 sf and a 3,000 sf single residence on each of the two sites - the owner's preferred site and the county's suggested site.

### PROPERTY HISTORY

The vacant property was purchased in 2012 for \$325,000. It is not currently listed for sale, nor has it been in the recent past.

### OCCUPANCY

The subject property is unoccupied vacant land.

### HIGHEST AND BEST USE

The Appraisal Institute defines highest and best use as follows:

"The most profitable, likely use to which a property can be put. The opinion of such use may be based on the highest and most profitable continuous use to which the property is adapted and needed, or likely to be in demand in the reasonably near future. However, elements affecting value that depend on events or a combination of occurrence that, although in the realm of possibility, are not fairly shown to be reasonably probable, should be excluded from consideration. Also, if the intended use is dependent on an uncertain act of another person, the intention cannot be considered.

That use of the land that may reasonably be expected to produce the greatest net return to land over a given period of time. That legal use that will yield to land the highest present value, sometimes called optimum use."

In estimating highest and best use, there are essentially four stages of analysis. They are:

- 1) **Legally Permissible:** What uses are permitted by zoning and deed restrictions on the site in question?

**HIGHEST AND BEST USE (Cont'd.)**

- 2) **Physically Possible:** What uses of the site in question are physically possible?
- 3) **Financially Feasible:** Which permissible and possible use will produce a net return to the owner of the site?
- 4) **Maximally Productive:** Among the feasible uses which use will produce the highest net return or the highest present worth?

The highest and best use of the land (or site) if vacant and available for use may be different from the highest and best use of the improved property. This is true when the improvement is not an appropriate use, but it makes a contribution to the total property value in excess of the value of the vacant site.

The following tests must be met in estimating the highest and best use. The use must be probable, not speculative or conjectural. There must be profitable demand for such use and it must return to the land the highest net return for the longest period of time. These tests have been applied to the vacant subject property.

**Legally Permissible Use:**

Legal restrictions as they apply to the subject property are primarily the public restriction of zoning and land use under the County of Los Angeles Santa Monica Mountains Local Coastal Program. The zoning and land use designations are consistent, allowing one dwelling per 20 acres. However, since the subject property is a much smaller 6.61 acre legal parcel, it can still be developed with one single residence.

**Physically Possible Use:**

The first constraints imposed on the possible use of the subject site are the existing physical characteristics of the site itself. The size and prominence of the site are important determinants of the feasibility of various uses, as well as the type of any former use. The subject owners' preferred site location consists of sloped topography with one gentle slope to the south, with access via a dirt and partly paved non-exclusive easement road. This location is developable. The county's suggested site location consists of steeper sloped topography and no existing road access, plus it is very close to the four lane Kanan Dume Road highway. Physical developability is very challenging.

**HIGHEST AND BEST USE (Cont'd.)****Financially Feasible/Maximally Productive Use:**

The subject neighborhood supports modern estate homes with resale prices in the \$2,000,000 to \$5,000,000 range. The demand is good for newly constructed single residences, which is a financially feasible use.

**Conclusion:**

In the final analysis, a determination must be made, based on the above considerations, as to which legal, possible, and maximally feasible use is the highest and best use. In this case, the highest and best use for the subject property is the construction of a single residence at the owners' preferred site location.

## VALUATION

In this appraisal assignment I am utilizing one approach - the direct comparison Market Data Approach. The Income Approach is not utilized since buyers of homes in the neighborhood are mostly owner-users and are not motivated by income producing potential. The Cost Approach is not utilized since market participants do not rely on this approach in establishing price. The Market Data Approach is presented below.

### MARKET DATA APPROACH

#### *The Appraisal Methodology*

This approach to value consists primarily of selecting similar type properties which have sold or are listed for sale in the subject neighborhood or subject area within a reasonably close period of time to the date of valuation; comparing these properties to the subject property; making necessary adjustments for differences as reflected from the body of data; and reconciling all value indications into a conclusion of value for each of the subject residences.

The valuations presented herein are based on four scenarios for the proposed single residences on the subject property; namely, for the owners' preferred site location ("off-road") there will be the 5,535 sf house and then a 3,000 sf house. For the county's suggested site location ("on-road") there will be the same 5,535 sf house and the 3,000 sf house.

The primary factors of comparison include location; date of sale; usable land area (topography); house size; age and quality of construction; amenities; type of view; and terms and conditions of sale. The market data analyzed includes 16 properties - four for the 5,535 sf "off road" house; four for the 3,000 sf "off road" house; four for the 5,535 sf "on road" house; and four for the 3,000 sf "on road" house.

The appropriate unit rate of analysis is the Price Per Sq. Ft. of house size. Adjustments are made for the "differing" factors of comparison.



MARKET DATA APPROACH (Cont'd.)

SALES SUMMARY TABLE

<u>ITEM</u>	<u>PRICE/SF</u>	<u>DATE &amp; DOC.#</u>	<u>HOUSE SIZE &amp; YR. BLT.</u>	<u>LOT SIZE &amp; TOPOGRAPHY</u>	<u>AMENITIES</u>
<b><u>5,535 sf Owners' Preferred Site</u></b>					
No. 1 5618 Sea View Dr.	\$1,202	11/2022 SALE #1039087	6,568 sf 1999 + Remodel	0.91 ac. 80% usable 20% slope	Pool & spa. Ocn.Vu
No. 2 755 Crater Camp Dr.	\$933	7/2022 SALE #708625	6,000 sf 2010	7.71 acs. 50% usable 50% hilly	Pool & Gst.Hs.
No. 3 27445 Winding Way	\$1,155	4/2022 SALE #377603	6,837 sf 2002 + Remodel	2.05 acs. 50% usable 50% hilly	Pool & spa.
No. 4 27460 Latigo Bay View Dr.	\$961	10/2022 SALE #988613	6,155 sf 2000 + Remodel	1.48 acs. 60% usable 40% hilly	Pool & spa. Gst.Hs.
Subject 3300 Kanan Dume Road	--	2/2023 VALUE	5,535 sf Proposed	6.61 acs. 10% gentle slope; 90% steep downslope	--
<b><u>3,000 sf Owners' Preferred Site</u></b>					
No. 5 4345 Escondido Tr.	\$905 LIST	1/2023 ESCROW	2,984 sf 1995	1.34 acs. 20% usable 80% hilly	Some Ocn. Vu
No. 6 33310 Hassted	\$856	1/2022 SALE #33227	2,570 sf 2004 + Remodel	10.0 acs. 15% level 85% steep	Pool & spa. Prefab.
No. 7 952 Newell Rd.	\$1,091	8/2022 SALE #795374	2,878 sf 1980 + Remodel	3.96 acs. 50% usable 50% hilly	Pool
No. 8 1351 Decker Cyn.	\$1,289	5/2022 SALE #479104	3,878 sf 2001 + Remodel	10.43 acs. 60% usable 40% hilly	Pool
Subject 3300 Kanan Dume Road	--	2/2023 VALUE	3,000 sf Proposed	6.61 acs. 10% gentle slope; 90% steep downslope	--

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**MARKET DATA APPROACH (Cont'd.)**

<u>ITEM</u>	<u>PRICE/SF</u>	<u>DATE &amp; DOC.#</u>	<u>HOUSE SIZE &amp; YR. BLT.</u>	<u>LOT SIZE &amp; TOPOGRAPHY</u>	<u>AMENITIES</u>
<b><u>5,535 sf County's Suggested Site</u></b>					
No. 9 27469 Bay View Dr.	\$1,237	3/2022 SALE #341219	5,456 sf 2021	20.53 acs. 4% usable 96% Open Spc.	Pool/spa Ocn.View
No. 10 28882 Via Venezia	\$924	3/2022 SALE #320309	6,273 sf 1998 + Remodel	2.13 acs. 20% usable 80% hilly	Pool & spa & vineyd.
No. 11 27162 Sea Vista Drive	\$1,042	1/2023 SALE #24723	5,245 sf 1989 + Remodel	0.50 ac. All usable	Gst. Hs. Ocn.View
No. 12 33127 Pacf. Coast Hwy.	\$1,128	7/2022 SALE #729295	5,670 sf 2018 + Remodel	2.54 acs. All gentle slope	Pool & spa
Subject 3300 Kanan Dume Road	--	2/2023 VALUE	5,535 sf Proposed	6.61 acs. 100% steep downslope	--
<b><u>3,000 sf County's Suggested Site</u></b>					
No. 13 1701 S.Monte Viento St.	\$762	1/2023 SALE #47017	2,950 sf 1978 + Remodel	0.57 ac. All usable	Pool & spa
No. 14 260 Loma Metisse	\$660	12/2022 SALE #1127913	3,260 sf 1992 + Remodel	4.59 acs. 50% gentle slope; 50% upslope	--
No. 15 23458 W.Moon Shadows Dr.	\$707	11/2022 SALE #1080540	3,603 sf 1985 + Remodel	0.41 ac. All usable	Ocn.Vu.
No. 16 6120 Cavalleri Rd.	\$1,219	10/2022 SALE #971258	3,588 sf 1974 + Remodel	0.89 ac. All usable	Pool/spa Tennis Court. Ocn.View
Subject 3300 Kanan Dume Road	--	2/2023 VALUE	3,000 sf Proposed	6.61 acs. 100% steep downslope	--

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SOURCE: Thomas W. Erickson, MAI; Survey February 2023

**MARKET DATA APPROACH (Cont'd.)****5,535 sf Owners' Preferred Site**

**Item 1** is the \$7,900,000 sale of an excellent quality Mediterranean style estate built in 1999 with a subsequent remodeling. The unit rate is \$1,202 per sq. ft. The recording date was November 2, 2022 and the document number is 1039087. The buyer is Charles Sussman. Compared to the subject property, location is superior, requiring a downward adjustment of the unit rate. The larger house size tends to lower the unit rate due to the principle of economy of scale and an upward adjustment is warranted. Total land area is much smaller at 0.91 acre, an inferior factor requiring an upward adjustment. The pool, spa and ocean view amenities require downward adjustments. Overall comparison to this subject property is Superior at \$1,202 per sq. ft. A lower unit rate is appropriate for the subject.

**Item 2** is the \$5,600,000 sale of a good quality rustic style residence built in 2010. The unit rate is \$933 per sq. ft. The recording date was July 11, 2022 and the document number is 708625. The buyer is Longomba Lovy. Compared to the subject property, location is inferior and an upward adjustment is applied. The larger house size tends to lower the unit rate due to the principle of economy of scale and an upward adjustment is warranted. The older date of construction requires an upward adjustment. Topography is superior requiring a downward adjustment. The pool and guest house amenities require downward adjustments. Overall comparison to this subject property is Inferior at \$933 per sq. ft. due primarily to location. A higher unit rate is appropriate for the subject.

**Item 3** is the \$7,900,000 sale of a good quality Mediterranean style residence built in 2002 and with a subsequent remodeling. The unit rate is \$1,155 per sq. ft. The recording date was April 5, 2022 and the document number is 377603. The buyer is Eldora Investments LLC. Compared to the subject property, the earlier date of sale requires an upward adjustment. Location is superior and a downward adjustment is applied. The larger house size tends to lower the unit rate due to the principle of economy of scale and an upward adjustment is warranted. Topography is superior requiring a downward adjustment. The smaller parcel size of 2.05 acres is inferior and requires an upward adjustment. The pool and spa amenity requires a downward adjustment. Overall comparison to this subject property is Inferior at \$1,155 per sq. ft. A higher unit rate is appropriate for the subject.

MARKET DATA APPROACH (Cont'd.)5,535 sf Owners' Preferred Site

**Item 4** is the \$5,917,500 sale of a very good quality Mediterranean style residence built in 2000 and with a subsequent remodeling. The unit rate is \$961 per sq. ft. The recording date was October 14, 2022 and the document number is 988613. The buyer is Bruce Gowers. Compared to the subject property, the topography is superior requiring a downward adjustment. The smaller parcel size of 1.48 acres is inferior and requires an upward adjustment. The pool, spa and guest house amenities require downward adjustments. Overall comparison to this subject property is Inferior at \$961 per sq. ft. A higher unit rate is appropriate for the subject.

Based on the analyses of the four comparable items, the following qualitative comparisons to this subject property are indicated.

<u>Item</u>	<u>Price/Sq.Ft.</u>	<u>Comparison to Subject</u>
2	\$933	Inferior
4	\$961	Inferior
3	\$1,155	Similar
<b>Subj., say</b>	<b>\$1,150</b>	
1	\$1,202	Superior

The unit rates range from \$933 to \$1,202/sf. Two unit rates are Inferior, one is Superior, and one is Similar. The highest Inferior unit rate is \$961/sf. The appropriate rate for the subject is higher than this amount. The one Superior rate is \$1,202/sf. The appropriate rate for the subject is lower than this amount. The one Similar rate is \$1,155/sf which does fall within the indicated market range.

Based on these comparisons, the market data indicate that the appropriate unit rate for this 5,535 sf subject property is \$1,150/sf, indicating a hypothetical market value of \$6,365,000.

3,000 sf Owners' Preferred Site

**Item 5** is a current escrow with a list price of \$2,700,000, equating to a unit rate of \$905/sf. The house is good quality contemporary style built in 1995.

**MARKET DATA APPROACH (Cont'd.)****3,000 sf Owners' Preferred Site**

**Item 5 (Cont'd.)** Compared to the subject property, the list price requires a downward adjustment. Date of construction is older and requires an upward adjustment. The smaller land area requires an upward adjustment. Topography is superior requiring a downward adjustment. The ocean view amenity requires a downward adjustment. Overall comparison to this subject property is Inferior at \$905 per sq. ft. A higher unit rate is appropriate for the subject.

**Item 6** is the \$2,200,000 sale of a good quality prefabricated home built in 2004 with subsequent remodeling. The unit rate is \$856 per sq. ft. The recording date was January 10, 2022 and the document number is 33227. The buyer is Sean J. Cohen. Compared to the subject property, date of sale is inferior, requiring an upward adjustment. Location is inferior and an upward adjustment is applied. The topography is superior requiring a downward adjustment. The pool and spa amenity is superior, requiring a downward adjustment. The prefabricated construction is considered inferior and requires an upward adjustment. Overall comparison to this subject property is Inferior at \$856 per sq. ft. A higher unit rate is appropriate for the subject.

**Item 7** is the \$2,807,000 sale of a good quality home built in 1980 with a subsequent remodel. The unit rate is \$1,091 per sq. ft. The recording date was August 8, 2022 and the document number is 795374. The buyer is Matthew & Lindsey Levin. Compared to the subject property, the pool amenity is a superior factor and a downward adjustment is applied. The topography is superior requiring a downward adjustment. Overall comparison to this subject property is Superior at \$1,091 per sq. ft. A lower unit rate is appropriate for the subject.

**Item 8** is the \$5,000,000 sale of a Hacienda Farm built in 2001 with a subsequent remodel. The unit rate is \$1,289 per sq. ft. The recording date was May 3, 2022 and the document number is 479104. The buyer is Clare Staples. Compared to the subject property, topography is superior requiring a downward adjustment. The larger land area of 10.43 acres is a superior factor requiring a downward adjustment. The pool amenity is superior and another downward adjustment is warranted. Overall comparison to this subject property is Superior at \$1,289 per sq. ft. A lower unit rate is appropriate for the subject.

**MARKET DATA APPROACH (Cont'd.)****3,000 sf Owners' Preferred Site**

Based on the analyses of these four items, the following qualitative comparisons to this subject property are indicated.

<u>Item</u>	<u>Price/Sq.Ft.</u>	<u>Comparison to Subject</u>
6	\$856	Inferior
5	\$905	Inferior
<b>Subj., say</b>	<b>\$950</b>	
7	\$1,091	Superior
8	\$1,289	Superior

The unit rates range from \$856 to \$1,289/sf. Two unit rates are Inferior and two are Superior. The highest Inferior unit rate is \$905/sf. The appropriate rate for the subject is higher than this amount. The lowest Superior rate is \$1,091/sf. The appropriate rate for the subject is lower than this amount. Therefore the appropriate rate for this subject property lies between \$905 and \$1,091/sf.

Based on these comparisons, the market data indicate that the appropriate unit rate for this 3,000 sf subject property is \$950/sf, indicating a hypothetical market value of **\$2,850,000.**

**5,535 sf County's Suggested Site**

**Item 9** is the \$6,750,000 sale of a very good quality modern style residence newly built in 2021. The unit rate is \$1,237 per sq. ft. The recording date was March 25, 2022 and the document number is 341219. The buyer is Mohammad Ghalichi. Compared to the subject property, location is superior and a downward adjustment is applied. The earlier date of sale requires an upward adjustment. Topography is superior requiring a downward adjustment. The larger land area of 20.53 acres requires a downward adjustment. The pool, spa and ocean view amenities are superior factors and downward adjustments are applied. Overall comparison to this subject property is Superior at \$1,237 per sq. ft. A lower unit rate is appropriate for the subject.

**Item 10** is the \$5,800,000 sale of a good quality Mediterranean style residence built in 1998 with a subsequent remodeling. The unit rate is \$924 per sq. ft. The recording date was March 21, 2022 and the document number is 320309. The buyer is Brian Daly.

**MARKET DATA APPROACH (Cont'd.)****5,535 sf County's Suggested Site**

**Item 10 (Cont'd.)** Compared to the subject property, the earlier date of sale requires an upward adjustment. The larger house size tends to lower the unit rate due to the principle of economy of scale and an upward adjustment is warranted. The smaller land area requires an upward adjustment. Topography is superior requiring a downward adjustment. The pool and spa and vineyard amenities require downward adjustments. Overall comparison to this subject property is Inferior at \$924 per sq. ft. A higher unit rate is appropriate for the subject.

**Item 11** is the \$5,469,000 sale of a very good quality Modern Rustic style residence built in 1989 and with a subsequent remodeling. The unit rate is \$1,042 per sq. ft. The recording date was January 12, 2023 and the document number is 24723. The buyer is Brett Kelly. Compared to the subject property, location is superior, requiring a downward adjustment. The smaller land area requires an upward adjustment. Topography is superior requiring a downward adjustment. The guest house and ocean view amenities are superior and downward adjustments are applied. Overall comparison to this subject property is Superior at \$1,042 per sq. ft. A lower unit rate is appropriate for the subject.

**Item 12** is the \$6,400,000 sale of a good quality Mediterranean style residence built in 2018 with a subsequent remodeling. The unit rate is \$1,128 per sq. ft. The recording date was July 15, 2022 and the document number is 729295. The buyer is Enrique & Patricia Gonzales. Compared to the subject property, location on PCH is superior and a downward adjustment is warranted. The smaller land area requires an upward adjustment. Topography is far superior requiring a downward adjustment. The pool and spa amenity requires a downward adjustment. Overall comparison to this subject property is Superior at \$1,128 per sq. ft. A lower unit rate is appropriate for the subject.

Based on the analyses of these four recorded sales, the following qualitative comparisons to this subject property are indicated.

MARKET DATA APPROACH (Cont'd.)5,535 sf County's Suggested Site (Cont'd.)

<u>Item</u>	<u>Price/Sq.Ft.</u>	<u>Comparison to Subject</u>
10	\$924	Inferior
<b>Subj., say</b>	<b>\$950</b>	
11	\$1,042	Superior
12	\$1,128	Superior
9	\$1,237	Superior

The unit rates range from \$924 to \$1,237/sf. One unit rate is Inferior and three are Superior. The one Inferior unit rate is \$924/sf. The appropriate rate for the subject is higher than this amount. The lowest Superior rate is \$1,042/sf. The appropriate rate for the subject is lower than this amount. Therefore the appropriate rate for this subject property lies between \$924 and \$1,042/sf.

Based on these comparisons, the market data indicate that the appropriate unit rate for this 5,535 sf subject property is \$950/sf, indicating a hypothetical market value of \$5,260,000.

3,000 sf County's Suggested Site

**Item 13** is the \$2,250,000 sale of a good quality traditional style residence built in 1978 with a subsequent remodeling. The unit rate is \$762 per sq. ft. The recording date was January 24, 2023 and the document number is 47017. The buyer is Ummahat LLC. Compared to the subject property, the smaller land area is an inferior factor and an upward adjustment is required. The topography is superior requiring a downward adjustment. The pool and spa amenity is superior and requires a downward adjustment. Overall comparison to this subject property is Similar at \$762 per sq. ft.

**Item 14** is the \$2,150,000 distressed sale of a good quality Italian Villa built in 1992 with a subsequent remodeling. The unit rate is \$660 per sq. ft. The recording date was December 2, 2022 and the document number is 1127913. The buyer is John Sherman. Compared to the subject property, the distressed condition of sale requires an upward adjustment. The topography is superior, requiring a downward adjustment. Overall comparison to this subject property is Inferior at \$660 per sq. ft. A higher unit rate is appropriate for the subject.



**MARKET DATA APPROACH (Cont'd.)****3,000 sf County's Suggested Site (Cont'd.)**

**Item 15** is the \$2,550,000 sale of a very good quality Contemporary style residence built in 1995 and with a subsequent remodel. The unit rate is \$707 per sq. ft. The recording date was November 16, 2022 and the document number is 1080540. The buyer is 23458 West Moon Shadows LLC. Compared to the subject property, the smaller land area is an inferior factor and an upward adjustment is required. Topography is superior and a downward adjustment is applied. The ocean view amenity is a superior factor and requires a downward adjustment. Overall comparison to this subject property is Similar at \$707 per sq. ft.

**Item 16** is the \$4,376,000 sale of a good quality residence built in 1974 with a subsequent remodeling. The unit rate is \$1,219 per sq. ft. The recording date was October 7, 2022 and the document number is 971258. The buyer is Tia Hoberman. Compared to the subject property, location is superior and a downward adjustment is warranted. The topography is superior, requiring a downward adjustment. The much smaller parcel size is inferior and an upward adjustment is warranted. The pool, spa, tennis court and ocean view are superior amenities and require downward adjustments. Overall comparison to this subject property is Superior at \$1,219 per sq. ft. A lower unit rate is appropriate for the subject.

Based on the analyses of these four recorded sales, the following qualitative comparisons to this subject property are indicated.

<u>Item</u>	<u>Price/Sq.Ft.</u>	<u>Comparison to Subject</u>
14	\$660	Inferior
15	\$707	Similar
13	\$762	Similar
<b>Subj., say</b>	<b>\$750</b>	
16	\$1,219	Superior

The unit rates range from \$660 to \$1,219/sf. One unit rate is Inferior, one is Superior and two are Similar. The one Inferior unit rate is \$660/sf. The appropriate rate for the subject is higher than this amount. The one Superior rate is \$1,219/sf. The appropriate rate for the subject is lower than this amount. Therefore the appropriate rate for this subject property lies between \$660 and \$1,219/sf.

**MARKET DATA APPROACH (Cont'd.)****3,000 sf County's Suggested Site (Cont'd.)**

The two Similar rates of \$707 and \$762/sf do fall within this market range and are good indicators for the appropriate rate for the subject.

Based on these comparisons, the market data indicate that the appropriate unit rate for this 3,000 sf subject property is \$750/sf, indicating a hypothetical market value of **\$2,250,000.**

**HYPOTHETICAL VALUE CONCLUSIONS:*****OWNER'S PREFERRED SITE:***

5,535 sf Residence = \$6,365,000

3,000 sf Residence = \$2,850,000

***COUNTY'S SUGGESTED SITE:***

5,535 sf Residence = \$5,260,000

3,000 sf Residence = \$2,250,000

There is a 17.4% loss in value for the 5,535 sf residence due to the county's suggested site location compared to the owner's preferred site location; and a 21.0% loss in value for the 3,000 sf residence due to the county's suggested site location compared to the owner's preferred site location.

These loss in value percentages are derived directly from current market sales and listings in the Malibu area, and reflect the difference between the owners' preferred site location and the county's suggested site location adjacent to Kanan Dume Road.

The privacy factor is of major concern to potential estate buyers in the Malibu area of the Santa Monica Mountains. Several examples of "loss of privacy" damages based on market data can be demonstrated.

No. 1 is the sale of an estate property located at 1900 Old Ranch Road in Brentwood encumbered with an equestrian trail. The property entered escrow on August 31, 2007 for \$9,500,000 with the buyer's lack of knowledge of the trail easement. After discovery, the buyer cancelled escrow. A second escrow closed on September 22, 2009 for \$6,250,000 with the buyer having knowledge of the trail easement.

### MARKET DATA APPROACH (Cont'd.)

The price reflects a decrease in market value during the 25 months from the first escrow of approximately 19%, or \$7,695,000 adjusted, with no impact from the loss of privacy factor. The actual sale price of \$6,250,000 is lower and reflects the lack of privacy factor of 18.8% due to the trail easement.

No. 2 is located at 3021 Rambla Pacifico in Malibu. The 11.51 acre parcel is improved with a 3,553 sf residential estate. The owners negotiated a \$350,000 sale of a 3.89 acre conservation easement with a trail. The price paid included 10% appurtenant damages to the Larger Parcel for the loss of privacy factor due to the trail.

No. 3 is a 10+ acre parcel at 30890 Mulholland Hwy. in Malibu that was listed for sale without a proposed trail easement encumbrance. With a conservation group's interest in encumbering the property with a trail easement, the listing broker surveyed potential buyers of the property that yielded a consensus opinion of a 25% diminution in value due to the loss of privacy from the trail easement.

The market thus reflects a range of 10% to 25% for the decrease in value due to the loss of privacy factor. The subject property's site locations concluded to loss in value amounts of 17.4% and 21.0% for the 5,535 sf residence and the 3,000 sf residence respectively. This concluded range is very consistent with the actual discounted values as just narrated above and gives credence to the current concluded values.

### EXPOSURE TIME

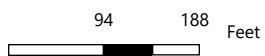
Exposure time is defined as the length of time the property interest being appraised would have been offered on the market **prior** to the hypothetical consummation of a sale at market value on the effective date of the appraisal; a retrospective estimate based upon an analysis of past events assuming a competitive and open market. Based on the utilized market sales in this appraisal, the appropriate exposure time for the subject valuations is estimated at 4 to 6 months.



## AERIAL VIEW

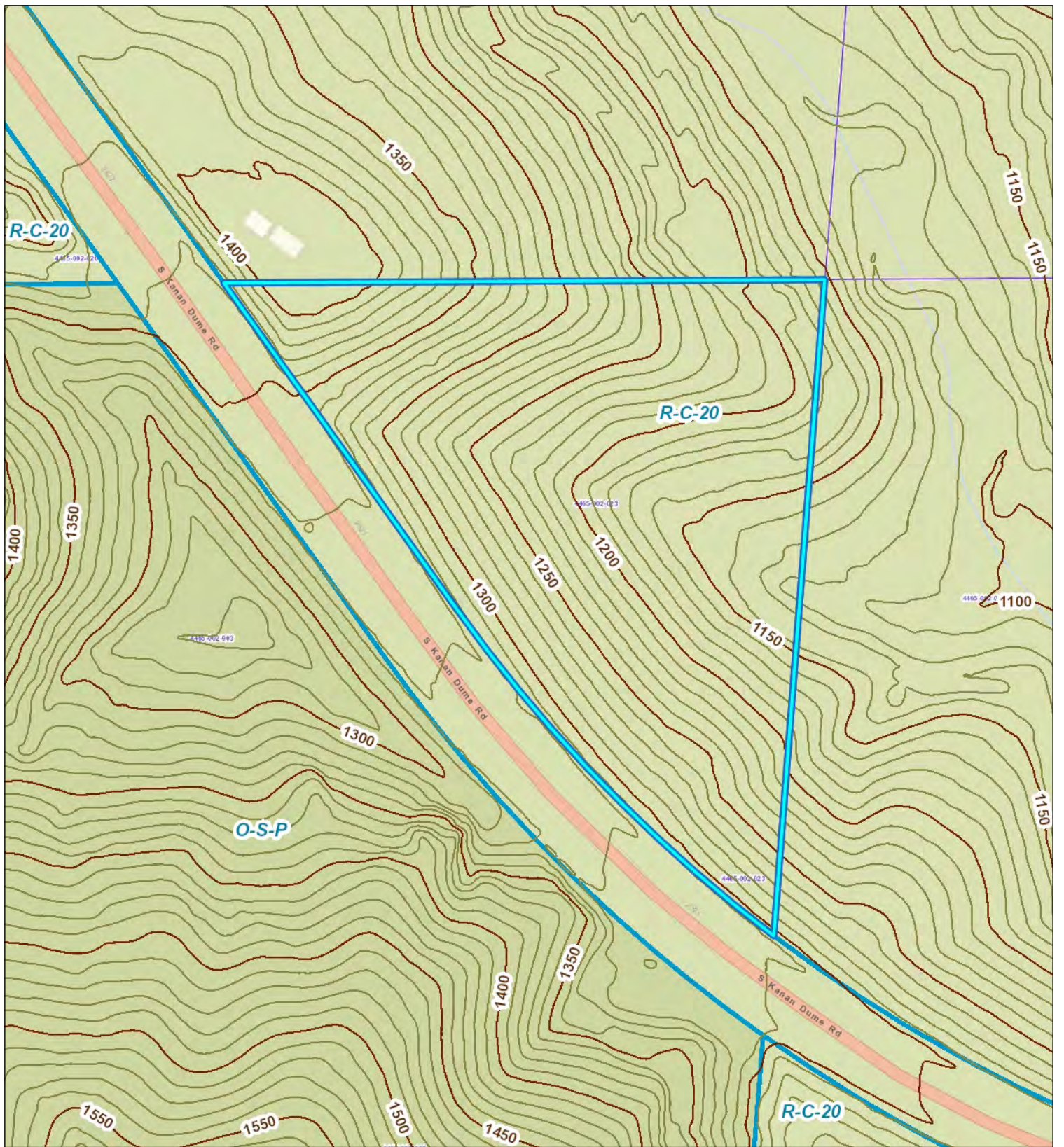
SUBJECT - APN 4465-002-023

Printed: 8/27/21



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# TOPOGRAPHY MAP

SUBJECT - APN 4465-002-023

Printed: 8/27/21



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**QUALIFICATIONS OF  
THOMAS W. ERICKSON, MAI  
CERTIFIED GENERAL APPRAISER  
CA License No. AG002373**

650 S. Rancho Santa Fe Rd. #323, San Marcos, CA 92078  
(310)570-5180 Email:ThomasWErickson@gmail.com

**EXPERIENCE**

Self employed, 1979 - Present. Owner of a firm providing varied real estate analyses, including appraisals and market studies.

Assignments completed by Mr. Erickson include the appraisal of garden offices and medical offices throughout Los Angeles County; leasehold and leased fee valuation studies; the appraisal of branch offices for financial institutions; the appraisal of citrus groves in Riverside County; the appraisal of two health clubs; the appraisal of a city equity club in Newport Beach; the appraisal of specialty shopping centers; the appraisal of residential care facilities; the appraisal of inclusionary housing with restricted rents in the City of Santa Monica; the appraisal of numerous parcels in the foothills of Los Angeles County from Ventura to Claremont for potential acquisition by numerous conservation groups; the appraisal of a church seminary; the appraisal of numerous improved properties for the Los Angeles Unified School District as sites for proposed elementary schools; the appraisal of a conference center near Lake Arrowhead; appraisals of motels, fraternities and churches; numerous valuation assignments on commercial, industrial and apartment projects; and appraisals on over 80 mobilehome parks; and the appraisal of conservation easements and trail easements.

Robert M. Lea Associates, 1976 - 1979. Responsible for various real estate analyses and studies, with emphasis on narrative appraisal assignments dealing with all major real estate categories.

Downey Savings and Loan, 1976. Class III appraiser specializing in commercial and residential income assignments.

Brentwood Savings and Loan, 1975 - 1976. Class III appraiser with full responsibility for appraisal of all special purpose, commercial and residential income properties generated in the Long Beach branch office.

Advance Mortgage Corporation, 1974 - 1975. Mr. Erickson's main task was the writing of narrative appraisal reports on multi-million dollar condominium projects for submission to the Federal National Mortgage Association.

State Mutual Savings and Loan, 1971 - 1974. Class I, II and III appraiser with experience in all types of real property. As a Class II and Class III appraiser, Mr. Erickson was designated the responsibility of training all new appraiser-trainees for the association.



**EDUCATION**

Bachelor of Arts degree, 1971, University of California, Los Angeles, majoring in both Economics and Anthropology.

100 credit hours of Continuing Education, awarded December 2022 by the Appraisal Institute.

Successfully completed the following twelve appraisal courses:

**UCLA**

- Intermediate Real Estate Appraisal
- Advanced Real Estate Appraisal

**SOCIETY OF REAL ESTATE APPRAISERS**

- Course 101, Introduction to Appraising Real Property
- Course 201, Principles of Income Property Appraising

**AMERICAN INSTITUTE OF REAL ESTATE APPRAISERS**

- Course II, Urban Properties
- Course VI, Investment Analysis
- Rural Valuation

**APPRAISAL INSTITUTE**

- Standards of Professional Practice - Part A; Sept. 1995
- Standards of Professional Practice - Part B; Sept. 1995
- Course 410, National USPAP Update; November 2003
- Course 420, Business Practices and Ethics; November 2003
- Valuation of Conservation Easements; September 2008

**PROFESSIONAL ORGANIZATIONS**

\* Member of the Appraisal Institute. Awarded the MAI designation by the American Institute of Real Estate Appraisers, November 1979, Certificate No. 5997; Appraisal Institute Southern California Chapter 5 involvement included coordinator and moderator of the Operating Expense Seminar at the Disneyland Hotel in August 1996; 1988 Chairman, Seminar Committee; 1987 Co-Chairman, Seminar Committee; 1986 External Affairs Committee; 1983 Co-Chairman, News 5; 1982 Chairman, Scholarship Committee.

- \* Member-Class A, Foundation of Real Estate Appraisers.
- \* Member of the Combined L.A./Westside Multiple Listing Service.
- \* Member of AIR Commercial Real Estate Association.

\* State of California, Licensed and Certified Appraiser. Awarded the highest level of licensure by the State of California, Office of Real Estate Appraisers, as a **General Real Estate Appraiser**; Identification No. **AG002373**; valid until March 4, 2024.

**EXPERT WITNESS**

Qualified as an Expert Witness before Municipal Court, City of Los Angeles; before the United States Bankruptcy Court; before the United States District Court, Central District of California; before Superior Court, County of Los Angeles; and before the tax appeals board, County of Los Angeles.

**PARTIAL LIST OF CLIENTS**

**Public, Quasi-Public and Non-Profit**

City of Claremont	City of Los Angeles
City of Santa Monica	City of San Dimas
City of Monrovia	City of Glendora
Catalina Conservancy	City of Pasadena
California State Coastal Conservancy	American Land Conservancy
The Trust For Public Land	Mountains Restoration Trust
Altadena Foothills Conservancy	The Nature Conservancy
Arroyos and Foothills Conservancy	Bolsa Chica Land Trust
Ventura Hillside Conservancy	Watershed Consvr. Authority
National Fish and Wildlife Foundation	
Mountains Recreation and Conservation Authority	
San Gabriel & Lower L.A. Rivers & Mountains Conservancy	
Puente Hills Landfill Native Habitat Preservation Authority	
Baldwin Hills Regional Conservation Authority	
Regents of the University of California	
State of California, Dept. of Managed Health Care	

**Corporate**

First Federal Bank of California	Wells Fargo Bank RETECH
Smith-Emery Company	Probiz Bank
Southern Pacific Land Company	Provident Savings Bank
City of Hope	China Trust Bank of Calif.
CA Dept. of Managed Health Care	United National Bank
Whittier Trust	American International Bank
Farmers & Merchants Bank	Preferred Bank
East-West Federal Bank	Kaiser Permanente
Bank of America Trust	Boeing Corporation
Union Bank	American National Bank of Chicago
Sanwa Bank Trust	Catellus Management
Jonathan Club	Citizens Bank
ProLogis	California United Bank

**Attorneys**

Cox Castle Nicholson; Los Angeles; (Stanley Lamport)  
Jeffer, Mangels & Butler; Los Angeles; (Neil Erickson)  
Donovan Leisure Newton & Irvine; Los Angeles (Jonathan Plissner)  
Barton, Klugman & Oetting; Newport Beach (Craig C. Alexander)  
Gibson, Dunn & Crutcher; Irvine (Gordon A. Schaller)  
Latham & Watkins; Los Angeles (Denise R. Goldberg)  
Rutan & Tucker; Costa Mesa (Robert Braun)

# EXHIBIT 4

**Dennis Robert Smith Construction LLC**

**30765 Pacific Coast Hwy # 313**

**Malibu CA, 90265 Lic#634750**

**(909)731-7777 (619)846-8616**

**3300 Kanan rd**

**3/23/2023**

**Scope of work-**

Owner preferred site Plan # 5535

R&R Over-Ex Pad and grading-	96,745.00
Walls and footing for house and driveway-	155,820.00
Foundation w/ garage-	111,270.00
Outside stairs-	59,181.00
Fire department turnaround-	75,250.00
Framing-	292,500.00
Rain Harvesters-	64,125.00
Plumbing rough-	109,355.00
Erosion control BMP's-	66,735.00
Electrical-	123,500.00
Water well-	141,000.00
Water tank 12,000 gal and foundation	133,000.00
HVAC rough-	67,730.00
Septic tank-	165,000.00
Steel roof-	133,880.00
Windows-	181,000.00
Insulation-	73,521.00
Stucco-	162,665.00
Dry wall-	89,990.00
Paint-	82,565.00
Cabinets-	175,000.00
Finish carpentry-	175,000.00
Plumbing finishes-	71,520.00

Electrical finishes-	66,750.00
Landscaping-	50,485.00
HVAC Finishes-	38,668.00
G.C. Fees 15%-	644,420.25
Total-	4,940,555.25

**Thank you for giving us the opportunity to bid on this job for you. If you have any questions or concerns, Please call Dennis at the number above**

*\*NOTE: City fees, street use fees and permits, parking, encroachment fees or other city costs incurred to be paid by Owner.*

ALLOWANCE: The minimum charge for an item or line item. If the item exceeds this amount, it will be charged as an extra.

**EXCLUSIONS AND CONDITIONS OF SCOPE OF WORK:**

We have listed below items not covered in our Scope of Work to help clarify what work we are proposing to do and what work we are not. PLEASE REVIEW THE LIST BELOW CAREFULLY. IF YOU HAVE ANY QUESTIONS REGARDING THESE EXCLUDED ITEMS OR CONDITIONS, PLEASE CALL TO DISCUSS.

1. Any conditions not reasonably apparent and which require further, and/or additional labor and materials not included in the work listed under "Scope of Work". These conditions or any extras chosen by customer will be addressed in "change orders" (see "About Change Orders" below).
2. Materials including, but not limited to, steel, copper and concrete, may be subject to price adjustments at 60-day intervals, depending on the market.
3. Above grade forms, form stripping. If not providing hardscapes.
4. Removal of grass, trees, and shrubs (unless stated in estimate.)
5. Removal, repair or replacement of sod, sprinkler drains, or of any hidden obstructions
6. Concrete wall, fence demolition or removal.
7. Concrete cracking is natural tendencies and not the responsibility of DRS Construction LLC.
8. Protective fencing during construction.
9. City fees, any and all permits including but not limited to pool and spa, street use, encroachment, hauling, and any and all expediter fees (the expediter's time to secure these permits).
10. Deputy inspection fees not included.
11. Materials including, but not limited to, steel, copper and concrete, may be subject to price adjustments at 60-day intervals, depending on the market.
12. No finish concrete included.
13. No lightweight concrete.

14. No structural steel.
15. No ASTM A706 weldable rebar.
16. Price based on one (1) move in and continuous operations, extra mobilization @ \$1,500.00 each
17. Hard Rock Drilling and Delays Billed @ \$450.00/hr + contract price listed below. Tooling Charge/  
Tooth Replacement \$ 35.00 ea. tooth
18. Access by Others
19. Waterproofing & drainage by others wherever applicable
20. Overhead Obstructions to be removed by others
21. No Casing, Drilling Fluids, Hard Rock, Raveling or Hole enlargement is not included in price.
22. Flat level access by others. Drill Rig Pad by Others
23. Dig Alert and All Utilities above ground or below protected, removed or shielded by others
24. Engineering, Survey, Layout, Center hubs, Offsets and Elevations by others
25. Erosion Control, Safety Barricades and Hole covers by others unless stated on the bid
26. Spoils Removal by others. Stockpiling of spoils by Others
27. Any items not included in the scope above.
28. No Concrete additives
29. Soffits and chases for mechanicals not included.
30. Trash bins provided by others

# Regional Planning Commission Transmittal Checklist

Hearing Date  
10/17/2018  
Agenda Item No.  
8

**Project Number:** R2014-00461-(3)  
**Case(s):** Major Coastal Development Permit Case No. RCDP-201500099  
Variance Case No. RCDP-201500100  
**Planner:** Joshua Huntington, AICP

- Project Summary
- Vicinity Map
- Staff Analysis
- Draft Resolution / Draft Ordinance / 8.5x11 Map (ZC or PA)
- Draft Findings
- Draft Conditions + Other department letters of recommended conditions
- Previous CUP Conditions of Approval
- Applicant's Project Narrative and Burden of Proof Statement(s)
- Environmental Documentation (For ND/MND: Mandatory ND/MND Form + Initial Study / EIR)
- Correspondence
- Photographs
- Aerial Image(s)
- Land Use/Zoning Map
- Tentative Tract / Parcel Map
- Site Plan / Floor Plans / Elevations
- Exhibit Map
- Landscaping Plans
- Findings and conditions of Previous permit
- Environmental Review Board Minutes dated May 15, 2017, June 19, 2017, and August 28, 2017.

Reviewed By: Josh Huntington



Department of Regional Planning  
 320 West Temple Street  
 Los Angeles, California 90012

**PROJECT NUMBER**  
 R2014-00461-(3)

**HEARING DATE**  
 October 17, 2018

**REQUESTED ENTITLEMENTS**

Coastal Development Permit No. RCDP-201500099,  
 Variance No. RCDP-201500100

**PROJECT SUMMARY**

**OWNER / APPLICANT**

Gregory and Susan Kay / Don Schmitz

**MAP/EXHIBIT DATE**

August 15, 2017

**PROJECT OVERVIEW**

Recommendation to deny a request to construct a 8,724 sq. ft., 40-foot tall single-family residence with an attached 1,290 sq. ft., five-car garage, and associated infrastructure including a 1,550 ft. driveway, a motor court, landscaping, hardscaping, retaining walls, a private septic system, two water wells, two water tanks, 6,300 cubic yards of grading, and native tree impacts including the removal of one oak, one black walnut, and one toyon, as well as encroachments into the protected zones of 122 oaks, one bigpod ceanothus, one big-leaf maple trees, and one toyon.

**LOCATION**

3300 Kanan Dume Road, within the Santa Monica Mountains Coastal Zone

**ACCESS**

Kanan Dume Road, via a private easement across APN 4465-002-028

**ASSESSORS PARCEL NUMBER(S)**

4465-002-023

**SITE AREA**

6.61 gross acres / 3.45 net acres

**LOCAL PLAN**

Santa Monica Mountains LCP Land Use Plan

**ZONED DISTRICT**

The Malibu

**LAND USE DESIGNATION**

RL20 (Rural Lands 20 – Maximum density of one dwelling unit per 20 acres)

**ZONE**

R-C-20 (Rural-Coastal – 20 Acre Minimum Required Lot Area)

**PROPOSED UNITS**

1

**MAX DENSITY/UNITS**

1

**SUPPLEMENTAL DISTRICT**

Santa Monica Mountains Local Implementation Program

**ENVIRONMENTAL DETERMINATION (CEQA)**

No CEQA determination required for a denial.

**KEY ISSUES**

- Consistency with the Santa Monica Mountains LCP Land Use Plan
- Satisfaction of the requirements of following Section(s) of Title 22 of the Los Angeles County Code:
  - 22.44.600 et seq. (Santa Monica Mountains Local Implementation Program)

**CASE PLANNER:**

Joshua Huntington, AICP

**PHONE NUMBER:**

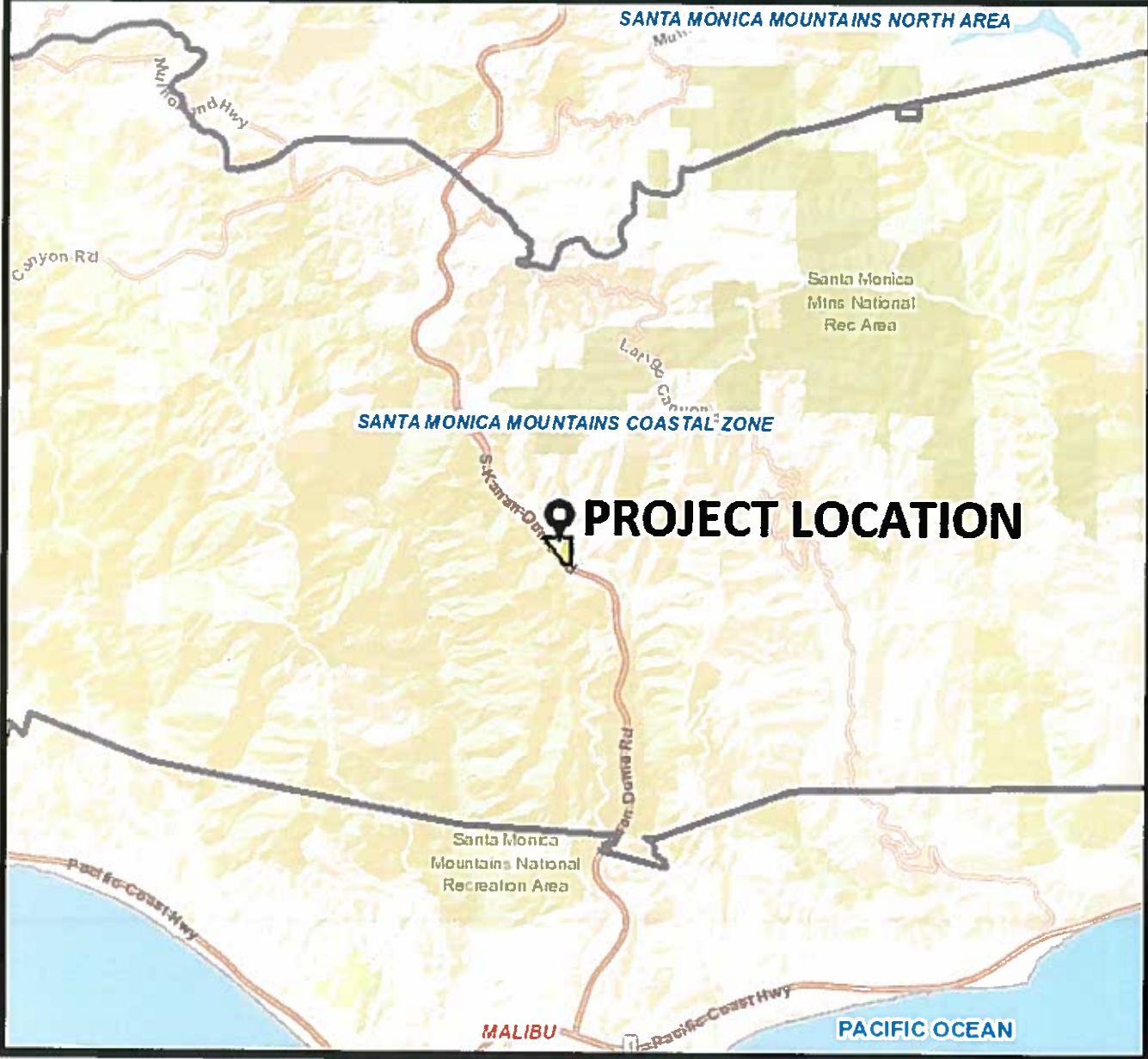
(213) 974-1522

**E-MAIL ADDRESS:**

[jhuntington@planning.lacounty.gov](mailto:jhuntington@planning.lacounty.gov)



# VICINITY MAP



### **ENTITLEMENTS REQUESTED**

- A Major Coastal Development Permit ("Major CDP") to authorize the construction of an 8,724-sq. ft., 40-foot-tall single-family residence with an attached 1,290-sq. ft., five-car garage, and associated infrastructure including a 1,550-foot-long driveway, a motor court, landscaping, hardscaping, retaining walls, a private septic system, two water wells, two water tanks, 6,300 cubic yards of grading a 9,000-sq. ft. building site area, and native tree impacts including the removal of one oak, one black walnut, and one toyon, as well as encroachments into the protected zones of 122 oaks, one bigpod ceanothus, one big-leaf maple tree, and one toyon ("Project") in the R-C-20 (Rural Coastal – 20-Acre Minimum Required Lot Area) Zone, pursuant to Los Angeles County Code ("County Code") Sections 22.44.1260 (Grading), 22.44.1750 (R-C Zone), and 22.44.1800 et seq. (Biological Resources).
- A Variance is required because the applicant proposes a driveway length of 1,550 feet, which exceeds the 300-foot limitation pursuant to County Code Sections 22.44.1150 (Variances) and 22.44.1920(C) (Development Standards for Access Roads and Trails). A Variance is also required because, as designed, the proposed structure height of 40 feet exceeds the 18-foot height limitation pursuant to County Code Sections 22.44.1150 (Variances), 22.44.1250 (Height Limits), and 22.44.1990 et seq. (Scenic Resource Areas). Additionally, a Variance is required because the location of the proposed private septic system is within the dripline of an oak tree. Pursuant to County Code Section 22.44.1340(B)(3)(c), private septic systems shall be located 50 outside of the dripline of existing native trees, including oak trees.

### **LOCATION**

The Project would be located on Assessor's Parcel Number ("APN") 4465-002-023. The subject property is approximately 6.61 gross acres and 3.45 net acres. The subject property is on the east side of Kanan Dume Road, located approximately 3.3 miles north of the intersection of Pacific Coast Highway and Kanan Dume Road ("Project Site"). The Project Site is vacant/undeveloped, and does not have a formal address. The applicant refers to the property as 3300 Kanan Dume Road.

### **PROJECT DESCRIPTION**

A Major CDP to authorize the construction of a 8,724-sq. ft., 40-foot tall single-family residence with an attached 1,290-sq. ft., five-car garage, and associated infrastructure including a 1,550 ft. driveway, a motor court, landscaping, hardscaping, retaining walls, a private septic system, two water wells, two water tanks, 6,300 cubic yards of grading, and native tree impacts including the removal of one oak, one black walnut, and one toyon, as well as encroachments into the protected zones of 122 oaks, one bigpod ceanothus, one big-leaf maple tree, and one toyon in the R-C-20 zone. The 6,300 cubic yards of grading consists of 3,050 cubic yards of cut and 3,250 cubic yards of fill, necessitating 200 cubic yards of import. Of this, 750 cubic yards of cut and 3,230 cubic yards of fill are

required for the construction/improvement of the private driveway, and 2,300 cubic yards of cut and 30 cubic yards of fill are required for the building site area.

The site plan depicts a single-family residence, attached garage, fire lane, and water tanks on a variably sloped parcel. The building site area is proposed to be in the northeast area of the subject property at the end of the 1,550-foot-long driveway, and just east of the proposed motor court. The building site area is located H2 habitat, the motor court is located in both H1 and H2 habitat, and the areas subject to required fuel modification and brush clearance are located in mapped H1, H2, and H3 habitat areas. The habitat mapping for the property is generally consistent with the findings of the field surveys by the applicant's biologist. Minor changes to the mapping have been proposed by the applicant's biologist and have been verified by the County's biologist and the Los Angeles County Environmental Review Board ("ERB").

The building site area proposes approximately 9,000 square feet of disturbance, and the proposed driveway is approximately 42,450 square feet of additional disturbance. Additionally, approximately 202,800 square feet of land is shown within fuel modification zones A, B, and C. Finally, the driveway also requires 10 feet of brush clearance on each side. This amounts to 31,000 square feet of brush clearance for the driveway. Therefore, the total amount of proposed disturbance is 285,250 square feet (6.55 acres). The removal of the black walnut and toyon tree, as well as the encroachments into the protected zones of a bigpod ceanothus, a big-leaf maple tree, and a toyon are required to construct the proposed building site area and motor court.

The site plan also shows an attached 1,290-square-foot garage located in the northwest portion of the single-family residence. The proposed septic system is located to the northeast of the single-family residence. The Project Site is accessed via a 1,550-foot private driveway within an access easement that crosses the property to the east (APN 4465-002-028). The driveway accesses the Project Site directly from Kanan Dume Road. The required improvements to the driveway necessitate the removal of one oak and the encroachment into the protected zones of 122 oaks.

### **EXISTING ZONING**

The subject property is zoned R-C-20.

Surrounding properties within a 700-foot radius are zoned as follows:

North: R-C-20  
South: O-S-P (Open Space-Parks)  
East: R-C-20  
West: O-S-P

### **EXISTING LAND USES**

The subject property is currently vacant/undeveloped.

Surrounding properties within a 700-foot radius are developed as follows:

North: Adult Residential Facility, Single-Family Residences  
South: Parkland  
East: Vacant/Undeveloped Lands  
West: Parkland

#### **PREVIOUS CASES/ZONING HISTORY**

- The property was rezoned R-C-20 by Ordinance No. 2006-00009-(3) and became effective on October 10, 2014.
- The applicant initially applied for a Plot Plan Approval in Concept for a single-family residence (RPP-201400174) and an Oak Tree Permit Approval in Concept (ROAK-201400012) on February 20, 2014. These applications were withdrawn when the applicant submitted the CDP and Variance applications associated with the Santa Monica Mountains Local Coastal Program after coastal development permit issuing authority was transferred to Los Angeles County following certification of the Santa Monica Mountains Local Coastal Program.
- Certificate of Compliance No. RCOC 2006 00592 was issued and recorded on February 26, 2007. This document confirms that the property is a legally created parcel.
- The property was zoned A-1-1 (Light Agriculture- 1 Acre Minimum Required Lot Area) on March 11, 1958 by Ordinance No. 7310.

#### **PROJECT HISTORY**

The applicant initially filed an application for a Plot Plan Approval in Concept for a single-family residence (RPP-201400174) and an Oak Tree Permit Approval in Concept (ROAK-201400012) on February 20, 2014. This was before the California Coastal Commission ("Coastal Commission") certified the Santa Monica Mountains Local Coastal Program ("SMMLCP") on October 10, 2014. At that time, the applicant would have needed the Plot Plan Approval in Concept and Oak Tree Permit Approval in Concept to be approved by Los Angeles County before he could submit an application for a Coastal Development Permit for the proposed development with the Coastal Commission. Since the applicant had not yet filed an application with the Coastal Commission prior to the certification of the SMMLCP, he no longer could submit an application for a CDP with the Coastal Commission. With the certification of the LCP, Los Angeles County was given CDP issuing authority, and the Plot Plan Approval in Concept and Oak Tree Permit Approval in Concept became the incorrect entitlements for the Project.

On September 9, 2015, the applicant withdrew the Plot Plan Approval in Concept and the Oak Tree Permit Approval in Concept and applied for the Major CDP and Variance. After reviewing the Project, staff met with the applicant and told him that staff could not support the Project as designed, and that staff would recommend denial unless the Project were redesigned to meet the requirements of the SMMLCP. At that meeting, staff cited the height of the proposed single-family residence and the impacts to sensitive habitat, including H1 habitat, as the main reason why staff could not support the Project. Also

discussed was the over-long driveway and staff asked the applicant to find another option for access to the property.

At that meeting, the applicant asked that the Biological Assessment be reviewed by a Los Angeles County biologist, and that the Project be presented to ERB prior to taking the Project to public hearing for denial, and staff committed to presenting the Project to ERB for their review, which occurred on May 15, 2017, June 19, 2017, and August 28, 2017.

The ERB asked the applicant to redesign the Project to move it to the north and west to minimize the Project's impacts. While the applicant did move the proposed single-family residence approximately 20 feet to the west and approximately 40 feet to the north, this was not a significant enough redesign to allow the ERB to support the Project. Therefore, the ERB recommended that the Project as designed is not consistent with the biological resource protection policies and development standards of the SMMLCP. After the ERB meetings, staff continued to meet with the applicant and continued to ask the applicant to redesign the Project to meet the requirements of the LCP. The applicant stated that the Project would not be visible from Kanan Dume Road, so staff asked the applicant to install the story poles. The applicant agreed, and the story poles were erected in March of 2018. On March 29, 2018, staff visited the site and found that the story poles were clearly visible from Kanan Dume Road. Therefore the building site is a Scenic Resource Area, and the maximum allowed height is 18 feet. Staff again asked the applicant to redesign the Project to be consistent with the SMMLCP. The applicant did not redesign the Project and ultimately asked that staff take the Project to hearing even if that meant a recommendation for denial.

### **ENVIRONMENTAL DETERMINATION**

The California Environmental Quality Act ("CEQA") and the County environmental guidelines do not require a CEQA determination for projects that are to be disapproved (CEQA Guidelines Section 15270).

### **STAFF EVALUATION**

#### General Plan Consistency

The Los Angeles County General Plan (Countywide General Plan) establishes a planning area framework in which all community-based plans build on countywide policies in order to suit specific community needs or regulatory environments. Coastal Zone land use plans, one form of community-based plans, establish land use patterns and policies to guide development in the Coastal Zone and are components of the Countywide General Plan. As these plans establish appropriate land use patterns and policy, consistency with a certified land use plan is by extension consistency with the Countywide General Plan.

#### Santa Monica Mountains Land Use Plan Consistency

The Project Site is located within the RL20 (Rural Lands 20) land use category of the Santa Monica Mountains Land Use Plan ("Land Use Plan"). Together, the Land Use Plan and the Local Implementation Program ("LIP") make up the SMMLCP. The LIP is housed

within County Code Sections 22.44.600 through 22.44.2190. Areas within the Rural Lands land use category consist of rolling hills, steep slopes, and remote mountain land with difficult or no access. Rural Lands may contain some concentrations of development but are also surrounded by large areas of undisturbed land. The principal permitted use in Rural Lands is single-family residences. Other low impact uses are also allowed including: confined animal facilities, retreats, public recreation areas, campgrounds, and trails that are sensitively located and consistent with all development standards. The Project is a request to authorize the construction of a new single-family residence, driveway, motor court, landscaping, hardscaping, retaining walls, a private septic system, water wells, and water tanks. Therefore, the proposed uses are consistent with the intended uses of the underlying RL20 land use category. However, while the Project is consistent with these intended uses, it is inconsistent with the LUP's guiding principle and numerous polices as discussed below.

*Guiding Principle: Resource protection has priority over development.*

Due to the Project's size (approximately 8,724 square feet) and location within the parcel, the Project will result in significant impacts to existing coastal biological resources. These impacts would result from, but are not limited to, land form alteration for the building pad and access road and vegetation removal for fuel modification and brush clearance. In total, the Project is anticipated to affect a total area of approximately 6.55 acres both on and off the subject property. Given the size of the proposed single-family residence and the associated amount of disturbance, the Project is not consistent with the Guiding Principle. Further elaboration on this is provided below regarding consistency with applicable LUP policies.

*CO-10: Limit grading, soil compaction and removal of locally indigenous vegetation to the minimum footprint needed to create a building site, allow access, and provide fire protection for the proposed development. Monitor grading projects to ensure grading conforms to approved plans.*

The Project is inconsistent with this policy because the impacts of the Project's proposed grading and fuel modification are considerable. The applicant is proposing a design and layout that fails to minimize the amount of grading by siting the proposed single-family residence in a location that requires a 1,550-foot-long driveway to be constructed/improved. The proposed building site area is approximately 9,000 square feet in size, which will accommodate the proposed 8,724-sq. ft., 40-foot tall single-family residence. In all, the Project proposes 6,300 cubic yards of grading consisting of 3,050 cubic yards of cut and 3,250 cubic yards of fill. Of this, 750 cubic yards of cut and 3,230 cubic yards of fill are required for the construction/improvement of the private driveway, and 2,300 cubic yards of cut and 30 cubic yards of fill are required for the building site area. The Project is not the minimum needed to create a habitable permanent residence. Therefore, the Project is inconsistent with Policy CO-10.

*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 LCP amendment that is certified by the Coastal Commission.*

Only two non-resource dependent uses are allowed to be approved in H1: public works projects and access roads to lawfully-permitted uses outside of H1 habitat when there is no other feasible alternative to provide access to 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. While the subject property is a legal parcel, the development proposes fuel modification in identified H1 habitat both on the subject property and on the adjoining parcel. Vegetation clearance in order to create a defensible space in the event of a fire is not one of the two uses allowed in H1 habitat. Additionally, the motor court is proposed partly within H1 habitat. This motor court is not the minimum turnaround necessary for Fire Department access, nor is it the minimum amount of paving required for vehicular access to the proposed single-family residence. Therefore, the development of the motor court unnecessarily impacts H1 habitat, and this impact is inconsistent with Policy CO-41. Therefore, the Project is inconsistent with Policy CO-41.

*CO-44: New development shall be sited in a manner that avoids the most biologically-sensitive habitat onsite where feasible, while not conflicting with other LCP policies, in the following order of priority: H1, H2 High Scrutiny, H2, and H3. Priority shall be given to siting development in H3 habitat, but outside of areas that contain undisturbed native vegetation that is not part of a larger contiguous habitat area. If infeasible, priority shall be given to siting new development in such H3 habitat. If it is infeasible to site development in H3 habitat areas, development may be sited in H2 habitat if it is consistent with the specific limitations and standards for development in H2 habitat and all other provisions of the LCP. New development is prohibited in H1 habitat unless otherwise provided in Policy CO-41.*

The proposed development is located on a parcel with H1, H2, and H3 habitat. The building site area and portions of the required fuel modification area for the Project are

within H1 and H2 habitat. The H3 habitat on the property will be minimally impacted by the Project. As such, the Project is inconsistent with the order of priority laid out in CO-44 and is therefore inconsistent with Policy CO-44.

*CO-65 Variances or modifications to required development standards that are not related to H1 and H2 protection (street setbacks, height limits, etc.) shall be permitted where necessary to avoid impacts to H1 habitat and to avoid or minimize impacts to H2 habitat.*

The Project requires a Variance because the length of the driveway (1,550 feet) exceeds the 300-foot maximum driveway length allowed by Policy CO-79 and codified in Section 22.44.1920(C)(1)(c). The Project also requires a Variance because the height of the proposed structure (40 feet) exceeds the 18-foot maximum height limit for structures within scenic areas pursuant to Policy CO-147 and codified in Section 22.44.1250(C). Policy CO-65 does not allow Variances to be granted for impacts related to H1 or H2 habitat, but Variance may be granted to modify development standards to protect H1 or H2 habitat. Additionally, a Variance is required because the location of the proposed private septic system is within the dripline of an oak tree. Pursuant to County Code Section 22.44.1340(B)(3)(c), private septic systems shall be located 50 outside of the dripline of existing native trees, including oak trees. The Project's excessive driveway length, excessive structure height, and inconsistency with the setback requirement between a septic system and native trees do not avoid impacts to H1 habitat nor do they minimize impacts to H2 habitat, and in fact, result in additional, unjustifiable impacts. Therefore, the Project is inconsistent with Policy CO-65.

*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 requests Variances from development standards relating to driveway length and structure height to the detriment of H1 and H2 habitat areas. The Project does not prioritize protection of this habitat, and instead prioritizes the development of an 8,724-sq. ft., 40-foot tall single-family residence with an attached 1,290 sq. ft., five-car garage, and associated infrastructure including a 1,550-foot driveway, a motor court, landscaping, hardscaping, retaining walls, a private septic system, two water wells, two water tanks, 6,300 cubic yards of grading, and native tree impacts including the removal of three trees and encroachments into the protected zone of 125 additional trees. Therefore, the Project is inconsistent with Policy CO-66.

*CO-99 New development shall be sited and designed to preserve oak, walnut, sycamore, bay, or other native trees to the maximum extent feasible that are not otherwise protected as H1 or H2 habitat and that have at least one trunk measuring six inches or more in diameter, or a combination of any two trunks measuring a total of eight inches or more in*



*diameter, measured at four and one-half feet above natural grade. Removal of native trees shall be prohibited except where no other feasible alternative exists. Development shall be sited to prevent any encroachment into the protected zone of individual native trees to the maximum extent feasible, as set forth below. Protected Zone means that area within the dripline of the tree and extending at least five feet beyond the dripline, or 15 feet from the trunk of the tree, whichever is greater. Removal of native trees or encroachment in the protected zone shall be prohibited for accessory uses or structures. If there is no feasible alternative that can prevent tree removal or encroachment, then the alternative that would result in the fewest or least-significant impacts shall be selected. Adverse impacts to native trees shall be fully mitigated, with priority given to on-site mitigation. Mitigation shall not substitute for implementation of the feasible project alternative that would avoid impacts to native trees and/or woodland habitat.*

The Project proposes native tree impacts including the removal of one oak, one black walnut, and one toyon, as well as encroachments into the protected zones of 122 oaks, one bigpod ceanothus, one big-leaf maple trees, and one toyon. These proposed impacts to native trees are considerable, and the Project does not preserve native trees to the maximum extent feasible. There are other areas of the subject property less populated with native trees that could be explored for access and development opportunities that would reduce impacts to native trees relative to the existing proposed project. Therefore, the Project is inconsistent with Policy CO-99.

*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 and consist of Scenic Elements, Significant Ridgelines, and Scenic Routes. In addition to the resources identified on Map 3, the public parkland and recreation areas identified on Map 4 are also considered Scenic Resource Areas.*

The building site and the story poles erected by the applicant to approximate the building envelope of the proposed single-family residence are clearly visible from Kanan Dume Road, a designated scenic route pursuant to Policy CO-126. As such, the building site area is a Scenic Resource Area. As such, the building site area is a Scenic Resource Area pursuant to Policy CO-125, and the maximum structure height allowed within a Scenic Resource Area, is 18 feet above existing or finished grade, whichever is lower, pursuant to policy CO-147 and codified in Section 22.44.1250(C). As depicted on the site plan and elevations, the proposed residence would reach a maximum height of 40 feet above finished grade. Therefore, the Project is inconsistent with Policy CO-125.

*CO-126 Maintain and enhance the quality of vistas along identified Scenic Routes. The following roadways are considered Scenic Routes:*

- *Mulholland Scenic Corridor and County Scenic Highway;*
- *Pacific Coast Highway (SR-1);*
- *Malibu Canyon/Las Virgenes Road County Scenic Highway;*
- *Kanan Dume Road;*
- *Topanga Canyon Boulevard (SR-27);*
- *Old Topanga Canyon Road;*
- *Saddle Peak Road/Schueren Road;*
- *Piuma Road;*
- *Encinal Canyon Road;*
- *Tuna Canyon Road;*
- *Rambla Pacifico Road;*
- *Las Flores Canyon Road;*
- *Corral Canyon Road;*
- *Latigo Canyon Road;*
- *Little Sycamore Canyon Road; and*
- *Decker Road*

The Project is located on a property that is adjacent and visible from Kanan Dume Road, a designated scenic route. Therefore, the areas within 200 feet of Kanan Dume Road and areas that are visible from Kanan Dume Road are Scenic Resource Areas.

*CO-128 New development shall be subordinate to the character of its setting.*

As proposed, the single-family residence is a large, 8,724-sq. ft, 40-foot-tall rectilinear steel and glass building. The height, shape, and façade are minimally articulated. The design of the structure does not conform to the topography of the site, and the structure is not sited in the least visible location to be placing the structure on the property. Impacts could be significantly reduced by reducing the footprint and height of the structure, and by clustering the building site area with the development on the property to the north.

*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 building site and the story poles erected by the applicant to approximate the building envelope of the proposed single-family residence are clearly visible from Kanan Dume

Road, a designated scenic route pursuant to Policy CO-126. As such, the building site area is a Scenic Resource Area pursuant to Policy CO-125, and the maximum structure height allowed within a Scenic Resource Area, is 18 feet above existing or finished grade, whichever is lower, pursuant to policy CO-147 and codified in Section 22.44.1250(C). As depicted on the site plan and elevations, the proposed residence would reach a maximum height of 40 feet above finished grade. Therefore, the Project is inconsistent with Policy CO-131.

*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.*

The proposed development site is visible from Kanan Dume Road, a designated scenic route and scenic resource. Accordingly, the Project is limited to a maximum height of 18 feet to prevent impacts to scenic resources. However, as depicted on the site plan and elevations, the height of the proposed residence reaches a maximum of 40 feet. Therefore, the Project is inconsistent with Policy CO-147.

*LU-40: Site and design development so as to: protect life and property; protect public lands, H1 and H2 habitat areas, dedicated open space, streams, scenic resources, public views, and other natural features and resources; maximize open space areas; and, minimize the overall vegetation clearance needed for fire protection.*

Development of the Project's building site area would require the removal of H2 habitat, and the Project's fuel modification plan proposes the removal of H1 habitat. H1 and H2 habitat would also both be impacted by the proposed motor court. This motor court is not the minimum turnaround necessary for Fire Department access, nor is it required for vehicular access to the proposed single-family residence. Therefore, the development of the motor court unnecessarily impacts H1 and H2 habitat. Therefore, the Project is not protective of H1 and H2 habitat areas.

Furthermore, the proposed development is visible from Kanan Dume Road, a designated scenic route and scenic resource. Accordingly, the Project is limited to a maximum height of 18 feet to prevent impacts to scenic resources. However, the height of the proposed residence is 40 feet. Therefore, the Project is not protective of scenic resources or public views.

The building site area is not clustered with other nearby existing development. Therefore, the Project does not minimize the overall vegetation clearance needed for fire protection. This impact, along with the proposed impacts to H1 habitat, H2 habitat, scenic resources, and public views results in the Project being inconsistent with Policy LU-40.

Zoning Ordinance and Development Standards Compliance

The Project does not comply with the development standards and requirements for the R-C Zone, Area Wide Development Standards, or Area-Specific Development Standards, including:

- R-C (Rural Coastal) Zone Development Standards (22.44.1750);
- Variances (22.44.1150)
- Height Limits (22.44.1250);
- Grading (22.44.1260);
- Visual Resource Protection (22.44.1440);
- Biological Resources (22.44.1800 et. Seq.);
- Land Planning and Development Standards (22.44.1910);
- Development Standards (22.44.1920);
- Scenic Resource Areas (22.44.1990 et. Seq.); and
- Hazards Area (22.44.2050 et. Seq.).

R-C (Rural Coastal) Zone Development Standards

Pursuant to County Code Section 22.44.1750, the R-C Zone permits single-family residences and accessory uses and structures, including but not limited to: garages, grading, landscaping features and gardens, onsite wastewater treatment systems, and required Fire Department turnarounds. The Project proposes the construction of a 8,724 sq. ft., 40-foot tall single-family residence with an attached 1,290 sq. ft., five-car garage, and associated infrastructure including a 1,550-foot driveway, a motor court, landscaping, hardscaping, retaining walls, a private septic system, two water wells, two water tanks, 6,300 cubic yards of grading. As such, the Project is a use permitted in the R-C zone.

The development standards for premises in the R-C zone are the same as for the R-1 zone, listed in County Code Section 22.44.1710. This section includes requirements regarding roofing, siding, yard setbacks, parking, and minimum required area of a single-family residence. While the Project generally complies with these requirements including the yard requirements, parking requirement, and minimum required area of a single-family residence, County Code Section 22.44.1710(E)(3) also requires development in R-1 and R-C zones to comply with "all applicable development standards within this LIP, including the Community-Wide Development Standards in County Code Section 22.44.1220 et seq., and any of the applicable Area-Specific Development Standards in County Code Section 22.44.1800 et seq." As is outlined below, the Project is inconsistent with many of the applicable development standards within the LIP. Therefore, the Project is inconsistent with the development standards of the R-C zone.

Variances

Pursuant to County Code Section 22.44.1150, the Project requires a Variance because the length of the driveway (1,550 feet) exceeds the 300-foot maximum driveway length allowed by County Code Section 22.44.1920(C). The Project also requires a Variance because the height of the proposed structure (40 feet) exceeds the 18-foot maximum

height limit for structures within scenic areas pursuant to County Code Section 22.44.1250(C). Furthermore, a Variance is required because the location of the proposed private septic system is within the dripline of an oak tree. Pursuant to County Code Section 22.44.1340(B)(3)(c), private septic systems shall be located 50 outside of the dripline of existing native trees, including oak trees.

Land Use Plan Policy CO-65 does not allow Variances to be granted for impacts related to H1 or H2 habitat, but Variances may be granted to modify development standards to protect H1 or H2 habitat. County Code Section 22.44.1150(D) requires that applications for Variances include information that substantiates certain facts to the satisfaction of the Regional Planning Commission, including that the granting of the Variance will not be materially detrimental to coastal resources, which includes biological and scenic resources. The Project's excessive driveway length and structure height are materially detrimental to the Santa Monica Mountains' coastal resources; therefore, the Project is inconsistent with County Code Section 22.44.1150.

#### Height Limits

Pursuant to County Code Section 22.44.1250(C), "Every residence and every other building or structure in a Scenic Resource Area, shall have a height not to exceed 18 feet above natural or finished grade, whichever is lower." The building site and the story poles erected by the applicant, are clearly visible from Kanan Dume Road, a designated scenic route pursuant to County Code Section 22.44.2040. Therefore, the building site is a Scenic Resource Area pursuant to County Code Section 22.44.2000(B) which states that Scenic Resource Areas consist of, "all places on, along, within or visible from Scenic Routes. As such, the maximum allowable height for the Project's residence is 18 feet above natural or finished grade, whichever is lower. The Project's residence is proposed to be 40 feet above finished grade. Therefore, the Project is inconsistent with the height limit requirement of County Code Section 22.44.1250.

#### Grading

Pursuant to County Code Section 22.44.1260(C)(3), a Major CDP is required because "the project involves grading of amounts greater than 5,000 cubic yards of total cut plus total fill material." The Project proposes 6,300 cubic yards of total cut plus total fill.

While grading is generally not allowed in areas that have a slope of 50 percent or greater, County Code Section 22.44.1260(J) does allow grading in such areas where such grading would be more protective of coastal resources, including scenic resources and biological resources. Therefore, portions of the property with steep slopes could still be considered for development if such development would reduce the impacts to scenic resources and/or biological resources.

#### Visual Resource Protection

County Code Section 22.44.1440(E)(2) requires that projects "minimize adverse visual impacts to the existing trails, recreational facilities, and scenic resources to the maximum

extent feasible." The Project Site is located on a parcel adjoining Kanan Dume Road, a designated scenic route. As such, development that would be visible from this road is to be limited to a maximum height of 18 feet to maintain the integrity of the viewshed from the scenic route. The Project's proposed single-family residence has been designed with a height of 40 feet. Therefore, the Project is not consistent with this development standard. . Furthermore, County Code Section 22.44.1440(E)(3) requires that projects are designed such that they "Ensure that development is subordinate to the natural setting and character of the area, and all impacts on scenic resources are eliminated to the maximum extent feasible, consistent with all biological resource protection policies of the LUP". Therefore, the Project is inconsistent with the visual resource protection requirements of County Code Section 22.44.1440.

### Biological Resources

Pursuant to the biological resource requirements of County Code Section 22.44.1800 et seq., the applicant submitted a Biological Assessment, prepared by a qualified biologist, which was reviewed by the Department's biologist for accuracy and adequacy. The Department Biologist determined that the Biological Assessment was sufficient. Pursuant to County Code Section 22.44.1860, the Project and the associated Biological Assessment were reviewed by the Environmental Review Board (ERB) because the Project is within 200 feet of H1 and H2 habitat. At its meeting on May 15, 2017, the ERB made several recommendations to minimize potential resource impacts. At its meeting on June 19, 2017, the ERB made additional recommendations, including that the applicant move the residence to the north and west. In response, the applicant revised the Project such that the footprint and the height of the house had both increased, and the house was moved approximately 20 feet to the west and approximately 40 feet to the north. At its meeting on August 28, 2017, after reviewing the revised plans, the ERB recommended that the Project as designed is not consistent with the biological resource protection policies and development standards of the SMMLCP. The minutes of all three ERB meetings are attached.

County Code Section 22.44.1890(C) identifies the various uses and development activities that are permitted within the various habitat areas of the Coastal Zone and states that development is prohibited within H1 habitat areas with the exception of: resource dependent uses, public works projects, and access roads to a lawfully-permitted use where the access and the use meet five specific criteria found in Section 22.44.1890(C)(2)(b). The project includes three development activities within the H1 areas including the proposed driveway and various fuel modification and brush clearance activities. The Project's proposed driveway, which is considered an access road in this context, meets the literal criteria in that it is a use permitted in H1 habitat; however, within the context of the previously-discussed policies aiming to design proposed development in a fashion that minimizes disturbance to H1 habitat and code requirements limiting the length of the access road to 300 feet, the Project's proposed driveway is not consistent with the intent of this section. Further, the Project also proposes brush clearance for fuel modification purposes within H1 habitat. Brush clearance for fuel modification meets the

definition of development found in County Code Section 22.44.630, but it is not a kind or type of development that is allowed within H1 habitat. Additionally, the motor court is proposed partly within H1 habitat. This motor court is not the minimum turnaround necessary for Fire Department access, nor is it the minimum amount of paving required for vehicular access to the proposed single-family residence. Therefore, the development of the motor court is not an allowed use within H1 habitat pursuant to County Code Section 22.44.1890(C). Therefore, the Project is inconsistent with the biological resource protection requirements of County Code Sections 22.44.1800 et seq.

Biological Resources Land Planning and Development Standards

County Code Section 22.44.1910(A) states that, "New non-resource-dependent development shall be prohibited in areas designated H1 Habitat to protect these most sensitive environmental resource areas from disruption of habitat values, unless otherwise provided in Section 22.44.1890." As discussed above, fuel modification and brush clearance activities are not one of the kind or type of development that is allowed within H1 habitat. Furthermore, the proposed motor court is also development that is not allowed in H1 habitat. Therefore, the Project's proposed impacts to H1 are not allowed and the Project is inconsistent with the requirements of County Code Section 22.44.1910(A).

County Code Section 22.44.1910(C) requires that "New development shall be sited in a manner that avoids the most biologically-sensitive habitat on site where feasible, in the following order of priority H1, H2 High Scrutiny, H2, H3-- while not conflicting with other LCP policies. Priority shall be given to siting development in H3 Habitat." The proposed development is located on a parcel with H1, H2, and H3 habitat. The building site area and portions of the required fuel modification area and brush clearance activities for the Project are within H1 and H2 habitat. The H3 habitat on the property will be minimally impacted by the Project. As such, the Project is inconsistent with the order of priority for habitat impacts and is therefore inconsistent with County Code Section 22.44.1910(C).

County Code Section 22.44.1910(D) state that, "protection of H1 and H2 habitat and public access shall take priority over other development standards, and if there is any conflict between the biological resource and/or public access protection standards and other development standards, the standards that are most protective of H1 and H2 habitat and public access, as determined by the County, shall have precedence." The Project does not prioritize protection of H1 and H2 habitat. Instead, the Project prioritizes the development of a 8,724-sq. ft., 40-foot-tall single-family residence with an attached 1,290 sq. ft., five-car garage, and associated infrastructure including a 1,550-foot driveway, a motor court, landscaping, hardscaping, retaining walls, a private septic system, two water wells, two water tanks, and 6,300 cubic yards of grading. In addition to the required Major CDP, the Project requests variances from development standards relating to driveway length and structure height. The variance requests are not related to relief from development standards to preserve sensitive habitat and would in fact result in additional impacts to sensitive habitat including vegetation removal and native tree impacts

including the removal of three trees as well as encroachments into the protected zones of 125 trees. Therefore, the Project is inconsistent with County Code Section 22.44.1910(D).

Biological Resources Development Standards

County Code Section 22.44.1920(C)(1)(c) limits the length of new access roads or driveways to a maximum of 300 feet. The Project proposes a 1,550-foot driveway, inconsistent with this requirement.

County Code Section 22.44.1920(K) states that, "New development shall be sited and designed to preserve native oak, walnut, sycamore, bay, or other native trees, that have at least one trunk measuring six inches or more in diameter, or a combination of any two trunks measuring a total of eight inches or more in diameter, measured at four and one-half feet above natural grade, to the maximum extent feasible. Removal of native trees shall be prohibited except where no other feasible alternative exists to allow a principal permitted use that is the minimum necessary to provide a reasonable economic use of the property. Development shall be sited to prevent any encroachment into the protected zone of individual native trees to the maximum extent feasible." The scope of the Project includes the construction of a new 8,724-sq. ft., 40-foot-tall single-family residence with an attached 1,290 sq. ft., five-car garage, associated infrastructure including a 1,550-foot driveway, a motor court, landscaping, hardscaping, retaining walls, a private septic system, two water wells, two water tanks, 6,300 cubic yards of grading. As designed, the scope of the Project cannot be considered the minimum necessary to provide a reasonable economic use of the property. Furthermore, the Project's native tree impacts are considered substantial and include the removal of one oak, one black walnut, and one toyon, as well as encroachments into the protected zones of 122 oaks, one bigpod ceanothus, one big-leaf maple trees, and one toyon. The applicant has not demonstrated that the Project, as designed, is the design that minimizes impacts to native trees. Therefore, the Project has not been shown to be sited "to prevent any encroachment into the protected zone of individual native trees to the maximum extent feasible." For these reasons, the Project is inconsistent with County Code Section 22.44.1920(K).

Scenic Resource Areas

Pursuant to County Code Section 22.44.2000(B), Scenic Resource Areas include "places on, along, 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." The Project Site is visible from Kanan Dume Road, a designated scenic route. Therefore, and as previously discussed, "every residence and every other building or structure in a Scenic Resource Area, shall have a height not to exceed 18 feet above natural or finished grade, whichever is lower." As depicted on the site plan and elevations, the proposed single-family residence would reach a maximum height of 40 feet above finished grade, and is therefore inconsistent with County Code Section 22.44.2000.



Furthermore, County Code Section 22.44.2040(A) states that "if there is no feasible building site location on the proposed project site where development would not be visible from a Scenic Resource Area, 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." As depicted on the site plan and elevations, the proposed single-family residence is designed in a rectilinear form with little to no façade or height articulation or other elements to minimize massing and conform to existing topographic features. Therefore, the Project is inconsistent with County Code Section 22.44.2040.

#### Hazards Area

The Project Site is not within a liquefaction zone or FEMA flood zone. The Project Site is within a mapped landslide hazard zone and a Very High Fire Hazard Severity Zone. Prior to public hearing, proposed projects are generally reviewed and cleared for hearing by four Los Angeles County Departments including the Department of Public Works and the Fire Department. These department review proposed projects, and their review and requirements serve to mitigate hazardous conditions like these. Since the Project does not meet development standards, the Project was not cleared to be circulated to these departments for review.

#### Site Visit

Staff conducted a site visit on March 29, 2018 and found the building site and the story poles clearly visible from the Kanan Dume Road Right-Of-Way. Kanan Dume Road is a designated scenic route.

#### Burden of Proof

The applicant is required to substantiate all facts identified by Section(s) 22.44.850 of the County Code. The Burden of Proof with applicant's responses is attached. Staff is of the opinion that the applicant has not met the burden of proof.

#### Neighborhood Impact/Land Use Compatibility

The Project is proposing the construction of a 8,724-sq. ft., 40-foot tall single-family residence with an attached 1,290 sq. ft., five-car garage, and associated infrastructure including a 1,550-foot driveway, a motor court, landscaping, hardscaping, retaining walls, a private septic system, two water wells, two water tanks, 6,300 cubic yards of grading, the removal of three native trees, and the encroachment into the protected zone of an additional 125 native trees. The Project Site is accessed via a private driveway which accesses directly from Kanan Dume Road. The Project is located on a parcel with H1, H2, and H3 habitat. The ERB reviewed the Project at three of its meetings: May 15, 2017, June 19, 2017, and August 28, 2017. After its review, the ERB recommended that the

Project is not consistent with the biological resource protection policies and development standards of the SMMLCP.

The Project has been designed so that the single-family residence is located within H2 habitat in the northeastern portion of the parcel. Impacts from the required fuel modification activities will be in H1 and H2 habitat areas. Additionally, the driveway runs through H1 habitat and is the cause of the majority of the native tree impacts. The Project's impacts to sensitive resources were not significantly reduced when the applicant redesigned the Project at the request of ERB.

The proposed single-family residence is the principal permitted use in the RL20 land use category, but the scale of the proposed development is inconsistent with the many goals and policies of the Land Use Plan, as well as the Land Use Plan's guiding principle, "resource protection has priority over development." There is parkland located immediately to the south and west of the subject property, the adjacent road, Kanan Dume Road, is a designated scenic route, and there is a considerable amount of sensitive, native habitat on the property. As such, the project is inconsistent with the surrounding land uses.

The Project is inconsistent with the development standards for the R-C zone. The Intent and purpose of the R-C zone is "to allow for residential development that is consistent with the goals of preserving the rural character and scenic quality of the Coastal Zone, and to minimize the impacts of future development on the region's coastal and environmental resources." A 40-foot tall house does not preserve the scenic quality of the Coastal Zone, and the scale of the house do not minimize impacts to environmental resources. The Project is also inconsistent with the community-wide development standards, and the area-specific development standards which include biological resources and scenic resources areas.

#### **COUNTY DEPARTMENT COMMENTS AND RECOMMENDATIONS**

As the Project is not consistent with applicable policies and land use development standards, the Project was not routed for consultation to other County agencies involved in land development.

#### **OTHER AGENCY COMMENTS AND RECOMMENDATIONS**

After reviewing the Project at its meetings on May 15, 2017 and June 19, 2017, the ERB recommended that the applicant move the residence to the north and west. In response, the applicant revised the Project such that the footprint and the height of the house had both increased, and the house was moved approximately 20 feet to the west and approximately 40 feet to the north. At its meeting on August 28, 2017, after reviewing the revised plans, the ERB recommended that the Project, as designed, is not consistent with the biological resource protection policies and development standards of the SMMLCP. The minutes of all three ERB meetings are attached.

**LEGAL NOTIFICATION AND PUBLIC OUTREACH**

Pursuant to the provisions of Sections 22.44.970 and 22.44.990 of the County Code, the community was appropriately notified of the public hearing by mail, newspaper, property posting, library posting and DRP website posting.

**PUBLIC COMMENTS**

As of the writing of this staff report, staff has received one e-mail message regarding the Project. The author is concerned with the possible denial of the Project and expressed a hope that both development and wildlife can be accommodated within the Santa Monica Mountains in general and on her property in particular. This e-mail message is included as an attachment.

**FEES/DEPOSITS**

If approved, fees identified in the attached Project conditions will apply unless modified by the Regional Planning Commission.

**STAFF RECOMMENDATION**

The following recommendation is made prior to the public hearing and is subject to change based upon testimony and/or documentary evidence presented at the public hearing:

Staff recommends **DENIAL** of Project Number R2014-00461-(3), Major Coastal Development Permit Number RCDP-201500099, and Variance Number RCDP-201500100.

**SUGGESTED DENIAL MOTION:**

**I MOVE THAT THE REGIONAL PLANNING COMMISSION, CLOSE THE PUBLIC HEARING AND DENY MAJOR COASTAL DEVELOPMENT PERMIT NUMBER RCDP-201500099 AND VARIANCE NUMBER RCDP-201500100 SUBJECT TO THE ATTACHED FINDINGS.**

Prepared by Joshua Huntington, Principal Regional Planner, Coastal Permits Section  
Reviewed by Robert Glaser, Supervising Regional Planner, Coastal Permits Section

**Attachments:**

- Draft Findings
- Applicant's Project Narrative and Burden of Proof statement
- Correspondence
- Site Photographs
- Aerial Image
- Land Use Map & Zoning Map
- Site Plan, Floor Plans, Elevations
- Landscaping Plans
- ERB Minutes/Determination

**PROJECT NO. R2014-00461-(3)  
MAJOR COASTAL DEVELOPMENT PERMIT NO. RCDP-  
201500099; VARIANCE NO. RCDP-201500100**

**STAFF ANALYSIS  
PAGE 19 OF 19**

RG:JH  
10/11/18

**DRAFT FINDINGS OF THE REGIONAL PLANNING COMMISSION  
AND ORDER  
COUNTY OF LOS ANGELES  
PROJECT NO. R2014-00461-(3)  
MAJOR COASTAL DEVELOPMENT PERMIT NO. RCDP-201500099  
VARIANCE NO. RCDP-201500100**

1. The Los Angeles County Regional Planning Commission ("Commission") conducted a duly-noticed public hearing in the matter of Major Coastal Development Permit No. RCDP-201500099 ("CDP") on October 17, 2018.
2. The applicant, Don Schmitz ("applicant"), requests the Project Permits to authorize the construction of a 8,724-sq. ft., 40-foot-tall single-family residence with an attached 1,290-sq. ft., five-car garage, and associated infrastructure including a 1,550-foot-long driveway, a motor court, landscaping, hardscaping, retaining walls, a private septic system, two water wells, two water tanks, 6,300 cubic yards of grading a 9,000-sq. ft. building site area, and native tree impacts including the removal of one oak, one black walnut, and one toyon, as well as encroachments into the protected zones of 122 oaks, one bigpod ceanothus, one big-leaf maple tree, and one toyon ("Project") in the R-C-20 (Rural Coastal – 20-Acre Minimum Required Lot Area) Zone, pursuant to Los Angeles County Code ("County Code") Sections 22.44.1260 (Grading), 22.44.1750 (R-C Zone), and 22.44.1800 et seq. (Biological Resources).

A Variance is required because the applicant proposes a driveway length of 1,550 feet, which exceeds the 300-foot limitation pursuant to County Code Sections 22.44.1150 (Variances) and 22.44.1920(C) (Development Standards for Access Roads and Trails). A Variance is also required because, as designed, the proposed structure height of 40 feet exceeds the 18-foot height limitation pursuant to County Code Sections 22.44.1150 (Variances), 22.44.1250 (Height Limits), and 22.44.1990 et seq. (Scenic Resource Areas). Additionally, a Variance is required because the location of the proposed private septic system is within the dripline of an oak tree. Pursuant to County Code Section 22.44.1340(B)(3)(c), private septic systems shall be located 50 outside of the dripline of existing native trees, including oak trees.

3. The Project Site (APN 4465-002-023) contains 6.61 gross acres and 3.45 net acres and consists of one legal lot. The discrepancy between the net and gross areas is due to slope and drainage easements on the property. The Project Site is irregularly shaped with sloping topography and is currently undeveloped except for an existing unpaved private access road.
4. The Project Site is located in The Malibu Zoned District and is currently zoned R-C-20 (Rural-Coastal-20-Acre Minimum Required Lot Area)
5. The Project Site is located within the RL20 (Rural Lands 20) land use category of the Santa Monica Mountains Local Coastal Program Land Use Policy Map.
6. Surrounding properties within a 700-foot radius are zoned as follows:  
North: R-C-20

South: O-S-P (Open Space-Parks)  
East: R-C-20  
West: O-S-P

7. Surrounding properties within a 700-foot radius are developed as follows:
  - North: Adult Residential Facility, Single-Family Residences
  - South: Parkland
  - East: Vacant Lands/Undeveloped Lands
  - West: Parkland
  
8. The property was rezoned R-C-20 by Ordinance No. 2006-00009-(3) and became effective on October 10, 2014. The applicant initially applied for a Plot Plan Approval in Concept for a single-family residence (RPP-201400174) and an Oak Tree Permit Approval in Concept (ROAK-201400012) on February 20, 2014. These applications were withdrawn when the applicant submitted the CDP and Variance applications associated with the Santa Monica Mountains Local Coastal Program after coastal development permit issuing authority was transferred to Los Angeles County following certification of the Santa Monica Mountains Local Coastal Program. Certificate of Compliance No. RCOC 2006 00592 was issued and recorded on February 26, 2007. This document confirms that the property is a legally created parcel. The property was zoned A-1-1 (Light Agriculture- 1 Acre Minimum Required Lot Area) on March 11, 1958 by Ordinance No. 7310.
  
9. The applicant initially filed an application for a Plot Plan Approval in Concept for a single-family residence (RPP-201400174) and an Oak Tree Permit Approval in Concept (ROAK-201400012) on February 20, 2014. This was before the California Coastal Commission ("Coastal Commission") certified the Santa Monica Mountains Local Coastal Program ("SMMLCP") on October 10, 2014. At that time, the applicant would have needed the Plot Plan Approval in Concept and Oak Tree Permit Approval in Concept to be approved by Los Angeles County before he could submit an application for a Coastal Development Permit for the proposed development with the Coastal Commission. Since the applicant had not yet filed an application with the Coastal Commission prior to the certification of the SMMLCP, he no longer could submit an application for a CDP with the Coastal Commission. With the certification of the LCP, Los Angeles County was given CDP issuing authority, and the Plot Plan Approval in Concept and Oak Tree Permit Approval in Concept became the incorrect entitlements for the Project.

On September 9, 2015, the applicant withdrew the Plot Plan Approval in Concept and the Oak Tree Permit Approval in Concept and applied for the Major CDP and Variance. After reviewing the Project, staff met with the applicant and told him that staff could not support the Project as designed, and that staff would recommend denial unless the Project were redesigned to meet the requirements of the SMMLCP. At that meeting, staff cited the height of the proposed single-family residence and the impacts to sensitive habitat, including H1 habitat, as the main reason why staff could not

support the Project. Also discussed was the over-long driveway and staff asked the applicant to find another option for access to the property.

At that meeting, the applicant asked that the Biological Assessment be reviewed by a Los Angeles County biologist, and that the Project be presented to ERB prior to taking the Project to public hearing for denial, and staff committed to presenting the Project to ERB for their review, which occurred on May 15, 2017, June 19, 2017, and August 28, 2017.

The ERB asked the applicant to redesign the Project to move it to the north and west to minimize the Project's impacts. While the applicant did move the proposed single-family residence approximately 20 feet to the west and approximately 40 feet to the north, this was not a significant enough redesign to allow the ERB to support the Project. Therefore, the ERB recommended that the Project as designed is not consistent with the biological resource protection policies and development standards of the SMMLCP. After the ERB meetings, staff continued to meet with the applicant and continued to ask the applicant to redesign the Project to meet the requirements of the LCP. The applicant stated that the Project would not be visible from Kanan Dume Road, so staff asked the applicant to install the story poles. The applicant agreed, and the story poles were erected in March of 2018. On March 29, 2018, staff visited the site and found that the story poles were clearly visible from Kanan Dume Road. Therefore the building site is a Scenic Resource Area, and the maximum allowed height is 18 feet. Staff again asked the applicant to redesign the Project to be consistent with the SMMLCP. The applicant did not redesign the Project and ultimately asked that staff take the Project to hearing even if that meant a recommendation for denial.

10. The California Environmental Quality Act ("CEQA") and the County environmental guidelines do not require a CEQA determination for projects that are to be disapproved (CEQA Guidelines Section 15270).
11. The site plan depicts a 8,724-sq. ft., 40-foot tall single-family residence with an attached 1,290-sq. ft., five-car garage, and associated infrastructure including a 1,550 ft. driveway, a motor court, landscaping, hardscaping, retaining walls, a private septic system, two water wells, and two water tanks on a variably sloped parcel. The building site area is proposed to be in the northeast area of the subject property at the end of the 1,550-foot-long driveway, and just east of the proposed motor court. The building site area is located H2 habitat, the motor court is located in both H1 and H2 habitat, and the areas subject to required fuel modification and brush clearance are located in mapped H1, H2, and H3 habitat areas. The habitat mapping for the property is generally consistent with the findings of the field surveys by the applicant's biologist. Minor changes to the mapping have been proposed by the applicant's biologist and have been verified by the County's biologist and the Los Angeles County Environmental Review Board ("ERB").

The building site area proposes approximately 9,000 square feet of disturbance, and the proposed driveway is approximately 42,450 square feet of additional disturbance. Additionally, approximately 202,800 square feet of land is shown within fuel modification zones A, B, and C. Finally, the driveway also requires 10 feet of brush clearance on each side. This amounts to 31,000 square feet of brush clearance for the driveway. Therefore, the total amount of proposed disturbance is 285,250 square feet (6.55 acres). The removal of the black walnut and toyon tree, as well as the encroachments into the protected zones of a bigpod ceanothus, a big-leaf maple tree, and a toyon are required to construct the proposed building site area and motor court.

The site plan also shows an attached 1,290-square-foot garage located in the northwest portion of the single-family residence. The proposed septic system is located to the northeast of the single-family residence. The Project Site is accessed via a 1,550-foot private driveway within an access easement that crosses the property to the east (APN 4465-002-028). The driveway accesses the Project Site directly from Kanan Dume Road. The required improvements to the driveway necessitate the removal of one oak and the encroachment into the protected zones of 122 oaks.

12. The Project Site is accessed via a 1,550-foot private driveway within an access easement that crosses the property to the east (APN 4465-002-028). The driveway accesses the Project Site directly from Kanan Dume Road. The required improvements to the driveway necessitate the removal of one oak and the encroachment into the protected zones of 122 oaks.
13. The Project will construct an attached 1,290 sq. ft., five-car garage, providing a total of five covered parking spaces.
14. After reviewing the Project at its meetings on May 15, 2017 and June 19, 2017, the ERB recommended that the applicant move the residence to the north and west. In response, the applicant revised the Project such that the footprint and the height of the house had both increased, and the house was moved approximately 20 feet to the west and approximately 40 feet to the north. At its meeting on August 28, 2017, after reviewing the revised plans, the ERB recommended that the Project, as designed, is not consistent with the biological resource protection policies and development standards of the SMMLCP.
15. Pursuant to the provisions of Sections 22.44.970 and 22.44.990 of the Zoning Code, the community was appropriately notified of the Project's public hearings by mail, newspaper, property posting, library posting and Department of Regional Planning ("DRP") website posting.
16. Prior to the Commission's public hearing, DRP staff received one e-mail message regarding the Project. The author is concerned with the possible denial of the Project and expressed a hope that both development and wildlife can be accommodated within the Santa Monica Mountains in general and on her property in particular.



17. [Summarize events of the public hearing]

18. The Project Site is located within the RL20 (Rural Lands 20) land use category of the Santa Monica Mountains Land Use Plan ("Land Use Plan"). Together, the Land Use Plan and the Local Implementation Program ("LIP") make up the SMMLCP. The LIP is housed within County Code Sections 22.44.600 through 22.44.2190. Areas within the Rural Lands land use category consist of rolling hills, steep slopes, and remote mountain land with difficult or no access. Rural Lands may contain some concentrations of development but are also surrounded by large areas of undisturbed land. The principal permitted use in Rural Lands is single-family residences. Other low impact uses are also allowed including: confined animal facilities, retreats, public recreation areas, campgrounds, and trails that are sensitively located and consistent with all development standards. The Project is a request to authorize the construction of a new single-family residence, driveway, motor court, landscaping, hardscaping, retaining walls, a private septic system, water wells, and water tanks. Therefore, the proposed uses are consistent with the intended uses of the underlying RL20 land use category. However, while the Project is consistent with these intended uses, it is inconsistent with the LUP's guiding principle and numerous policies as discussed below.

*Guiding Principle: Resource protection has priority over development.*

Due to the Project's size (approximately 8,724 square feet) and location within the parcel, the Project will result in significant impacts to existing coastal biological resources. These impacts would result from, but are not limited to, land form alteration for the building pad and access road and vegetation removal for fuel modification and brush clearance. In total, the Project is anticipated to affect a total area of approximately 6.55 acres both on and off the subject property. Given the size of the proposed single-family residence and the associated amount of disturbance, the Project is not consistent with the Guiding Principle. Further elaboration on this is provided below regarding consistency with applicable LUP policies.

19. The Commission finds that the Project is inconsistent with applicable Conservation and Open Space policies of the LUP, including policy CO-10. The Project is inconsistent with this policy because the impacts of the Project's proposed grading and fuel modification are considerable. The applicant is proposing a design and layout that fails to minimize the amount of grading by siting the proposed single-family residence in a location that requires a 1,550-foot-long driveway to be constructed/improved. The proposed building site area is approximately 9,000 square feet in size, which will accommodate the proposed 8,724-sq. ft., 40-foot tall single-family residence. In all, the Project proposes 6,300 cubic yards of grading consisting of 3,050 cubic yards of cut and 3,250 cubic yards of fill. Of this, 750 cubic yards of cut and 3,230 cubic yards of fill are required for the construction/improvement of the private driveway, and 2,300 cubic yards of cut and 30 cubic yards of fill are required for the

building site area. The Project is not the minimum needed to create a habitable permanent residence. Therefore, the Project is inconsistent with Policy CO-10.

20. The Commission finds that the Project is inconsistent with applicable Conservation and Open Space policies of the LUP, including CO-41. Only two non-resource dependent uses are allowed to be approved in H1: public works projects and access roads to lawfully-permitted uses outside of H1 habitat when there is no other feasible alternative to provide access to 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. While the subject property is a legal parcel, the development proposes fuel modification in identified H1 habitat both on the subject property and on the adjoining parcel. Vegetation clearance in order to create a defensible space in the event of a fire is not one of the two uses allowed in H1 habitat. Additionally, the motor court is proposed partly within H1 habitat. This motor court is not the minimum turnaround necessary for Fire Department access, nor is it the minimum amount of paving required for vehicular access to the proposed single-family residence. Therefore, the development of the motor court unnecessarily impacts H1 habitat, and this impact is inconsistent with Policy CO-41. Therefore, the Project is inconsistent with Policy CO-41.
21. The Commission finds that the Project is inconsistent with applicable Conservation and Open Space policies of the LUP, including CO-44. The proposed development is located on a parcel with H1, H2, and H3 habitat. The building site area and portions of the required fuel modification area for the Project are within H1 and H2 habitat. The H3 habitat on the property will be minimally impacted by the Project. As such, the Project is inconsistent with the order of priority laid out in CO-44 and is therefore inconsistent with Policy CO-44.
22. The Commission finds that the Project is inconsistent with the applicable Conservation and Open Space policies of the LUP, including CO-65. The Project requires a Variance because the length of the driveway (1,550 feet) exceeds the 300-foot maximum driveway length allowed by Policy CO-79 and codified in Section 22.44.1920(C)(1)(c). The Project also requires a Variance because the height of the proposed structure (40 feet) exceeds the 18-foot maximum height limit for structures within scenic areas pursuant to Policy CO-147 and codified in Section 22.44.1250(C). Policy CO-65 does not allow Variances to be granted for impacts related to H1 or H2 habitat, but Variance may be granted to modify development standards to protect H1 or H2 habitat. Additionally, a Variance is required because the location of the proposed private septic system is within the dripline of an oak tree. Pursuant to County Code Section 22.44.1340(B)(3)(c), private septic systems shall be located 50 outside of the dripline of existing native trees, including oak trees. The Project's excessive driveway length, excessive structure height, and inconsistency with the setback requirement between a septic system and native trees do not avoid impacts to H1 habitat nor do they minimize impacts to H2 habitat, and in fact, result in additional, unjustifiable impacts. Therefore, the Project is inconsistent with Policy CO-65.

23. The Commission finds that the Project is inconsistent with the applicable Conservation and Open Space policies of the LUP, including CO-66. The Project requests Variances from development standards relating to driveway length and structure height to the detriment of H1 and H2 habitat areas. The Project does not prioritize protection of this habitat, and instead prioritizes the development of an 8,724-sq. ft., 40-foot tall single-family residence with an attached 1,290 sq. ft., five-car garage, and associated infrastructure including a 1,550-foot driveway, a motor court, landscaping, hardscaping, retaining walls, a private septic system, two water wells, two water tanks, 6,300 cubic yards of grading, and native tree impacts including the removal of three trees and encroachments into the protected zone of 125 additional trees. Therefore, the Project is inconsistent with Policy CO-66.
24. The Commission finds that the Project is inconsistent with the applicable Conservation and Open Space policies of the LUP, including CO-99. The Project proposes native tree impacts including the removal of one oak, one black walnut, and one toyon, as well as encroachments into the protected zones of 122 oaks, one bigpod ceanothus, one big-leaf maple trees, and one toyon. These proposed impacts to native trees are considerable, and the Project does not preserve native trees to the maximum extent feasible. There are other areas of the subject property less populated with native trees that could be explored for access and development opportunities that would reduce impacts to native trees relative to the existing proposed project. Therefore, the Project is inconsistent with Policy CO-99.
25. The Commission finds that the Project is inconsistent with the applicable Conservation and Open Space policies of the LUP, including CO-125. The building site and the story poles erected by the applicant to approximate the building envelope of the proposed single-family residence are clearly visible from Kanan Dume Road, a designated scenic route pursuant to Policy CO-126. As such, the building site area is a Scenic Resource Area. As such, the building site area is a Scenic Resource Area pursuant to Policy CO-125, and the maximum structure height allowed within a Scenic Resource Area, is 18 feet above existing or finished grade, whichever is lower, pursuant to policy CO-147 and codified in Section 22.44.1250(C). As depicted on the site plan and elevations, the proposed residence would reach a maximum height of 40 feet above finished grade. Therefore, the Project is inconsistent with Policy CO-125.
26. The Commission finds that Conservation and Open Space Policy CO-126 applies to the Project. The Project is located on a property that is adjacent and visible from Kanan Dume Road, a designated scenic route. Therefore, the areas within 200 feet of Kanan Dume Road and areas that are visible from Kanan Dume Road are Scenic Resource Areas.
27. The Commission finds that the Project is inconsistent with the applicable Conservation and Open Space policies of the LUP, including CO-128. As proposed, the single-

family residence is a large, 8,724-sq. ft, 40-foot-tall rectilinear steel and glass building. The height, shape, and façade are minimally articulated. The design of the structure does not conform to the topography of the site, and the structure is not sited in the least visible location to be placing the structure on the property. Impacts could be significantly reduced by reducing the footprint and height of the structure, and by clustering the building site area with the development on the property to the north. Therefore, the Project is inconsistent with Policy CO-128.

28. The Commission finds that the Project is inconsistent with the applicable Conservation and Open Space policies of the LUP, including CO-131. The building site and the story poles erected by the applicant to approximate the building envelope of the proposed single-family residence are clearly visible from Kanan Dume Road, a designated scenic route pursuant to Policy CO-126. As such, the building site area is a Scenic Resource Area pursuant to Policy CO-125, and the maximum structure height allowed within a Scenic Resource Area, is 18 feet above existing or finished grade, whichever is lower, pursuant to policy CO-147 and codified in Section 22.44.1250(C). As depicted on the site plan and elevations, the proposed residence would reach a maximum height of 40 feet above finished grade. Therefore, the Project is inconsistent with Policy CO-131.
29. The Commission finds that the Project is inconsistent with the applicable Conservation and Open Space policies of the LUP, including CO-147. The proposed development site is visible from Kanan Dume Road, a designated scenic route and scenic resource. Accordingly, the Project is limited to a maximum height of 18 feet to prevent impacts to scenic resources. However, as depicted on the site plan and elevations, the height of the proposed residence reaches a maximum of 40 feet. Therefore, the Project is inconsistent with Policy CO-147.
30. The Commission finds that the Project is inconsistent with applicable Land Use and Housing policies of the LUP, including LU-40. Development of the Project's building site area would require the removal of H2 habitat, and the Project's fuel modification plan proposes the removal of H1 habitat. H1 and H2 habitat would also both be impacted by the proposed motor court. This motor court is not the minimum turnaround necessary for Fire Department access, nor is it required for vehicular access to the proposed single-family residence. Therefore, the development of the motor court unnecessarily impacts H1 and H2 habitat. Therefore, the Project is not protective of H1 and H2 habitat areas.

Furthermore, the proposed development is visible from Kanan Dume Road, a designated scenic route and scenic resource. Accordingly, the Project is limited to a maximum height of 18 feet to prevent impacts to scenic resources. However, the height of the proposed residence is 40 feet. Therefore, the Project is not protective of scenic resources or public views.

The building site area is not clustered with other nearby existing development. Therefore, the Project does not minimize the overall vegetation clearance needed for fire protection. This impact, along with the proposed impacts to H1 habitat, H2 habitat, scenic resources, and public views results in the Project being inconsistent with Policy LU-40.

31. The Commission finds that the Project is inconsistent with development standards and requirements of the R-C Zone. Pursuant to County Code Section 22.44.1750, the R-C Zone permits single-family residences and accessory uses and structures, including but not limited to: garages, grading, landscaping features and gardens, onsite wastewater treatment systems, and required Fire Department turnarounds. The Project proposes the construction of a 8,724 sq. ft., 40-foot tall single-family residence with an attached 1,290 sq. ft., five-car garage, and associated infrastructure including a 1,550-foot driveway, a motor court, landscaping, hardscaping, retaining walls, a private septic system, two water wells, two water tanks, 6,300 cubic yards of grading. As such, the Project is a use permitted in the R-C zone.

The development standards for premises in the R-C zone are the same as for the R-1 zone, listed in County Code Section 22.44.1710. This section includes requirements regarding roofing, siding, yard setbacks, parking, and minimum required area of a single-family residence. While the Project generally complies with these requirements including the yard requirements, parking requirement, and minimum required area of a single-family residence, County Code Section 22.44.1710(E)(3) also requires development in R-1 and R-C zones to comply with "all applicable development standards within this LIP, including the Community-Wide Development Standards in County Code Section 22.44.1220 et seq., and any of the applicable Area-Specific Development Standards in County Code Section 22.44.1800 et seq." As is outlined below, the Project is inconsistent with many of the applicable development standards within the LIP. Therefore, the Project is inconsistent with the development standards of the R-C zone.

32. The Commission finds that the Project is inconsistent with the applicable Variance requirements. Pursuant to County Code Section 22.44.1150, the Project requires a Variance because the length of the driveway (1,550 feet) exceeds the 300-foot maximum driveway length allowed by County Code Section 22.44.1920(C). The Project also requires a Variance because the height of the proposed structure (40 feet) exceeds the 18-foot maximum height limit for structures within scenic areas pursuant to County Code Section 22.44.1250(C). Furthermore, a Variance is required because the location of the proposed private septic system is within the dripline of an oak tree. Pursuant to County Code Section 22.44.1340(B)(3)(c), private septic systems shall be located 50 outside of the dripline of existing native trees, including oak trees.

Land Use Plan Policy CO-65 does not allow Variances to be granted for impacts related to H1 or H2 habitat, but Variances may be granted to modify development standards to protect H1 or H2 habitat. County Code Section 22.44.1150(D) requires

that applications for Variances include information that substantiates certain facts to the satisfaction of the Regional Planning Commission, including that the granting of the Variance will not be materially detrimental to coastal resources, which includes biological and scenic resources. The Project's excessive driveway length and structure height are materially detrimental to the Santa Monica Mountains' coastal resources; therefore, the Project is inconsistent with County Code Section 22.44.1150.

33. The Commission finds that the Project is inconsistent with the applicable height requirements. Pursuant to County Code Section 22.44.1250(C), "Every residence and every other building or structure in a Scenic Resource Area, shall have a height not to exceed 18 feet above natural or finished grade, whichever is lower." The building site and the story poles erected by the applicant, are clearly visible from Kanan Dume Road, a designated scenic route pursuant to County Code Section 22.44.2040. Therefore, the building site is a Scenic Resource Area pursuant to County Code Section 22.44.2000(B) which states that Scenic Resource Areas consist of, "all places on, along, within or visible from Scenic Routes. As such, the maximum allowable height for the Project's residence is 18 feet above natural or finished grade, whichever is lower. The Project's residence is proposed to be 40 feet above finished grade. Therefore, the Project is inconsistent with the height limit requirement of County Code Section 22.44.1250.
34. The Commission finds that the LIP contains grading requirements that are applicable to the project. Pursuant to County Code Section 22.44.1260(C)(3), a Major CDP is required because "the project involves grading of amounts greater than 5,000 cubic yards of total cut plus total fill material." The Project proposes 6,300 cubic yards of total cut plus total fill.

While grading is generally not allowed in areas that have a slope of 50 percent or greater, County Code Section 22.44.1260(J) does allow grading in such areas where such grading would be more protective of coastal resources, including scenic resources and biological resources. Therefore, portions of the property with steep slopes could still be considered for development if such development would reduce the impacts to scenic resources and/or biological resources.

35. The Commission finds that the Project is inconsistent with the applicable visual resource protection requirements. County Code Section 22.44.1440(E)(2) requires that projects "minimize adverse visual impacts to the existing trails, recreational facilities, and scenic resources to the maximum extent feasible." The Project Site is located on a parcel adjoining Kanan Dume Road, a designated scenic route. As such, development that would be visible from this road is to be limited to a maximum height of 18 feet to maintain the integrity of the viewshed from the scenic route. The Project's proposed single-family residence has been designed with a height of 40 feet. Therefore, the Project is not consistent with this development standard. . Furthermore, County Code Section 22.44.1440(E)(3) requires that projects are designed such that they "Ensure that development is subordinate to the natural setting and character of

the area, and all impacts on scenic resources are eliminated to the maximum extent feasible, consistent with all biological resource protection policies of the LUP". Therefore, the Project is inconsistent with the visual resource protection requirements of County Code Section 22.44.1440.

36. The Commission finds that the Project is inconsistent with the applicable biological resource requirements. Pursuant to the biological resource requirements of County Code Section 22.44.1800 et seq., the applicant submitted a Biological Assessment, prepared by a qualified biologist, which was reviewed by the Department's biologist for accuracy and adequacy. The Department Biologist determined that the Biological Assessment was sufficient. Pursuant to County Code Section 22.44.1860, the Project and the associated Biological Assessment were reviewed by the Environmental Review Board (ERB) because the Project is within 200 feet of H1 and H2 habitat. At its meeting on May 15, 2017, the ERB made several recommendations to minimize potential resource impacts. At its meeting on June 19, 2017, the ERB made additional recommendations, including that the applicant move the residence to the north and west. In response, the applicant revised the Project such that the footprint and the height of the house had both increased, and the house was moved approximately 20 feet to the west and approximately 40 feet to the north. At its meeting on August 28, 2017, after reviewing the revised plans, the ERB recommended that the Project as designed is not consistent with the biological resource protection policies and development standards of the SMMLCP. The minutes of all three ERB meetings are attached.

County Code Section 22.44.1890(C) identifies the various uses and development activities that are permitted within the various habitat areas of the Coastal Zone and states that development is prohibited within H1 habitat areas with the exception of: resource dependent uses, public works projects, and access roads to a lawfully-permitted use where the access and the use meet five specific criteria found in Section 22.44.1890(C)(2)(b). The project includes three development activities within the H1 areas including the proposed driveway and various fuel modification and brush clearance activities. The Project's proposed driveway, which is considered an access road in this context, meets the literal criteria in that it is a use permitted in H1 habitat; however, within the context of the previously-discussed policies aiming to design proposed development in a fashion that minimizes disturbance to H1 habitat and code requirements limiting the length of the access road to 300 feet, the Project's proposed driveway is not consistent with the intent of this section. Further, the Project also proposes brush clearance for fuel modification purposes within H1 habitat. Brush clearance for fuel modification meets the definition of development found in County Code Section 22.44.630, but it is not a kind or type of development that is allowed within H1 habitat. Additionally, the motor court is proposed partly within H1 habitat. This motor court is not the minimum turnaround necessary for Fire Department access, nor is it the minimum amount of paving required for vehicular access to the proposed single-family residence. Therefore, the development of the motor court is not an allowed use within H1 habitat pursuant to County Code Section 22.44.1890(C).

Therefore, the Project is inconsistent with the biological resource protection requirements of County Code Sections 22.44.1800 et seq.

37. The Commission finds that the Project is inconsistent with the applicable biological resources land planning and development standards. County Code Section 22.44.1910(A) states that, "New non-resource-dependent development shall be prohibited in areas designated H1 Habitat to protect these most sensitive environmental resource areas from disruption of habitat values, unless otherwise provided in Section 22.44.1890." As discussed above, fuel modification and brush clearance activities are not one of the kind or type of development that is allowed within H1 habitat. Furthermore, the proposed motor court is also development that is not allowed in H1 habitat. Therefore, the Project's proposed impacts to H1 are not allowed and the Project is inconsistent with the requirements of County Code Section 22.44.1910(A).

County Code Section 22.44.1910(C) requires that "New development shall be sited in a manner that avoids the most biologically-sensitive habitat on site where feasible, in the following order of priority H1, H2 High Scrutiny, H2, H3-- while not conflicting with other LCP policies. Priority shall be given to siting development in H3 Habitat." The proposed development is located on a parcel with H1, H2, and H3 habitat. The building site area and portions of the required fuel modification area and brush clearance activities for the Project are within H1 and H2 habitat. The H3 habitat on the property will be minimally impacted by the Project. As such, the Project is inconsistent with the order of priority for habitat impacts and is therefore inconsistent with County Code Section 22.44.1910(C).

County Code Section 22.44.1910(D) state that, "protection of H1 and H2 habitat and public access shall take priority over other development standards, and if there is any conflict between the biological resource and/or public access protection standards and other development standards, the standards that are most protective of H1 and H2 habitat and public access, as determined by the County, shall have precedence." The Project does not prioritize protection of H1 and H2 habitat. Instead, the Project prioritizes the development of a 8,724-sq. ft., 40-foot-tall single-family residence with an attached 1,290 sq. ft., five-car garage, and associated infrastructure including a 1,550-foot driveway, a motor court, landscaping, hardscaping, retaining walls, a private septic system, two water wells, two water tanks, and 6,300 cubic yards of grading. In addition to the required Major CDP, the Project requests variances from development standards relating to driveway length and structure height. The variance requests are not related to relief from development standards to preserve sensitive habitat and would in fact result in additional impacts to sensitive habitat including vegetation removal and native tree impacts including the removal of three trees as well as encroachments into the protected zones of 125 trees. Therefore, the Project is inconsistent with County Code Section 22.44.1910(D).



38. The Commission finds that the Project is inconsistent with the applicable biological resources development standards. County Code Section 22.44.1920(C)(1)(c) limits the length of new access roads or driveways to a maximum of 300 feet. The Project proposes a 1,550-foot driveway, inconsistent with this requirement.

County Code Section 22.44.1920(K) states that, "New development shall be sited and designed to preserve native oak, walnut, sycamore, bay, or other native trees, that have at least one trunk measuring six inches or more in diameter, or a combination of any two trunks measuring a total of eight inches or more in diameter, measured at four and one-half feet above natural grade, to the maximum extent feasible. Removal of native trees shall be prohibited except where no other feasible alternative exists to allow a principal permitted use that is the minimum necessary to provide a reasonable economic use of the property. Development shall be sited to prevent any encroachment into the protected zone of individual native trees to the maximum extent feasible." The scope of the Project includes the construction of a new 8,724-sq. ft., 40-foot-tall single-family residence with an attached 1,290 sq. ft., five-car garage, associated infrastructure including a 1,550-foot driveway, a motor court, landscaping, hardscaping, retaining walls, a private septic system, two water wells, two water tanks, 6,300 cubic yards of grading. As designed, the scope of the Project cannot be considered the minimum necessary to provide a reasonable economic use of the property. Furthermore, the Project's native tree impacts are considered substantial and include the removal of one oak, one black walnut, and one toyon, as well as encroachments into the protected zones of 122 oaks, one bigpod ceanothus, one big-leaf maple trees, and one toyon. The applicant has not demonstrated that the Project, as designed, is the design that minimizes impacts to native trees. Therefore, the Project has not been shown to be sited "to prevent any encroachment into the protected zone of individual native trees to the maximum extent feasible." For these reasons, the Project is inconsistent with County Code Section 22.44.1920(K).

39. The Commission finds that the Project is inconsistent with the applicable scenic resource areas development standards. Pursuant to County Code Section 22.44.2000(B), Scenic Resource Areas include "places on, along, 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." The Project Site is visible from Kanan Dume Road, a designated scenic route. Therefore, and as previously discussed, "every residence and every other building or structure in a Scenic Resource Area, shall have a height not to exceed 18 feet above natural or finished grade, whichever is lower." As depicted on the site plan and elevations, the proposed single-family residence would reach a maximum height of 40 feet above finished grade, and is therefore inconsistent with County Code Section 22.44.2000.

Furthermore, County Code Section 22.44.2040(A) states that "if there is no feasible building site location on the proposed project site where development would not be visible from a Scenic Resource Area, 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." As depicted on the site plan and elevations, the proposed single-family residence is designed in a rectilinear form with little to no façade or height articulation or other elements to minimize massing and conform to existing topographic features. Therefore, the Project is inconsistent with County Code Section 22.44.2040.

40. The Commission finds that The Project Site is not within a liquefaction zone or FEMA flood zone. The Project Site is within a mapped landslide hazard zone and a Very High Fire Hazard Severity Zone. Prior to public hearing, proposed projects are generally reviewed and cleared for hearing by four Los Angeles County Departments including the Department of Public Works and the Fire Department. These department review proposed projects, and their review and requirements serve to mitigate hazardous conditions like these. Since the Project does not meet development standards, the Project was not cleared to be circulated to these departments for review.
41. Staff conducted a site visit on March 29, 2018 and found the building site and the story poles clearly visible from the Kanan Dume Road Right-Of-Way. Kanan Dume Road is a designated scenic route pursuant to Land Use Plan Policy CO-126 and County Code Section 22.44.2040.
42. The Commission finds that the Project Site is located in an inland portion of the Santa Monica Mountains and is not located between the first public road and the sea or shoreline of any body of water within the Coastal Zone.
43. The Commission finds that the Project has been designed so that the single-family residence is located within H2 habitat, that the proposed motor court impacts both H1 and H2 habitat areas, and impacted from the required fuel modification activities will be in H1 and H2 habitat areas. Additionally, the driveway runs through H1 habitat and is the cause of the majority of the native tree impacts. The project's impacts to sensitive resources were not significantly reduced when the applicant redesigned the project at the request of ERB.
44. The Commission finds that the proposed single-family residence is the principal permitted use in the RL20 land use category, but the scale of the proposed development is inconsistent with the many goals and policies of the Land Use Plan, as well as the Land Use Plan's guiding principle, "resource protection has priority over development." There is parkland located immediately to the south and west of the subject property, the adjacent road, Kanan Dume Road, is a designated scenic route, and there is a considerable amount of sensitive, native habitat on the property. As such, the project is inconsistent with the surrounding land uses.

45. The Commission finds that the Project is inconsistent with the development standards for the R-C zone. The Intent and purpose of the R-C zone is "to allow for residential development that is consistent with the goals of preserving the rural character and scenic quality of the Coastal Zone, and to minimize the impacts of future development on the region's coastal and environmental resources." A 40-foot tall house does not preserve the scenic quality of the Coastal Zone, and the scale of the house do not minimize impacts to environmental resources. The Project is also inconsistent with the community-wide development standards, and the area-specific development standards which include biological resources and scenic resources areas.
46. The Commission finds that, since the Project is not consistent with applicable policies and land use development standards, the Project was not routed for consultation to other County agencies involved in land development.
47. The Commission finds that as sited and designed, the Project does not minimize the amount of disturbance that will occur on the Project Site.
48. The Commission finds that pursuant to Sections 22.44.970 and 22.44.990 of the County Code, the community was appropriately notified of the public hearing by mail, newspaper, property posting, library posting, and DRP website posting.
49. The location of the documents and other materials constituting the record of proceedings upon which the Commission's decision is based in this matter is at the Los Angeles County 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 Permits Section, Department of Regional Planning.

**BASED ON THE FOREGOING, THE COMMISSION CONCLUDES:**

- A. That the proposed development is not in conformity with the LCP; and
- B. That the proposed development is not located between the nearest public road and the sea or shoreline of any body of water located within the Coastal Zone.

Therefore, the Commission:

- 1. Denies Major Coastal Development Permit No. RCDP-201500099;
- 2. Denies Variance No. RCDP-201500100

**ACTION DATE: October 17, 2018**

RG:JH

October 10, 2018

c: Zoning Enforcement, Building and Safety

### 3300 S. Kanan – Project Narrative

The proposed project is for the construction of a 9,278 sq. ft. single-family residence, driveway, Fire Dept. turnaround, landscaping, hardscaping, retaining walls, two water wells, a 30,000 gallon water storage tank, drainage devices, and a private septic system. This project also consists of the construction of road improvements to Fire Department standards of roads. The proposed road improvements include grading, paving, drainage devices, and retaining walls, to meet Fire Dept. access requirements. The estimated earthwork for the proposed residence and motorcourt is approximately 3,700 CY of cut and 600 CY of fill and the estimated earthwork for the access improvement is approximately 650 CY of cut.

Access to the applicant's property can only be attained from the existing partially paved southerly approach to the site. A large portion of the northerly portion of the property is comprised of County Right-of-Way (Kanan Rd.) and slope easement making these areas unbuildable. The County Right-of-Way eliminates the potential for siting the residence on-site and immediately adjacent to Kanan Rd. The slopes along the Northern lot boundary are far too steep (0:5:1 – 1.4:1 ) to allow for the construction of a Fire Department compliant access road; therefore, the only feasible means of taking access to the property is by improvement and utilization of the existing access road which traverses the neighboring parcel to the southeast (APN# 4465-002- 008). The existing access road, which currently provides access to the Subject Property, is approximately 1,550 feet long (including motor court and turnaround) and 10-15' in width. This existing partially paved access road is located within an easement benefitting the applicant's property and as such is the only means of legal and physical access to the property.

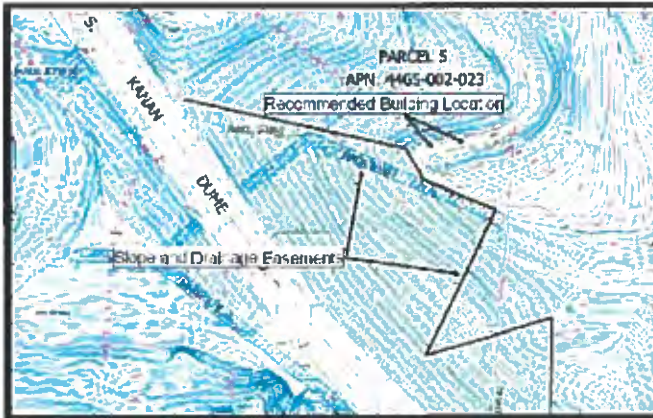
In order to improve the existing access road to Fire Department standards, the project will require the removal of one (1) Oak Tree, as well as the encroachment into an additional 18 Oaks (required clearance trimming by LA County Fire Department). It should be noted that the applicant went through multiple plan iterations with the Fire Department and obtained approval on an appeal to the Fire Department for a 20' wide code-required access road narrowed to 15' in key lengths in order to avoid impacting Oak Trees to the maximum extent feasible. This resulted in a reduction in the number of tree removals, which were originally 27. The project in all will allow for the retention of 97% (133) of the Oak Trees on site. Of those, 87% (118) will have less than 30% encroachment within the canopy drip-line. The one (1) removal and 18 encroachments are unavoidable impacts for which mitigation has been proposed by the applicant consistent with the County's requirements. This matter is discussed in greater detail in the Oak Tree Burden of Proof and Arborist's report.

The proposed development utilizes the property's historically cleared areas, thereby reducing disturbance to the site's undisturbed chaparral. By utilizing the existing partially paved access road, siting the residence immediately adjacent to the Southerly property line within an area of previous disturbance and notching the residence into the hillside, the proposed project minimizes landform alteration and removal of native vegetation.

It should be noted that the applicant's fuel modification plan does not propose removal of riparian vegetation. Furthermore, no irrigation is proposed or shall otherwise be permitted in H1 habitat, except for temporary irrigation necessary for mitigation oak trees and for hydroseeding and stabilizing slopes along the access road.

## SANTA MONICA MOUNTAINS LOCAL COASTAL PROGRAM VARIANCE BURDEN OF PROOF – Driveway Length

- A. That there are 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.**



Access to the applicant's property can only be attained from the existing partially paved southerly approach to the site. A large portion of the northerly portion of the property is comprised of County Right-of-Way (Kanan Rd.) and slope easement making these areas unbuildable. The County Right-of-Way eliminates the potential for siting the residence on-site and immediately adjacent to Kanan Rd. The slopes along the Northern lot boundary are far too steep (0:5:1 – 1.4:1 ) to allow for the construction of a Fire Department compliant access road; therefore, the only feasible means of taking access to the property is by improvement and utilization of the

existing access road which traverses the neighboring parcel to the southeast (APN# 4465-002- 008). The existing access road, which currently provides access to the Subject Property, is approximately 1,550 feet long (including motor court and turnaround) and 10-15' in width. This existing partially paved access road is located within an easement benefitting the applicant's property and as such is the only means of legal and physical access to the property. As mentioned, the extremely steep slopes along the northern side of the property make any other means of access from off of Kanan Rd. to the property infeasible.

- B. That such variance is necessary 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 extremely steep slopes along the northern side of the property make any other means of access from off of Kanan Rd. to the property infeasible. The existing partially paved access road is the only means of legal and physical access to the property. Without access to the property, the SFR would not be permissible per code, and therefore, would constitute a regulatory taking.

- C. That the granting of the variance will not be materially detrimental to the public welfare or be injurious to other property or improvements in the same vicinity and zone.**

The existing partially paved access road leading to the applicant's property is abutted by steep ascending slopes to the West and steep descending slopes to the East. Dense Oak Woodlands are located adjacent to the existing access road on both sides. The improvements to the access road has been approved by the LA County Fire Department and will meet all applicable building and engineer safety codes and will not be detrimental to the public's welfare or be injurious to other property or improvements in the same vicinity and zone.

- D. That the granting of the variance will not be materially detrimental to coastal resources.**

The granting of the variance will not be materially detrimental to coastal resources as the applicant will be utilizing the existing partially paved access road that has been in existence since the 1960's. What's more, the improvements to the access road have been designed to be protective of the dense Oak woodlands that are located adjacent to the existing access road on both sides.



## 2017 Aerial Image

94 188 Feet

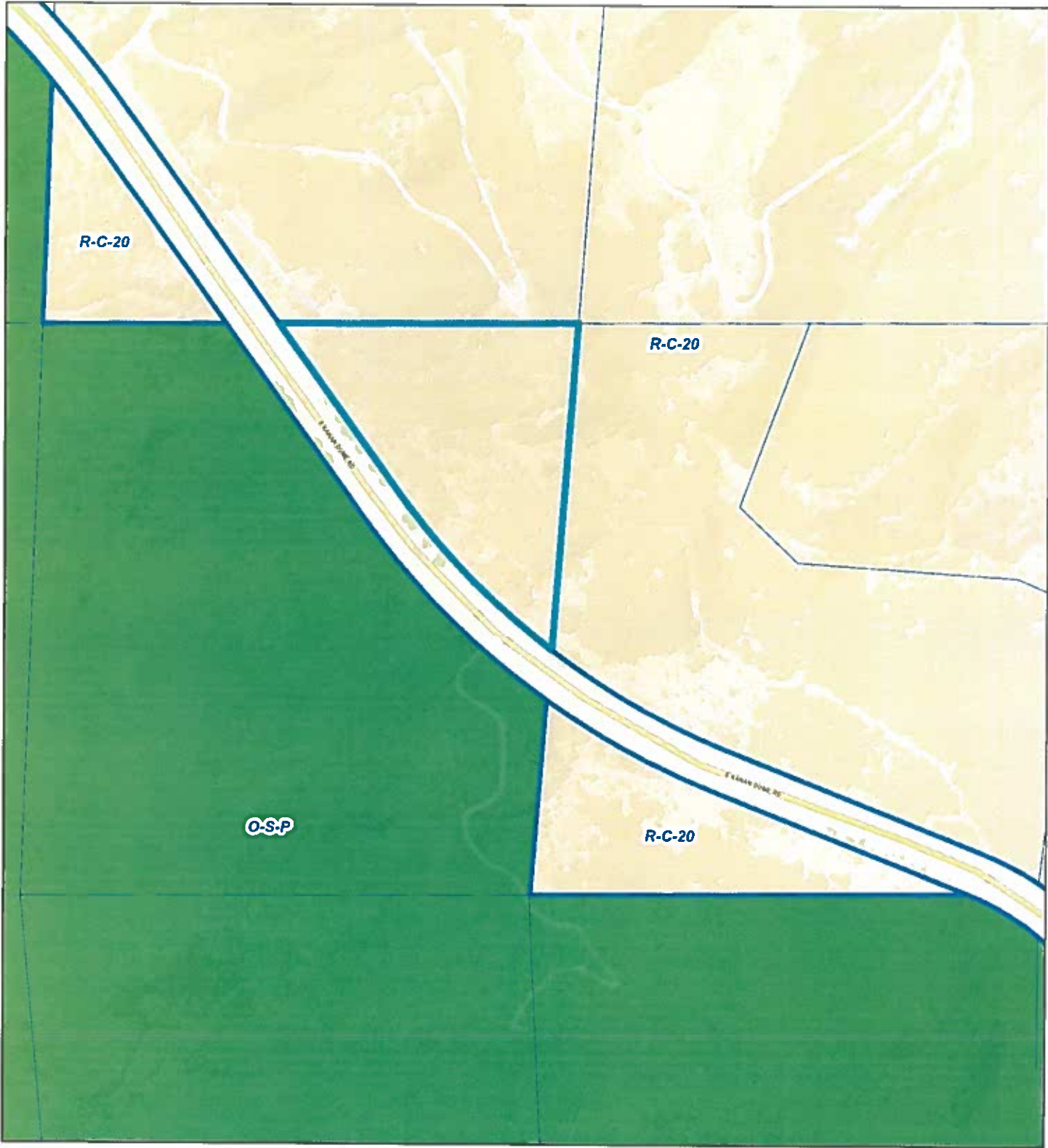
CDP No. RCDP-201500099  
APN 4465-002-023

Printed: 10/11/18



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### Zoning Map

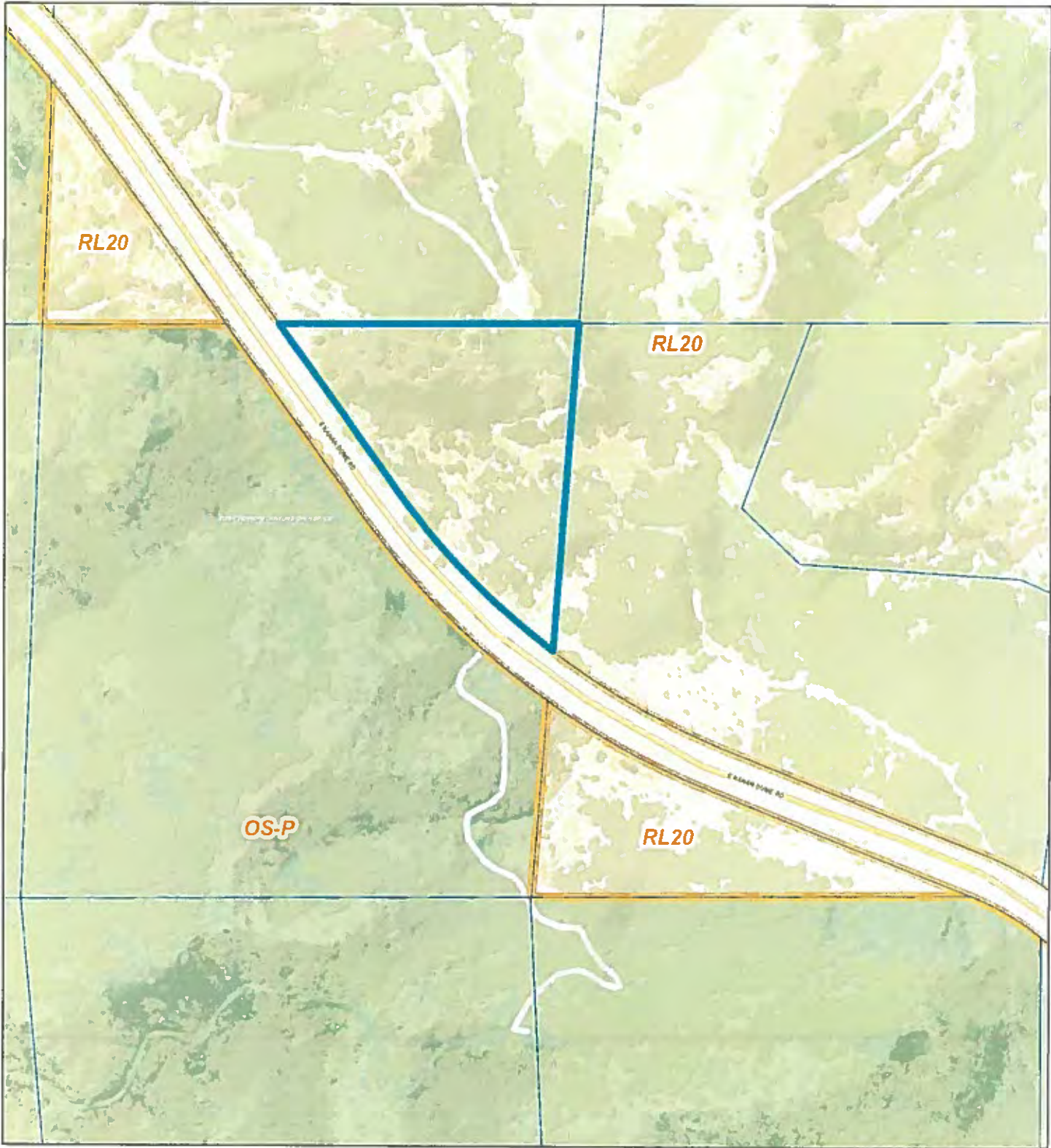
CDP No. RCDP-201500099  
 APN 4465-002-023

Printed: 10/11/18



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## Land Use Map

CDP No. RCDP-201500099  
 APN 4465-002-023

Printed: 10/11/18



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**From:** <[aplechner@gmail.com](mailto:aplechner@gmail.com)>  
**Date:** October 9, 2018 at 9:18:02 AM PDT  
**To:** <[rruiz@planning.lacounty.gov](mailto:rruiz@planning.lacounty.gov)>  
**Subject:** Oct 17 hearing

Dear Ms Ruiz,

I own land in the Santa Monica Mountains which is now being evaluated as H1 Habitat.

Like many people, I purchased this land years ago with the idea that I will build a home to retire in. Yes, I still have to work a while longer before I can afford to retire but this has always been my dream. There is room for both a home and for wildlife! I can create a plan to accommodate both!

Please do not destroy my dream. I have worked all my life to make it a reality. I am sure I am not alone. Please don't take this away.

Regards,

Anne Plechner

Phone 310-717-2332







**MINUTES OF THE ENVIRONMENTAL REVIEW BOARD (ERB)  
Unincorporated Coastal Zone, Santa Monica Mountains, Los Angeles County  
Meeting of May 15, 2017  
(Minutes approved as amended, 17 July 2017)**

**Persons in Attendance**

**ERB Members**

Joseph Decruyenaere, *pro tempore* ERB  
Ron Durbin  
Suzanne Goode  
Richard Ibarra  
Travis Longcore, Ph.D.

**Regional Planning Staff**

Joshua Huntington, Planner  
Rob Glaser, Planner  
Shirley Imsand, Ph.D., Biologist, ERB  
Coordinator

**3300 Kanan-Dume Road, Project Number 2014-00461-(3)**

Chris Dicus, Ph.D.  
Don Schmitz  
Lisa Smith  
Jacqueline Worden

**2181 Encinal Canyon Road, Project Number R2015-00089-(3)**

Dean Bosacki  
Andrew Forde  
Jo Newman  
Upadi Yuliatmo

**Public:**

Everett Rollins

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**MINUTES**

**APPROVAL OF MINUTES**

**Motion/second** to approve Minutes of 21 November 2016 as amended with an additional recommendation:  
Goode/Durbin

**Ayes:** Durbin, Goode, Ibarra  
**Abstaining:** Longcore, Decruyenaere

**NEW BUSINESS**

- A. Kay SFR Project, R2014-00461, 3300 Kanan Dume Road**  
**Location:** Ramirez Canyon Watershed  
**Project No.** R2014-00461-(3)  
**Permit Nos.** RCDP 201500007, RENV 201400038  
**APNs:** 4465-002-023 and access 4465-002-028  
**Location:** 3300 Kanan Dume Road, Malibu, CA 90265  
**Planner:** Joshua Huntington  
**Applicant:** Nicole Farnoush, Schmitz & Associates  
**Biologist:** Jacqueline Worden, Impact Sciences  
**USGS Quad:** Point Dume (residence and access)

### **Development:**

Applicant proposes construction of a 9,278 sq.ft., 3-story, single-family residence with cut into the slope, turnaround meeting the Fire Dept. requirements, landscaping, hardscaping, retaining walls, a water well, two 30,000 gallon water storage tanks, drainage devices, and a private septic system. The driveway is a 1,620-ft. fire road approaching from the south. The driveway will need to have road improvements of grading, paving, drainage devices, widening to 15-20-ft., and retaining walls to meet Fire Dept. requirements. A variance will be needed because the driveway length exceeds 300-ft. Grading is estimated at 4700 CY total with 3600 CY export: development area 3,350 CY cut, 150 CY fill, 3600 CY export. For the access/fire lane 800 CY of cut, 400 CY fill. The septic system is to be on a fire road northeast of the residence. The project will encroach on 190 coast live-oaks and remove one tree. Mitigation oaks needed are calculated at 515 oaks. Some other native trees are impacted and will need mitigation. Plan for runoff control during construction was not provided. Permanent runoff is to be collected, filtered in an unspecified manner, and added to runoff from the tributary on the west side of Kanan-Dume and the highway runoff that empties by conduit into Ramirez Canyon. The project is in Zones R2-20 and RL-20 of the SMM Coastal Zone.

### **Project description with regard to biological resources:**

**Location:** The project parcels are in the Ramirez Canyon Watershed. The structure will be east of Kanan-Dume Road at the base of a 45% grade fill slope of about 200-250-ft. elevation that supports Kanan-Dume Road over a previous drainage that was a tributary to Ramirez Canyon. The planned residence is about at the level of the previous drainage bank and partially on an existing fire road. The fill may end west of the residence or continue to Ramirez Canyon along the south side of the planned residence. On previous topographic maps a drainage is shown in this area south of the residence. The grassland could be fill with a cover of non-native grassland. It is evaluated in the Biological Assessment as "cleared." A natural, chaparral-covered slope is on the north of the residence (H2). On the south of the residence is the head of a seasonal tributary of Ramirez Canyon (H1). The fire turn-around is planned to be about 25-ft. from the bank of this tributary, and the residence is set back 100-ft. from the bank. The tributary accepts the runoff from Kanan-Dume Road and runoff of extension of the tributary on the west side of Kanan-Dume from a culvert embedded in the fill slope. The runoff of the residence is planned to empty into this culvert after unspecified filtration. Ramirez Canyon is about 180 ft. west of the planned residence, so the stream bed of Ramirez is at the outer edge of the 200-ft. fuel modification required (H1). The planned driveway is on a fire road, currently paved between culverts draining from Kanan-Dume for about 440-ft. of the 1620-ft total length (H1). The residence will have 2 wells chosen from several sites in either the tributary stream course or in the existing fire road on the west side of the residence. Tanks for water storage will be near Kanan-Dume Road at the top of the west fill-slope (H3). The septic system is planned to be uphill, north of the residence in the existing fire road near the former connection to one of the paved driveways of the parcel to the north (H1).

### **Habitat Impacts:**

Habitat impact is an issue with this project. LUP mapping with the residence overlay shows

- the residence and access are chiefly in H1-mapped habitat, which is chiefly riparian woodland, not previously modified.
- Fuel modification extends into H1 habitat of riparian sycamore-oak-willow woodland in the tributary to the south and
- into H1 riparian oak woodland and part of the drainage course of Ramirez Canyon to the east.
- The septic system is planned to be in H1 oak woodland on the western slope of Ramirez Canyon.
- The access road will need widening and paving of an existing fire road that is entirely in oak woodland mapped as H1.

Residence siting, septic system, and fuel modification for development are not permitted uses in H1 habitat. §22.44.1890.C. Access impacts through H1 are permitted when there is no other feasible means of access §22.44.1890.C.

**Fuel modification/Brush clearance/Road widening** all remove dead wood and understory and thin and remove flammable plants that are also part of the oak woodland and riparian community. These are important constituents of the riparian woodland biological ecosystem. All these elements provide important ecological functions, connections, diversity, and resilience to adversity among community members. The understory is the chief location for the next generation of the plant community and some of the animals. All these constituents provide services to the whole habitat and environment of the Santa Monica Mountains. Even with some modifications to the usual requirements by County Fire, these necessary actions of development are impacts to the H1 habitat community and, except for road widening, are not permitted uses according to the LIP.

### **Impacts to Oaks, Other Native Trees, and Woodland:**

The access route is proposed through H1-mapped coast live-oak woodland, where an existing 1620-ft. road (fire road or ranch road) will be widened and paved and tree branches cut as required for fire safety. One oak is to be removed, encroachments will affect 87 trees requiring mitigation and 103 trees requiring monitoring for 10 years. There will be 515 oaks required for mitigation under the LIP for impacts to oaks on the access road. The landscape plan shows planting of 25 coast-live oaks, so a mitigation plan for these and the remaining 490 oaks is needed. The mitigation oaks will need to be oak woodland replacement with incorporation of typical understory in the mitigation area.

Other native trees were assessed in the Preliminary Native Tree Replacement Plan, but apparently the drip-line was used instead of the TPZ, and therefore, encroachment mitigations needed are uncertain. Percent encroachment was

not tabulated. Large-trunked chaparral plants in the area planned for the residence were not assessed, and these will be removed. Well placement will determine whether other protected trees are removed.

Fuel modification, brush clearance, and access road widening and paving will impact oaks, oak woodland, and riparian habitat in H1 habitat that has not been previously fuel-modified. Except for impacts along the access road, this is not an allowed use under the LIP.

Septic systems are planned to be located to the northeast of the structure along the fire road and may impact oaks and oak woodland there. One oak near the septic pits has canopy over a pit and requires mitigation; other oaks are upslope 7 feet and downslope an unspecified amount, so although the tree protected zone (TPZ) may overlap the seepage pits, they are considered to be without impact according to the Protected Oak Report (2017.04). One oak with canopy overlap will have mitigation.

**Remapping:**

The Biological Assessment has proposed remapping the residence location as H2 and the annual grassland to the south as H3, thus changing some H1 to H2 and H3. Nevertheless, impacts remain from having fuel modification in H1 riparian oak woodland in the southwest area, fuel modification in the sycamore-oak-willow woodland in the tributary to the south, brush clearance (fuel modification) in Ramirez Canyon riparian oak woodland to the east, and placing the septic system and fuel modification on the west slope riparian oak woodland of Ramirez Canyon to the northeast.

Redefining the residence location habitat as H2 may not be accurate in that the chaparral plants there (*Sambucus nigra* ssp. *caerulea* and *Ceanothus spinosus*) have large, tree-sized trunks, are arboreal in form, and were probably south-facing riparian flora on the drainage bank at the time before probable filling of the former tributary channel south of the residence. These large-trunked plants were not evaluated in the tree reports. There are N-S lines of mugwort (*Artemisia douglasiana*), sometimes apparent, between the south tributary head and the *Elymus condensatus* that is in clumps beneath the chaparral plants with large trunks. Mugwort is also on the bank north of the stream course, in the west side of the grassland, and in the fire road west of the chaparral plants with large trunks. This area could be considered riparian H1 in the coastal zone (§22.44.630-Riparian Habitat and 22.44.1810). It has chaparral species near a water course, differing from habitat more distant from the water course in composition and more vigorous and robust form. Elderberry and mugwort are specifically named as riparian species in the LIP.

**Wildlife Movement:** The project is sited on a dirt fire road that connects to Kanan-Dume Road in the south and the paved driveway on the parcel under different ownership to the north. This route is cited as a wildlife movement area together with Ramirez Canyon watershed in the original Biological Assessment (2013.01) and was mapped as a wildlife movement area in the Malibu Local Coastal Plan of 1982. At the southern area of the project parcel, the access road joins the fire road that crosses Ramirez Canyon and connects to fire roads that go both north and south along Ramirez Canyon. The house will be placed on a fire road, but may not block movement due to adjacent open space according to the Biological Assessment (2013.01), although this is very steep on the upslope sides of the planned residence.

**Landscape elements:** The landscape plan shows existing native trees to be retained, has a combination of ornamental and natives in Zone A, some turf in both Zones A and B, and all SMM natives in Zones B and C. The landscape is acceptable under the SMM LIP.

- To the west near the summit next to Kanan Dume, the slope is planted with non-natives with extensive Spanish Broom (*Spartium junceum*), locust (*Robinia* sp.), and pines (*Pinus eldarica* and *P.halepensis*.) Some of this is retained for erosion control, although these plants are exotics and some are considered invasive in the Santa Monica Mountains (SMM).
- Most of the slope on the west is in Zone C and has native plants including trees. Twenty-five (25) of the 515 coast live-oak trees needed for mitigation of impacts to oaks are planned for this slope, replacing some of the exotic trees.
- Potential fuel modification extends north upslope into H2 chaparral, and thinning is accurately described on the landscape plans.
- Brush clearance fuel modification will extend into the riparian tributary to the south and into riparian oak woodland of Ramirez Canyon on the southwest, south, east and northeast.
- The applicant has an approved fuel modification plan that requires minimal fuel modification in the applicant's defined riparian habitat. Dead wood clearance, limbing up, and clearing of understory along the access and perhaps other areas will be what is needed.

**Water provision:** Water will be provided by a well (locations shown in the Hydrogeologic Report). Evaluation of the impact on the environment is that there is no impact due to a projected well depth of hundreds of feet, although hydrological connections of deep aquifers are not discussed, and the impact of well placement is not discussed. Water use projections are not discussed and drawdown is not discussed. Water storage tanks are to be placed among some of the pines on the upper slope near Kanan-Dume Road. Trucked water is not an allowed provision method in the SMM Coastal Zone (§22.44.1340.D)

**Hazards:** The project is in a high fuel hazard area and an earthquake-induced landslide hazard area but is not in a liquefaction zone.

**Special Status:** There are no CNDDDB reports of special status species in the project area, nor any critical habitat areas. The Biological Assessment found *Calochortus catalinae*, *Lilium humboldtii* ssp. *ocellatum*, possible nests of Desert Woodrat *Neotoma lepida intermedia*. None of these were mapped, and they all should be avoided for impact if possible.

**DRAFT RECOMMENDATIONS** were provided but were not reviewed.

For applicant and coordinator response to questions of ERB see appendix.

Testimony on fuel modification of oak woodland was provided by expert witness for the applicant, Dr. Chris Dicus, Fire Ecologist.

**ERB COMMENTS:**

**SITE:**

1. The siting of the project structures needs to be adjusted to the 30-ft. setback from property lines required by State Fire Code. A closer setback may have been agreed to before the adoption of the SMM LCP in 2014, but a further setback will now be required due to the near H1 habitat that cannot be fuel modified.
2. The siting of all development on the project parcel needs to have a minimum setback of 50-ft. from all H1 habitat, and structures need to have a setback of 200-ft. to avoid fuel modification in H1.
3. Oak woodland has moisture content that could accommodate a more narrow fuel modification clearance than other habitats. For fire safety, removal of deadwood would be needed, however.
4. There is an incongruity in fuel modification needed to provide defensible space out to 200-ft. from structures and preservation of H1. The objective in providing defensible space is removal of continuity between horizontal and vertical fuels, which removes a lot of dead and downed material. Fuel modification should be moved outside of H1 habitat in order to preserve it.

**HABITAT IMPACT:**

5. ERB pointed out that the annual grassland area near the planned residence site had areas that were not grassland, that could be shrubs. This was pointed out in the early photos of the property (2006).
6. Fuel modification of any kind on H1 areas such as those proposed by the project is impact, and is not alleviated by the careful clearing of understory proposed. Removal of flammable elements and dead wood is removal of intrinsic parts of the community. Oak woodland as defined by the County includes non-oak elements and is not confined to the oaks alone.
7. The state of California has an oak woodlands act and code that regards all plants and wildlife use within a stand of oaks as part of oak woodland. The oaks by themselves are important as the basic structure, but the other components are important to the whole habitat of oak woodland. The smaller non-oak components may be essential to some of the rare and sensitive species. The example of the understory plant *Amorpha* as essential to a rare butterfly was given.
8. The remapping of the H1 habitat by finely characterizing specific areas less than the original mapping unit, is not appropriate to the concept of what constitutes habitat of riparian oak woodland. The project will be impacting the H1 habitat by placement where it is proposed. The area has recovered from the impact of the fill slope on the tributary canyon to a great degree. The remapping should not be accepted as a means to approval of the project placement nor approval of the project impact.
9. The concept of the SMM LCP of preserving H1 habitat of oak woodland is not the same as the forestry objective of promoting oak growth.
10. The most likely fill of space provided by removal of non-oak flammable shrubs and other plants in the understory will be non-native grasses. Non-native grasses promote spread of fire when dried, probably more than plants that remain green in the drier seasons.
11. Canopy covers 10% of oak woodland area according to the Los Angeles County specific definition in the Los Angeles County Oak Woodland Conservation Plan. Non-oak plants living in the area beyond the canopy are included in the oak woodland. The extent of roots beyond the canopy can be hundreds of feet.

12. Oaks near the septic system or with canopy overhang of the septic system will probably not be affected by installation of the septic system in the former fire road roadbed.

13. The judgmental term of "significant oak" should not be applied in the oak tree report.

**ACCESS:**

14. The plan for the access road needs further review under new requirements of Los Angeles County Fire policy for the Coastal SMM. Defensible space needs to be provided, and protection of H1 habitat is needed.

15. The access road needs control of erosion to preserve oaks and maintain the road integrity.

16. Documentation on seeking access over the property to the north should be provided, as this would show proof that best preservation of the sensitive environment of H1 was pursued by the applicant. The applicant states this is not possible, and his verbal description of the attempt is the proof. Coordinator's finding on prescriptive access is in the appendix.

17. The reserve water in water tanks will need to be filled at a rate of 15-20 gal/min. Trucked water is not permitted by the LIP. (§22.44.1340.D)

**OAK MITIGATION PLAN:**

18. Clumped planting in an early landscape plan for the needed mitigation coast live-oak trees does not replace the natural arrangement of the trees in the oak woodland of impact and is not recommended for mitigation.

19. In the mitigation plan, the impact on the existing habitat should be analyzed. Oaks should not be planted in natural areas that do not already have oaks. An impacted area appropriate by slope and aspect is preferred for the mitigation, over natural areas, such as the chaparral.

**BIOLOGICAL ASSESSMENT**

20. For the biological report provide a recent, complete list of species and define the project space of the survey. Be careful to include nearby sensitive plants in a stream course that could be affected by project runoff.

**ERB RECOMMENDATIONS:**

1. Tree mitigation for this project should not be payment into an oak fund. Mitigation should be restoration or creation of coast live-oak woodland with non-oak mitigation trees and common natives of the understory included to create oak woodland. The site needs to be conducive to oak growth in soil, aspect, amount of moisture, and slope. The plan needs to deviate from the exact constitution of the impact area to have the best oak woodland constituents for the site of restoration.

Motion/second Goode/Longcore, Ayes: Unanimous

2. The mitigation plan should have all sites identified, and should be maintained by agreement with an agency experienced in conservation management of natural lands and restoration. The land should have a conservation easement applied to the property if it is not public land or land already managed for conservation. Sites might be ones that have oaks that have been impacted by drought and pests, particularly the non-native borers.

Motion/second Goode/Longcore, Ayes: Unanimous

3. Planting of mitigation oaks may need to occur outside the Ramirez Canyon Watershed because there are so many mitigation trees required. Initially the applicant should find as many protected areas for planting as possible in the Ramirez Canyon Watershed or provide an area with a conservation easement managed by a conservation agency in the Ramirez Canyon Watershed. This may involve participating



in a conservation agency's program. All mitigation areas and plantings need to be mapped in the Native Tree Replacement Planting Program.

Motion/second Decruyenaere/Ibarra, Ayes: Unanimous

4. Placement of the septic system shall use hand tools and air spade for the first 24-in. depth. Oak roots of 1-in. and larger shall be preserved whenever possible. Critical oak roots for support of the downslope oaks (tension roots) could be encountered.

Motion/second Ibarra/Durbin, Ayes: Unanimous

5. Walnut mitigation for the walnut tree removed for the residence shall be all onsite.

Motion/second Goode/Ibarra, Ayes: Unanimous

6. Broom (*Spartium junceum*) and carnation spurge (*Euphorbia terracina*) are both invasive plants that should be removed from all areas of the project parcel and along the access road. This should include removal along the right-of-way of Kanan-Dume if this can be done. A weed-wrench would work for broom removal.

Motion/second Goode/Longcore, Ayes: Unanimous

7. For the landscape, consider replacing the non-native turf proposed, *Agrostis palens* and *Festuca rubra* hybrid with the native *Elymus triticoides* and native *Festuca rubra* variety.

Motion/second Goode/Decruyenaere, Ayes: Unanimous

8. Any native plant material removed for the project should be chipped into mulch and spread onsite.

Motion/second Goode/Ibarra, Ayes: Unanimous

9. The project shall be continued to the next ERB meeting.

Motion/second Decruyenaere/Durbin, Ayes: Unanimous

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ERB Meeting Date: 15 May 2017, R2014-00461-(3)

Staff Biologist Recommendation:  Consistent  Consistent after Modifications  
 Inconsistent  No decision

Suggested Modifications: Comply with all ERB recommendations.

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ERB Meeting Date: 15 May 2017, R2014-00461-(3)

ERB Evaluation:  Consistent  Consistent after Modifications  
 Inconsistent  No decision, continued to 19 June 2017

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**B. Project: Bosacki-Newman SFR, 2181 Encinal Canyon Road, Malibu, CA 90265**

**Location:** Lachusa Canyon & Encinal Canyon Watersheds  
**Project No.** R2015-00089-(3)  
**Permit Nos.** CDP-RPPL2016004920; Var-RPPL2016004921;  
Envi-RPPL2016004924  
**APNs:** 4472-027-016; 4472-027-030  
**Location:** 2181 Encinal Canyon Road, Malibu  
**Applicant:** Upadi Yuliatmo, Burdige & Associates  
**Biologist:** Andrew Forde  
**Planner:** Joshua Huntington  
**USGS Quad:** Triunfo Pass, bordering Point Dume

**Development**

The proposal is for a new single family residence of 6371 sq.ft. footprint with basement and attached two-car garage on a high point between Lachusa and Encinal Canyons. A new driveway of 862-ft. is proposed from 3 alternatives, 2 alternatives on existing roadways but longer and in more sensitive habitat as determined by the Biological Assessment. The driveway proposed accesses Encinal Canyon Road near the northeast corner of the project parcels. Line-of-sight requirements may necessitate removal of some part of cliffs along Encinal Canyon Road, but these are naturally crumbling and support very little lichen-bryophyte flora due to the continual disintegration of the rock strata. Existing roads and paths to be retired are proposed to be revegetated with native plants taken from the new driveway, new trail, and residence construction. A new connecting trail alignment is proposed for the project, and some existing trails are retained. The development will be in currently mapped H2 habitat with some fuel modification needed in mapped H1 habitat. Grading total is 16,710 CY; 8355 CY cut, 8336 CY fill, 19 CY import. Outdoor lighting for the driveway is shown in the landscape plans and will be downward directed lights along the driveway and around the house. A 1440-sq.ft barn/stable is proposed near the septic system. The septic system is planned to be in H2 habitat east of the residence and is over 200-ft. distant from all oaks on the parcels. Water will be provided by the Las Virgenes Water District.

**Habitat Remapping**

The mapped habitat categories within project impact vicinity include H1 (riparian oak woodland in a drainage that drains to Lachusa Canyon), H2-high scrutiny habitat areas in the surrounding grassland and purple sage alliances, and a grassland area along one of the drainages to Encinal Canyon. Due to findings of extensive Catalina Mariposa-lily (*Calochortus catalinae*) and other wildflowers widespread on the property and identification of intermittent drainages not previously mapped, the Biological Assessment has proposed remapping of the habitat categories on the project.

**H1 remapping:** H1 expands from approximately 4.9 acres to 13.25 acres. The remapping expands H1 habitat to include the identified drainages on the project parcels with 100-ft. buffer included, and some of the H2-high scrutiny areas are also included in the remapped H1 habitat. H1 will also include a northern branch of the drainage to Lachusa Canyon which has coast live-oak woodland and a rock outcrop. The LCP-mapped H1-buffer or quiet zone on the north will have fuel modification, and remapping has not changed that area. Part of the proposed driveway will be in one of the areas proposed to be H1, but is currently mapped as H2.

**H2 remapping:** Part of a southern arm of the nearest Lachusa drainage will change to H2; an area of H2-high scrutiny next to Charmlee Wilderness Park will change to H2; and an area needed for fuel modification at the northeast end of the near Lachusa drainage is purple sage alliance and will change to H2. H2 declines from 34.87 acres to 27.2 acres; H2-high scrutiny declines from 1.44 acres to none.

**Landscape**

The most recent landscape plan has a mix of natives and ornamentals in Zone A; all SMM natives in Zone B except for some turf; and a mix of natives and ornamentals in Zone C. Revegetation is needed in Zone C, and this should be revised to use a native seed mix and SMM native container plants typical of the surrounding natural habitat of purple sage scrub. Fuel modification will largely be in mapped H2 habitat, with remapping proposed for fuel modification in mapped H1 habitat that is purple sage alliance. For revegetation of abandoned paths and roads and along the new driveway, the applicant has proposed a method of transplant using soil blocks for areas that have the Catalina mariposa-lilies. A restoration plan needs to be created for the revegetation outside Zone C on abandoned trails, roads, and clearings of the project.

**Potential Fuel Modification & Brush Clearance** (200-ft. from project structures) Fuel modification will largely be in mapped H2 habitat, with remapping to H2 proposed for fuel modification in mapped H1 habitat that is purple sage alliance on the project parcels. Brush clearance on the property to the north is on mapped H2 habitat and may extend into H1-buffer and H1-quiet zone in one area (acreage not known).

**Hazards**

The parcel is in a Very High Fire Hazard area. The parcel has extensive areas with landslide hazard including areas near the house site. There is no mapped seismic hazard nor mapped flood hazard.

Applicant approved J.Decruyenaere *pro tempore* for fulfillment of the needed quorum.

**DRAFT RECOMMENDATIONS** were provided but were not reviewed.  
For applicant and coordinator response to questions of ERB see appendix.

**ERB COMMENTS:**

1. Drainages are not necessarily H1 habitat. They would need to incorporate designated types of H1 habitat, such as riparian habitat, to be designated H1.
2. Drainages have a designated buffer of 100-ft from the outer edge of riparian vegetation or 100-ft. from the bank edge in cases without riparian vegetation (§22.44.1340.A).
3. ERB is required to make a recommendation on remapping proposals of projects. The subject parcel cannot be subdivided, so this will involve recommendations on remapping of areas not influenced directly by the development.
4. ERB has concerns about placement of the house in a somewhat central location of the large parcel. This will have associated impacts that extend in all directions from the house site, which is on a ridgeline with runoff to two watersheds. In relation to this site, the applicant needs to show that the house site chosen is the best of several options and that the driveway option chosen justifies the increased length over the maximum standard permitted length.
5. ERB requests to review the proposed house sites and selection of driveway using photographs of all the potential entry points for the driveway. Issues of the cliff removal to remove blind spots also should be discussed with photographs.

**ERB RECOMMENDATIONS:**

1. The drainages should be reviewed for whether they incorporate sensitive H1 habitat. The H1 habitat should have the edge mapped to delimit H1. There will be the standard H1 buffer and H1 quiet zone around this. Drainages without H1-habitat will have the stream buffer of 100-ft., and should be mapped as stream buffer with a different symbol from the H1.

Motion/second Decruyenaere/Durbin, Ayes: Unanimous

2. The drainage chosen near the selected access is stated to be without riparian habitat and appears to be flat enough for the house. With appropriate engineering, perhaps the house could be placed there with less impact to the environment from runoff. The alternative of runoff from a driveway of more than 800-ft. and runoff from the proposed residence site and fuel modification into two watersheds seems to have more impact. It needs to be demonstrated that the chosen site is better for the environment. The two locations should be compared for environmental impact.

Motion/second Longcore/Durbin, Ayes: Unanimous

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ERB Meeting Date: 15 May 2017, R2015-00089-(3)

Staff Biologist Recommendation:  Consistent  Consistent after Modifications  
 Inconsistent  No decision

Suggested Modifications: Comply with all ERB recommendations.

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ERB Meeting Date: 15 May 2017, R2015-00089-(3)

ERB Evaluation:  Consistent  Consistent after Modifications  
 Inconsistent  No decision, continued to 19 June 2017

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**OTHER ITEMS:**

C. Public comment pursuant to Section 54954.3 of the Government Code:  
No public comment was given.

Minutes of the ERB, 15 May 2017, Bosacki SFR, R2015-00089-(3)

## **APPENDIX: APPLICANT & COORDINATOR RESPONSES TO ERB QUESTIONS**

### **Kay SFR Project, R2014-00461**

#### **Applicant response to ERB inquiries:**

##### **Habitat and Biology:**

Biological report submitted in 2013 was for 5 parcels. The plant list there may not be appropriate for the current project. Humboldt Lily, for example was only in the streambed. Applicant states that the H2 chaparral on the northwest is not a possible development area and the chosen site impacting riparian and H1 areas is better for preservation of biological resources. The slope easement imposed on the fill slope and protection of drainage easements on the project parcel precludes development on a large amount of the parcel area. No development is permitted on slopes over 50% which make up a large portion of the parcel.

The H1 habitat remapping near the planned residence coincides with a definite line of vegetation change from large chaparral plants to non-native grassland. This coincides with a slope change that extends to the east off the project parcel. Whether a soil change is involved is not known. The riparian area is defined topographically by the bank. Mugwort is present in the grassland and along the top of the bank. The riparian definition used in remapping coincides with a change in vegetation that is in the channel. Only a few sycamore trees are present, so the vegetation may not be oak-sycamore woodland south of the planned residence. Kanan-Dume Road was constructed in the 1970s. Installation of the 200-ft. fill slope denuded the project area. The last burn was in 1978.

The grassland study was qualitative and species observed are noted in the text.

##### **Access:**

Access from the northern neighbor's driveways is not possible due to adversarial protection of privacy there, and the applicant has an access easement so absence of easement cannot be claimed. The applicant was not clear about whether previous owners had a prescriptive right by use to access over the northern neighbor's property. (This could have been established in court—see coordinator's note below.) There are three or four parcels which have an access easement along the road the applicant is using. Approval on the access road was obtained in 2013 with revision to have lengths as long as about 150-ft. narrowed to 15-ft. for approximately 25-33% of the access road length. This reduced oak removals from 27 to 1 oak. About 67-75% of the road is the standard 20-ft. width. Paving is required because all of the road has slope over 10%.

##### **Oak Impacts:**

Oaks requiring mitigation were assessed in 2013 and again in 2017 using the LIP minimum size of assessment at 6-in. DBH trunks or 2 trunks summing to 8-in. and the encroachment mitigation requirements of the LIP. Only 1 tree is to be removed. All structures are at least 50-ft. distant from oak trees. Oak mitigation trees planted on the fill slope next to Kanan-Dume Road are replacing non-native trees planted there for erosion control. Tree 288 is the one by the septic area, and will be mitigated for encroachment of the tree. Tree 199 at the access road elbow will be removed and mitigated. Exhibit B of 2017 report has photos that clarify discrepancies on the oaks. Oak trimming including #115 was observed by an ERB member on a site visit, but this trimming was not done by the applicant's program. The access road needs erosion controls to preserve the oaks, and this will be provided in the form of retaining walls. Vertical clearance along access road sides is available for all construction equipment anticipated for use on the project.

Dr. Dicus, a senior Fire Ecologist, provided comment on benefit to oaks by doing fuel modification required for the project. He is speaking from the perspective of a forestry objective, which does not consider downed wood and non-oak species as part of the oak woodland. Removal of species that promote fire spread and compete for water and nutrients should benefit the oak vigor and be protective of oak loss from fire. The soil moisture content will return after removal of shrubs because smaller non-shrub plants will fill the vacant areas, and oak roots will hold the soil.

##### **Water and Septic provision:**

Water provision must be by wells. Trucked water is not permitted in the SMM LCP area. The tank placement at the top of the slope is outside the slope easement area. The septic pipeline goes through H2 chaparral and does not impact any oak trees.

##### **Coordinator's findings:**

**Unit of habitat mapping:** The unit of mapping using aerial photographs was 0.5 hectare (a little more than 1.2 acres). This is from the Photo Interpretation Report for the aerial photography flown in July 2001 for NPS.

The LIP does not have a specification for unit of mapping. If an identified resource is considered sensitive, then the planner would take steps to protect it in the plan of the project. Usually the resource would need to be part of a bigger habitat category that has prescribed setbacks, such as a drainage.

**Prescriptive Easement Access:** A prescriptive easement, acquired by use for 5 years (CA) of access, is not binding until reviewed in a court of law and ruled to be binding. An Access Easement Title Search, which is complex, is needed to determine if an easement exists. DRP does not do these searches, as it does not have the manpower to do them.

There are two ways to discover an access easement that was created by court judgement from a prescriptive easement.

1. Search land title records by legal description of the subject property on which the easement would apply. (This would be the property with the access route, not the property using the access route.)
2. Search the General Index by name of the subject access easement owner (Dominant Tenement). This would be a search back through time of all records for all of the owners of the property providing the access.

**H1 habitat:**

There are certain types of habitat recognized as "riparian" by the LIP which are not standard. These are ". . . 1) distinctly different vegetative species than adjacent areas and 2) species similar to adjacent areas but exhibiting more vigorous or robust growth forms." (§22.44.630.Riparian habitat);

3. all vegetation (canopy and understory species ) associated with a creek or stream including, but not limited to, . . . mugwort, and Mexican elderberry. In the Coastal Zone, where chaparral and/or coastal sage scrub occur within or adjacent to creeks or streams and function as riparian habitat, these areas are considered to be H1 riparian habitat. (§22.44.1810.A.1)

**Oak trees:**

An oak tree removal or encroachment within the TPZ requires mitigation for trees with trunk diameter measured at 4.5-ft from mean natural grade (1) six inches or more in diameter, or (2) for oaks with a combined diameter of two trunks eight inches or more. (§22.44.950.B.1.)

"Protected zone" or "Tree Protected Zone, TPZ" is the area within the dripline of an oak tree and extending outwards to a point at least five feet outside the dripline, or 15 feet from the trunks of a tree, whichever distance is greater. (§22.44.950.B.3.)

**Trees (species other than oaks)**

**Native tree protection.** New development shall be sited and designed to preserve native oak, walnut, sycamore, bay or other native trees, that have at least one trunk measuring six inches or more in diameter, or a combination of any two trunks measuring a total of eight inches or more in diameter, measured at 4.5 feet above natural grade. Development shall be sited to prevent any encroachment into the protected zone of individual native trees to the maximum extent feasible. "Protected zone" or "Tree Protected Zone, TPZ" is the area within the dripline of the tree and extending outwards to a point at least five feet outside the dripline, or 15 feet from the trunks of a tree, whichever distance is greater. Adverse impacts to native trees shall be fully mitigated, with priority given to on-site mitigation. (§22.44.1920.K)

**Bosacki-Newman SFR, R2015-00089-(3)****Applicant response to ERB inquiries:****Habitat:**

Drainage 2 in the Lachusa Canyon Watershed is a topographic swale in the proposed area of fuel modification for the house. The plant alliance is purple sage scrub.

**House site:**

The applicants state that they have been told by DRP that the residence needs to be 200-ft. distant from the road due to various constraints. Two low points at the road are protected areas, and the area between is a cliff. The traffic going downhill past the project can be proceeding at 50 mph or more, and all possible access points from the property have blind areas (so that some cliff removal is needed for safe egress). The house site was chosen to avoid impacting the environment of the jurisdictional drainage areas next to the road.

**DRP Planners:****Remapping:**

Planners directed that accuracy in the habitat map is important, but the focus should be on areas of impact of the project.

**Coordinator findings:****Drainage buffer:**

Stream/Drainage course protection. 1. New development shall provide a buffer or at least 100-ft. in width from the outer edge of the canopy of riparian vegetation associated with a stream/drainage course. Where riparian vegetation is not present, the buffer shall be measured from the outer edge of the bank of the subject stream. (§22.44.1340.A.1)

- a. In no case shall the buffer be less than 100 feet, except when it is infeasible to provide the 100-foot buffer in one of the following circumstances: . . . (3) for a development on a legal parcel that is the minimum development necessary to provide a reasonable economic use of the property and where there is no feasible alternative; (§22.44.1340.A.1.a.(3))

Allowed uses in a drainage buffer include:

-Water quality BMPs required for new development shall be located outside the 100-foot buffer, except for non-structural BMPs (e.g. vegetated berms/swales, bioengineered velocity reducers) (§22.44.1340.A.1.b)

-Fuel modification is allowed in H2 and H3 habitat and drainages with no H1 habitat. Fuel modification is allowed in H1 buffer. Appropriate survey to avoid disturbance of wildlife is required. (§22.44.1920.A)

**Parkland buffer:** 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. (§22.44.1900.C) Two hundred (200) ft. buffer is needed where feasible. (§22.44.1240.C.13)

**H1 habitat:** This category consists of habitats of highest biological significance, rarity, and sensitivity . . . native grassland and scrub with a strong component of native grasses or forbs, riparian, native oak . . . , and rock outcrop habitat types. . . Native grassland (§22.44.1810.A.1)

**Access:**

The maximum length of driveway permitted without a variance is 300-ft. (§22.44.1920.C)



**MINUTES OF THE ENVIRONMENTAL REVIEW BOARD (ERB)  
Unincorporated Coastal Zone, Santa Monica Mountains, Los Angeles County  
Meeting of June 19, 2017**

(Minutes approved, 17 July 2017. ERB only approves ERB comments and recommendations and does not approve appendix materials.)

**Persons in Attendance**

**ERB Members**

Ron Durbin  
Margot Griswold, Ph.D.  
Richard Ibarra  
Travis Longcore, Ph.D.  
Jennifer Mongolo, Biologist, *pro tempore*

**Regional Planning Staff**

Joseph Decruyenaere, Senior Biologist

**Regional Planning Staff (continued)**

Shanna Farley-Judkins, Planner  
Kevin Finkel, Planner  
Joshua Huntington, Planner  
Rob Glaser, Planner  
Shirley Imsand, Ph.D., Senior Biologist,  
ERB Coordinator  
Tyler Montgomery, Planner

**3300 Kanan-Dume Road, Project Number 2014-00461-(3)**

Don Schmitz  
Jacqueline Worden

**T-Mobile WTF Renewal and Modifications, Malibu Canyon Road, R2016-002947-(3)**

**T-Mobile WTF Renewal and Modifications, Mulholland Highway, R2016-002944-(3)**

**Martinez SFR, 26347 Ingleside Way, Malibu , R2015-00833-(3)**

Victor Martinez

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**MINUTES**

**ANNOUNCEMENTS:**

1. The ERB meeting for August will be on 28 August 2017.
2. The Project R2015-00089, 2181 Encinal Canyon, is continued to the 17 July 2017 meeting, pending receipt of documents submittal within deadline for July materials.
3. Review of the Project 2015-00833-(3) 26346 Ingleside Way, is continued to the 28 August meeting, pending receipt of documents requested by planner within deadline for August materials.
4. Time rules for ERB meetings were presented by Kevin Finkel with handouts to ERB members. Applicants will have 15 minutes for presentation and 10 minutes for discussion/response with the ERB panel. Other proponents and speakers will be limited to 3 minutes per speaker. The ERB Coordinator may adjust these limits. The rules were adopted from those used by the Regional Planning Commission. See Appendix A

**CHAIRPERSON FOR ERB – DISCUSSION and VOTE**

Dr. Longcore requested to have a chair from the ERB committee conduct the meeting. This would make the panel more independent of DRP influence and allow them to address what the ERB panel deems important with respect to project review.

**Motion/second Longcore/Griswold, Ayes: Unanimous**

**The ERB committee nominated Ron Durbin to be the chairperson.**

**Motion/second Griswold/Ibarra, Ayes: Unanimous**

**Dr. Longcore volunteered to be the chairperson and conducted the meeting.**

### **APPROVAL OF MINUTES**

**Dr. Longcore proposed a change of minutes format to have the ERB panel approve only the sections with the ERB comments and recommendations.**

**Motion/second Longcore/(no second) Ayes: Unanimous**

**Dr. Longcore contended that content in appendices and the staff reports was not presented at the meeting, but staff states that all material was taken from notes of the meeting and the video tape. There are two exceptions which are answers to questions on unit of mapping and prescriptive easement. The video tape of the meeting can be watched and listened to in order to confirm that this is the case.**

**One member requested that the material in the appendices be available, even if it was not part of the meeting review.**

### **OLD BUSINESS**

- A. Kay SFR Project, R2014-00461, 3300 Kanan Dume Road**  
**Location: Ramirez Canyon Watershed**  
**Project No. R2014-00461-(3)**  
**Permit Nos. RCDP 201500007, RENV 201400038**  
**APNs: 4465-002-023 and access 4465-002-028**  
**Location: 3300 Kanan Dume Road, Malibu, CA 90265**  
**Planner: Joshua Huntington**  
**Applicant: Nicole Farnoush, Schmitz & Associates**  
**Biologist: Jacqueline Worden, Impact Sciences**  
**USGS Quad: Point Dume (residence and access)**

**Mr. Huntington, the DRP planner, presented the project description. (Appendix 2)**

**Recommendations for consistency and recommendations to reduce project impacts were requested by Mr. Huntington.**

**Dr. Imsand presented the review of biological resources. (Appendix 2)**

**Recommendation on remapping was requested by DRP Biologist Imsand. ERB stated this was irrelevant to the project review.**

**Draft Recommendations were provided but were not reviewed.**

**For applicant and coordinator response to questions of ERB see Appendix 3.**

### **ERB COMMENTS:**

#### **SITE:**

- 1. The siting of the project structures needs to be adjusted to the 30-ft. setback from property lines required by State Fire Code, and it needs 100-ft. setback from riparian resources. Move the structure into H2 habitat and provide 100-ft. setback from the H1 mapped habitat.**
- 2. A location in H2 habitat will have the drawback of more runoff and erosion because of the greater extent of fuel modification needed.**
- 3. There is a question of whether it is better to clear understory and have the oak canopy remain, which results in more coverage of foliage, or move to a position in chaparral that does not impact H1 but requires the full 100-ft. of clearing and thinning between 100-200-ft.—which possibly leaves less foliage as an end result.**

5. Placing the structure on the north side of the access road, compared to the south side currently proposed, includes the road as defensible space, which it is—little to burn on the road.
6. Placing the structure on the north side of the access road gives benefits of slope reversal, change of slope and the defensible space of the road which aid in a fuels-driven fire, and for a topographically-driven fire having fuels upslope of the residence is an aid.
7. Figure 4 which shows 100- and 200-ft. out from H1 shows a best position in the chaparral H2 to have minimal impact of fuel modification in H1. Figure 4 does not show H1 on the neighboring northern parcel, however.
8. A north-facing slope position has more moisture than other aspects and is always preferable as an aid to fire protection.
9. New staging area for County Fire will need to be positioned within 500-ft. of any part of structures and at the same level as the house. It needs to be 300-ft. diameter due to the long access. It needs to be located at least partially in the original position of the house. The slope of a fire turnaround can be no more than 2%.
10. Elderberry (*Sambucus nigra ssp. caerulea*) and Mugwort (*Artemisia douglasiana*) are both species found distant from stream courses, and could or may not indicate a riparian area.

#### **FUEL MODIFICATION & HABITAT IMPACT:**

11. ERB confirmed with the planner that clearing for defensible space is not an allowed use in H1.
12. Minimal fuel modification needed in oak woodland habitat is clearing of dead wood from understory and crown cleaning of dead and dried material.
13. The project needs to identify key dead elements to retain in fuel modification and what can be removed with least damage to the biological resources. Get concurrent advice from both County Fire and DRP biologists on this plan.
14. Clearing of understory and downed materials is not good for oak woodland. Fuel modification is an impact to H1 oak woodland, even clearing of dead materials removes resources.
15. Fire suppression that is practiced does not effectively reduce fire in oak woodlands in the Santa Monica Mountains (SMM). It is not possible to prevent fire under the Santa Ana wind conditions that sometimes prevail.
16. Senescence and overgrowth are not driving forces for the oak woodland biological community of the SMM.
16. The applicant should consider minimizing the house to have less requirement for extensive fuel modification. The minimum size of house possible that does not constitute a taking is 750 sq.ft. Uncovered parking does not need fuel modification.
17. Minimizing the house in the chosen location does not remove the need for fuel modification in H1 habitat.
18. Some H1 habitat impacts of this project cannot be avoided. Percolation tests defined the only possible area for the septic area. The access appears to be determined.

#### **LANDSCAPE:**

19. The landscape plan should incorporate more plants that are butterfly and moth attractors.
20. The landscape plan should include understory plants of the type to be removed.



**LIGHTING**

20. For outdoor lighting use low temperature lamps within the yellow spectrum and avoid blue spectrum lights (LEDs).

21. Outdoor lighting should use timers so that lights are temporarily illuminated when needed.

**ERB RECOMMENDATIONS:**

1. Move the residence to the northern side of the access road and at least 30-ft. from the property line. Find the midpoint from all H1. Provide for maximum defensible space on all sides. Provide for defensible space on the access road and in fuel modification areas.

Motion/second Durbin/Ibarra Ayes: Unanimous

2. Place all of the septic system on the existing graded dirt road, acknowledging it is in H1 oak woodland. Use air spade and hand tools for the top 2-ft.; preserve roots 1-in. and larger as possible, threading equipment through the roots; and cover roots with moist cloths during time of exposure to air. Use other needed tools to finally penetrate 30-ft. or the needed depth for the septic system.

Motion/second Mongolo/Longcore Ayes: Unanimous

3. The project should be continued to the next available ERB meeting date and bring in for review a plan for a new site in the H2 habitat.

Motion/second Durbin/Longcore Ayes: Unanimous

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ERB Meeting Date: 19 June 2017, R2014-00461-(3)

ERB Evaluation:     Consistent     Consistent after Modifications  
                          Inconsistent     No decision, continued to 28 August 2017

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ERB Meeting Date: 19 June 2017, R2014-00461-(3)

Staff Biologist Recommendation:     Consistent     Consistent after Modifications  
    Inconsistent     No decision, continued to 28 August 2017

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**NEW BUSINESS**

**B. Project: T-Mobile WTF Renewal and Modifications, Malibu Canyon Road, Malibu**  
Project No. R2016-002947  
Location: East side of Malibu Canyon Road, Malibu Creek Watershed  
Permit Nos. CDP-RPPL2017005731; Env-RPPL2017005731  
APNs: Public right-of-way adjacent to APN 4457-002-905  
Applicant: Luke Snyder, Synergy Engineering  
Biologist: Kyle Workman  
Planner: Tyler Montgomery  
USGS Quad: Malibu Beach

Mr. Montgomery presented the project description.  
Mr. Decruyenaere presented the analysis of biological resource impacts.

**ERB RECOMMENDATIONS:**

**Provide the standard MBTA nesting bird survey of 500-ft. distance from work, 1 survey within bird nesting season (Feb.1-Aug.31), within 2 days of project implementation.**

Motion/second Griswold/Durbin Ayes: Unanimous

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ERB Meeting Date: 19 June 2017, R2016-002947-(3)  
ERB Evaluation:  Consistent  Consistent after Modifications  
 Inconsistent  No decision, continued to 19 June 2017

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ERB Meeting Date: 19 June 2017, R2016-002947-(3)  
Staff Biologist Recommendation:  Consistent  Consistent after Modifications  
 Inconsistent  No decision

**C. T-Mobile WTF Renewal and Modifications, Mulholland Highway, Malibu, CA**  
Resources: Malibu Creek Watershed, Stokes Ridge Trail  
Project No. 2016-002944  
Permit Nos. CDP-RPPL2017005730; Env-RPPL2017005730  
Location: West side of Mulholland Highway, Malibu Creek Watershed  
APNs: Public right-of-way adjacent to APN 4455-042-007  
Applicant: Luke Snyder, Synergy Engineering  
Biologist: Kyle Workman  
Planner: Tyler Montgomery

Mr. Montgomery presented the project description.  
Mr. Decruyenaere presented the analysis of biological resource impacts.

**ERB RECOMMENDATIONS:**

**Provide the standard MBTA nesting bird survey of 500-ft. distance from work, 1 survey within bird nesting season (Feb.1-Aug.31), within 2 days of project implementation.**

Motion/second Griswold/Durbin Ayes: Unanimous

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ERB Meeting Date: 19 June 2017, R2016-002944-(3)  
ERB Evaluation:  Consistent  Consistent after Modifications  
 Inconsistent  No decision, continued to 19 June 2017

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ERB Meeting Date: 19 June 2017, R2016-002944-(3)  
Staff Biologist Recommendation:  Consistent  Consistent after Modifications  
 Inconsistent  No decision

**D. Martinez SFR, 26347 Ingleside Way, Malibu**  
**Project No.: R2015-00833-(3)**  
**Minor Coastal Development Permit No.:**  
**RPPL 2016004875, ENV-RPPL2017007297**  
**Assessor Parcel Number: 4457-006-004**  
**Location: adjacent Malibu Bowl Rural Village,**  
**northeast of Corral Canyon Road, Corral Canyon Watershed**  
**USGS Quad: Malibu Beach**  
**Applicant: Victor Martinez**  
**Biologist: Jacqueline B. Worden, Impact Sciences, Inc.**  
**Planner: Shanna Farley-Judkins**

**This project is now continued to ERB meeting of 28 August 2017**

Ms. Farley-Judkins explained that the project was continued due to public comment received and further documents needed for ERB review.

Mr. Martinez submitted an open space deed, referring to Section 1114 showing easement allowing access through a neighboring parcel.

The applicant, Mr. Martinez, requested review in July, but he was informed that the July date was filled, and that he should provide the documents needed for ERB review in August by the date July 13, 2017, for the August 28 meeting.

**ERB Recommendation: The project should be continued to the 28 August 2017 meeting.**

**Motion/second Griswold/Durbin Ayes: Unanimous**

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**OTHER ITEMS:**

**E. Public comment pursuant to Section 54954.3 of the Government Code:**

No public comment was given.

## APPENDIX 1: ERB Meeting Rules – Time Limits

### ERB MEETING RULES

**TIME LIMITS:** The Director of Regional Planning has established time limits with respect to receipt of testimony regarding matters on this Agenda. Applicants will be allowed fifteen (15) minutes to present testimony in support of their application, with an additional ten (10) minutes for responses to issues raised by other witnesses. Other proponents and opponents will be limited to three (3) minutes per speaker. Responses to questions from the Environmental Review Board members will not be included in these time limitations. All speakers are urged to refrain from repeating testimony presented by others. The Coordinator may impose different time limits, depending upon the length of the agenda, the number of speakers wishing to give testimony and/or the complexity of an agenda item.

**WRITTEN TESTIMONY:** Written testimony that is received prior to the public meeting will be made a part of the record and need not be read into the record.

**LOBBYIST REGISTRATION:** Any person who seeks support or endorsement from the Environmental Review Board on any official action may be subject to the provisions of Ordinance No. 93-0031, relating to lobbyists. Violation of the lobbyist ordinance may result in a fine and other penalties. FOR INFORMATION, CALL (213) 974-1093.

**MEETING MATERIALS:** The agenda package is available at the Department of Regional Planning ("Department"), 320 West Temple Street, 13th Floor, Los Angeles, California 90012, and may be accessible on the Department's website at <http://planning.lacounty.gov/>. Any meeting-related writings or documents provided to a majority of the Environmental Review Board after distribution of the agenda package, unless exempt from disclosure pursuant to California law, are available at the Department and are also available in the Environmental Review Board meeting room on the day of the Board's meeting regarding that matter.

## APPENDIX 2 STAFF REPORTS

### Kay SFR Project, R2014-00461

Project description, Joshua Huntington, **Coastal Development Permit No. RCDP 201500007** was not repeated from the May meeting, but is in the agenda for the June 19 meeting.

### Biological Resources, Shirley Imsand, Ph.D., **Environmental Review RENV 201400038**

Biological Resources of Project Vicinity: Vicinity preserved natural land; Riparian oak woodland of Ramirez Canyon in the H1 habitat category; Ramirez Canyon seasonal tributary; Chaparral in the H2 habitat category

**Location:** The project parcels are in the Ramirez Canyon Watershed. The structure will be east of Kanan-Dume Road at the base of a 45% grade fill slope of about 200-250-ft. elevation that supports Kanan-Dume Road over a previous drainage that was a tributary to Ramirez Canyon. The planned residence is about at the level of the previous drainage bank and partially on an existing fire road. The fill may end west of the residence or continue to Ramirez Canyon along the south side of the planned residence. On previous topographic maps a drainage is shown in this area south of the residence. The grassland could be fill with a cover of non-native grassland. It is evaluated in the Biological Assessment as "cleared." A natural, chaparral-covered slope is on the north of the residence (H2). On the south of the residence is the head of a seasonal tributary of Ramirez Canyon (H1). The fire turn-around is planned to be about 25-ft. from the bank of this tributary, and the residence is set back 100-ft. from the bank. The tributary accepts the runoff from Kanan-Dume Road and runoff of extension of the tributary on the west side of Kanan-Dume from a culvert embedded in the fill slope. The runoff of the residence is planned to empty into this culvert after unspecified filtration. Ramirez Canyon is about 180 ft. west of the planned residence, so the stream bed of Ramirez is at the outer edge of the 200-ft. fuel modification required (H1). The planned driveway is on a fire road, currently paved between culverts draining from Kanan-Dume for about 440-ft. of the 1620-ft total length (H1). The residence will have a well chosen from sites in either the tributary stream course or in the existing fire road on the west side of the residence. Tanks for water storage will be near Kanan-Dume Road at the top of the west fill-slope (H3). The septic system is planned to be uphill, north of the residence in the existing fire road near the former connection to one of the paved driveways of the parcel to the north in H1 oak woodland habitat.

#### **Habitat Impacts:**

Habitat impact is an issue with this project. LUP mapping with the residence overlay shows

- the residence and access are chiefly in H1-mapped habitat, which is chiefly riparian woodland, not previously modified.
- Fuel modification extends into H1 habitat of riparian sycamore-oak-willow woodland in the tributary to the south and
- into H1 riparian oak woodland and part of the drainage course of Ramirez Canyon to the east.
- The septic system is planned to be in H1 oak woodland on the western slope of Ramirez Canyon.
- The access road will need widening and paving of an existing fire road that is entirely in oak woodland mapped as H1.

Residence siting, septic system, and fuel modification for development are not permitted uses in H1 habitat. §22.44.1890.C. Access impacts through H1 are permitted when there is no other feasible means of access §22.44.1890.C.

**Fuel modification/Brush clearance/Road widening** all remove dead wood and understory and thin and remove flammable plants that are also part of the oak woodland and riparian community. These are important constituents of the riparian woodland biological ecosystem. All these elements provide important ecological functions, connections, diversity, and resilience to adversity among community members. The understory is the chief location for the next generation of the plant community and some of the animals. All these constituents provide services to the whole habitat and environment of the Santa Monica Mountains. Even with some modifications to the usual requirements by County Fire, these necessary actions of development are impacts to the H1 habitat community and, except for road widening, are not permitted uses according to the LIP.

#### **Impacts to Oaks, Other Native Trees, and Woodland:**

The access route is proposed through H1-mapped coast live-oak woodland, where an existing 1620-ft. road (fire road or ranch road) will be widened and paved and tree branches cut as required for fire safety. One oak is to be removed, encroachments will affect 87 trees requiring mitigation and 103 trees requiring monitoring for 10 years. There will be 515 oaks required for mitigation under the LIP for impacts to oaks on the access road. The landscape plan shows planting of 25 coast-live oaks, so a mitigation plan for these and the remaining 490 oaks is needed. The mitigation oaks will need to be oak woodland replacement with incorporation of typical understory in the mitigation area.

Other native trees were assessed in the Preliminary Native Tree Replacement Plan, but apparently the drip-line was used instead of the TPZ, and therefore, encroachment mitigations needed are uncertain. Percent encroachment was not tabulated. Large-trunked chaparral plants in the area planned for the residence were not assessed by the Applicant's biologist but were measured by the DRP biologist, and these will be removed. Well placement will determine whether other protected trees are removed.

Fuel modification, brush clearance, and access road widening and paving will impact oaks, oak woodland, and riparian habitat in H1 habitat that has not been previously fuel-modified. Except for impacts along the access road, this is not an allowed use under the LIP.

Septic systems are planned to be located to the northeast of the structure along the fire road and may impact oaks and oak woodland there. One oak near the septic pits has canopy over a pit and requires mitigation; other oaks are upslope 7 feet and downslope an unspecified amount, so although the tree protected zone (TPZ) may overlap the seepage pits, they are considered to be without impact according to the Protected Oak Report (2017.04). One oak with canopy overlap will have mitigation.

**Remapping:**

The Biological Assessment has proposed remapping the residence location as H2 and the annual grassland to the south as H3, thus changing some H1 to H2 and H3. Nevertheless, impacts remain from having fuel modification in H1 riparian oak woodland in the southwest area, fuel modification in the sycamore-oak-willow woodland in the tributary to the south, brush clearance (fuel modification) in Ramirez Canyon riparian oak woodland to the east, and placing the septic system and fuel modification on the west slope riparian oak woodland of Ramirez Canyon to the northeast.

Redefining the residence location habitat as H2 may not be accurate in that the chaparral plants there (*Sambucus nigra* ssp. *caerulea* and *Ceanothus spinosus*) have large, tree-sized trunks, are arboreal in form, and were probably south-facing riparian flora on the drainage bank at the time before probable filling of the former tributary channel south of the residence. These large-trunked plants were not evaluated in the tree reports. There are N-S lines of mugwort (*Artemisia douglasiana*), sometimes apparent, between the south tributary head and the *Elymus condensatus* that is in clumps beneath the chaparral plants with large trunks. Mugwort is also on the bank north of the stream course, in the west side of the grassland, and in the fire road west of the chaparral plants with large trunks. This area is mapped in the LCP as riparian and fits riparian H1 definitions in the coastal zone (§22.44.630-Riparian Habitat and 22.44.1810). It has chaparral species near a water course, differing from habitat more distant from the water course in composition and more vigorous and robust form. Elderberry and mugwort are specifically named as riparian species in the LIP.

There are some areas in the H2 habitat more distant from mapped H1 than the chosen site that have lesser slopes where the residence might be sited to have less impact on the H1 oak woodland and LCP-mapped H1 riparian area.

**Wildlife Movement:** The project is sited on a dirt fire road that connects to Kanan-Dume Road in the south and the paved driveway on the parcel under different ownership to the north. This route is cited as a wildlife movement area together with Ramirez Canyon watershed in the original Biological Assessment (2013.01) and was mapped as a wildlife movement area in the Malibu Local Coastal Plan of 1982. At the southern area of the project parcel, the access road joins the fire road that crosses Ramirez Canyon and connects to fire roads that go both north and south along Ramirez Canyon. The house will be placed on a fire road, but could not block movement. Due to adjacent open space the Biological Assessment (2013.01) determined no impact on wildlife movement, although this remaining area is very steep on the upslope sides of the planned residence.

**Landscape elements:** The landscape plan shows existing native trees to be retained, has a combination of ornamental and natives in Zone A, some turf in both Zones A and B, and all SMM natives in Zones B and C. The landscape is acceptable under the SMM LIP.

- To the west near the summit next to Kanan Dume, the slope is planted with non-natives with extensive Spanish Broom (*Spartium junceum*), locust (*Robinia* sp.), and pines (*Pinus ularica* and *P.halepensis*.) Some of this is retained for erosion control, although these plants are exotics and some are considered invasive in the Santa Monica Mountains (SMM).
- Most of the slope on the west is in Zone C and has native plants including trees. Twenty-five (25) of the 515 coast live-oak trees needed for mitigation of impacts to oaks are planned for this slope, replacing some of the exotic trees.
- Potential fuel modification extends north upslope into H2 chaparral, and thinning is accurately described on the landscape plans.
- Brush clearance fuel modification will extend into the riparian tributary to the south and into riparian oak woodland of Ramirez Canyon on the southwest, south, east and northeast.
- The applicant has an approved fuel modification plan that requires minimal fuel modification in the applicant's defined riparian habitat. Dead wood clearance, limbing up, and clearing of understory along the access and perhaps other areas will be what is needed.

**Water provision:** Water will be provided by a well (locations shown in the Hydrogeologic Report). Evaluation of the impact on the environment is that there is no impact due to a projected well depth of hundreds of feet, although hydrological connections of deep aquifers are not discussed, and the impact of well placement is not discussed. Water use projections are not discussed and drawdown is not discussed. Water storage tanks are to be placed among some of the pines on the upper slope near Kanan-Dume Road. Trucked water is not an allowed provision method in the SMM Coastal Zone (§22.44.1340.D)

**Hazards:** The project is in a high fuel hazard area and an earthquake-induced landslide hazard area but is not in a liquefaction zone.

**Special Status:** There are no CNDDDB reports of special status species in the project area, nor any critical habitat areas. The Biological Assessment found *Calochortus catalinae*, *Lilium humboldtii* ssp. *ocellatum*, possible nests of Desert Woodrat *Neotoma lepida intermedia* nearby. None of these were mapped, and they all should be avoided for impact if possible.

## **T-Mobile WTF Renewal and Modifications, Malibu Canyon Road, Malibu, R2016-002947**

**Project Description, Tyler Montgomery, Coastal Development Permit No. RPPL 2017005731**

Applicant proposes the continued operation and minor modifications to an existing pole-mounted wireless telecommunications facility ("WTF") in the public right-of-way. The WTF is located on the east side of Malibu Canyon Road, adjacent to APN 4457-002-905. ERB review is required, as the right-of-way is within designated H2 Habitat, and the site is also located within 200 feet of an H1 Habitat. The existing pole-mounted antennas would be replaced, a pole-mounted cabinet would be added. A power pedestal and H-frame mounted cabinet would also be placed within the right-of-way, 10 feet south of the existing utility pole. This would require excavation of a trench 13 feet long and 36 inches deep. The project site is located near the intersection of Malibu Creek Trail and the Coastal Slope Trail. Land use designation is OS-P, open space parks; Zoning Code is O-S-P, open space parks.

**Biological Resources, Joseph Decruyenaere, Environmental Review RPPL 2017005731**

**Resources: Malibu Creek Watershed, Malibu Creek Trail, Coastal Slope Trail**

The site is primarily associated with bush mallow-greenbark ceanothus chaparral which covers the nearby slopes; however, the immediate area of the site is within the disturbed shoulder of Malibu Canyon Road and supports no natural or native vegetation within the proposed work area.

Ground-breaking activity is limited to that associated with a 13 ft. long X 36 in. deep trench for the new power pedestal and H-frame mounted cabinet, and would not impact any sensitive biological resources.

Landscape and Fuel Modification: No new landscaping is proposed. Brush clearance requirements for the proposed project would be 10 ft. surrounding the pole and cabinet in all directions. The current pole is already subject to these requirements and the proposed cabinet would be sited within an area currently devoid of vegetation; hence, no new vegetation clearance would be required as part of proposed project operation.

**ERB PROJECT SPECIFIC RECOMMENDATIONS:**

The biological report prepared for the project recommends prohibition of construction activity within 500 ft. of any active bird nests except at the discretion of the biological monitor. Due to the limited scale of work that is proposed, including no removal of vegetation and groundbreaking that is limited to trenching adjacent to a busy roadway, staff agrees and recommends a provision allowing for reduction of this protective buffer at the monitoring biologist's discretion. Nesting bird survey within nesting season, and within 2 days prior to construction.

The Biological Assessment is complete.

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## **T-Mobile WTF Renewal and Modifications, Mulholland Highway, Calabasas, R2016-002944**

**Coastal Development Permit No. RPPL 2017005730**

Applicant proposes the continued operation and minor modifications to an existing pole-mounted wireless telecommunications facility ("WTF") in the public right-of-way. The WTF is located on the west side of Mulholland Highway, adjacent to APN 4455-042-007. ERB review is required, as the right-of-way is within 200 feet of H1 and H2 Habitats. The existing pole-mounted antennas would be replaced, a pole-mounted cabinet would be added. Two existing pedestals approximately 13 feet south of the utility pole would remain. The project site is located near the intersection of Mulholland Highway and Stokes Ridge Trail. Land use designation is RL5, Mountains Lands—5 du/ac; Zoning Code is R-C-5, Rural Coastal—5 Acre min. lot size.

**Environmental Review RPPL2017005731**

**Resources: Malibu Creek Watershed, Stokes Ridge Trail**

The project location is mapped as H3 habitat, and is within 200 ft. of mapped H1 associated with an ephemeral drainage to the north. The immediate area of the site is within the disturbed shoulder of Mulholland Highway and supports no natural or native vegetation within the proposed work area.

No ground-breaking activity is proposed as a part of the project, and no impacts to any sensitive biological resources are anticipated.

Landscape and Fuel Modification: No new landscaping is proposed. Brush clearance requirements for the proposed project would be 10 ft. surrounding the pole and cabinet in all directions. The current pole and cabinet are already subject to these requirements; hence, no new vegetation clearance would be required as part of proposed project operation.

**ERB PROJECT SPECIFIC RECOMMENDATIONS:**

The biological report prepared for the project recommends prohibition of construction activity within 500 ft. of any active bird nests except at the discretion of the biological monitor. Due to the limited scale of work that is proposed, including no removal of vegetation and groundbreaking that is limited to trenching adjacent to a busy roadway, staff agrees and recommends a provision allowing for reduction of this protective buffer at the monitoring biologist's discretion. Nesting bird survey within nesting season, and within 2 days prior to construction.

The Biological Assessment is complete.

## **APPENDIX 3: APPLICANT RESPONSES TO ERB QUESTIONS**

### **Kay SFR Project, R2014-00461**

#### **Applicant response to ERB inquiries:**

The access road predates Kanan-Dume Road. The footprint proposed is 3500 sq.ft. for the residence, which is not sprawling. The residence is deeply notched into the slope where proposed. County Fire allowed reduction of the access road width in many parts that reduced oak removals from 27 oaks to 1 oak. County Fire will allow large branches on the ground to remain, but require removal of small branches for fuel modification. This material will be chipped and left onsite. No understory plant to be removed is sensitive. Last fire to affect the parcel was in 1978. Onsite water storage is 2 tanks near Kanan-Dume with 30,000 gal. capacity. Applicant states that no other coastal area in California prohibits fuel modification in oak woodland or riparian areas, not even in areas under direct review by the California Coastal Commission, so it should be permitted for this project. It is not realistic to require this in the SMM Coastal Zone in that many parcels in the Coastal Zone do not have the needed setback of 200-ft. from H1 habitat. Placing the SFR in the H2 is very difficult because of the large amount of grading required on the steep slopes, and placing it 100-ft. from H1 is also going to be very difficult. An entry from Kanan-Dume at the northwest corner of the parcel is not possible due to the steep slopes there. Fire access and turnaround could not be constructed in that area.

#### **Habitat and Biology:**

The house site trees were not surveyed due to dense brush. Applicant contends they are not tree-sized and not different from the rest of the H2 chaparral, but this is not based on survey. Applicant states that *Elymus condensatus* and mugwort are upland species even within 100-ft of the tributary.





**MINUTES OF THE ENVIRONMENTAL REVIEW BOARD (ERB)**  
**Unincorporated Coastal Zone, Santa Monica Mountains, Los Angeles County**  
**Meeting of August 28, 2017**  
(Minutes approved as amended, 16 October 2017)

**PRESENT:**

**ERB Members**

Travis Longcore, PhD (Chair)  
Ron Durbin  
Suzanne Goode  
Margot Griswold, PhD  
Richard Ibarra  
Katherine Pease, PhD

**Regional Planning Staff**

Jennifer Mongolo, Biologist, ERB Coordinator  
Shirley Imsand, PhD, Senior Biologist,  
Joseph Decruyenaere, Senior Biologist  
Shanna Farley-Judkins, Planner  
Martin Gies, Planner  
Rob Glaser, Planner  
Joshua Huntington, Planner

Case materials, ERB Resource descriptions, and a full video recording of the ERB meeting are posted under August 28, 2017: <http://planning.lacounty.gov/agenda/erb>

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**APPROVAL OF MINUTES**

**Minutes of 17 July 2017**

At the direction of the Chair, the minutes were adopted as amended with Longcore, Durbin, Goode, Griswold, and Ibarra in support for approval and Pease and Dagit recorded as absent from voting.

Amend Item B, ERB Motions, Restoration Plan: The motion regarding amending staff recommendations for the Restoration Plan refers to Staff Recommendation #34, namely that reference sites for the purple sage scrub habitat need to be identified in advance, but that measurement of reference site conditions can occur at the time of monitoring. This amendment does not apply to Staff Recommendation #37 for Catalina mariposa lilies, which stands as written.

**OLD BUSINESS**

- A. Martinez SFR, 26347 Ingleside Way, Malibu**  
**Project No. R2015-00833-(3)**  
**Permit Nos. CDP-RPPL 2016004875, Env-RPPL2017007297**  
**APNs: 4457-006-004, access over 4457-006-018 and 4457-006-017**  
**Location: 26347 Ingleside Way (adjacent Malibu Bowl Rural Village, northeast of Corral Canyon Road, Corral Canyon Watershed)**  
**USGS Quad: Malibu Beach**  
**Applicant: Victor Martinez**  
**Biologist: Jacqueline B. Worden, Impact Sciences, Inc.**  
**Planner: Shanna Farley-Judkins**

**Project Description:**

The project consists of the construction of a new 3,838 sq.ft. two-story, single family residence with a 700 sq.ft. garage, swimming pool, spa, patio, onsite waste-water treatment system, and fire turn-around on a two-acre parcel immediately to the north of Malibu Bowl Rural Village. The planned driveway enters the subject property from Ingleside Way via an easement over adjacent properties to the west, following an existing dirt road. The parcel is bordered on the north and east by Malibu Creek State Park, and on the northern half of its western boundary by privately-owned protected open space. Grading will consist of 1,500 cubic yards of cut and 400 cubic yards of fill, totaling 1,900 cubic yards of grading. Of the soil graded, 1,100 cubic yards of materials will be exported offsite. The project will take access across two neighboring parcels, via a recorded easement. The proposed driveway exceeds 300 feet in length and will require a Variance. Water will be provided by Las Virgenes Municipal Water District. The project is located within the Rural Coastal R-C-20 Zone and Land Designation of Rural Land RL-20.

DISCLOSURES/RECUSALS: Mr. Ibarra recused himself from hearing this item due to conflict of interest, as he was a consultant to the applicant on the project. Chair Longcore confirmed that there was still a quorum to hear the item.

PRESENT: Victor Martinez, Jackie Worden (Biologist, Impact Sciences), Richard Ibarra (Arborist, TREES, etc.)

**ERB Comments:**

1. State Parks only observes a 100 foot fuel modification zone (not 200 foot), and would not allow brush clearance on their land to north or east for this project even if the Fire Department or Agricultural Commission were to require it (which they are not).
2. Basing remapping of habitat on theoretical fuel modification zones for residences that do not actually exist, even though there may be an approved permit, assumes facts and conditions not actually on the ground. Assuming changes to habitat based on impacts that have not yet occurred runs counter to basic environmental review principals (i.e. CEQA review).
3. For environmental review under CEQA, the standard is to look at the conditions in the field at the time of the proposal. However, in this case the LIP specifically directs that habitat should be based on what the vegetation community would be in the absence of fire and inappropriate fuel modification, which is evidenced by regenerating oaks and historic aerial imagery that suggest a more extensive oak woodland area should be mapped.
4. Defensible space will be shrunk down severely due to remapping of H1 habitat to include disturbed and regenerating oak woodland. ERB needs to see the remapping in relation to the structure to determine if project is consistent.
5. Fire department would not have required the fuel modification on the unimproved parcel, and the Ag Commission would not have required brush clearance beyond 200 feet from existing structures.

**ERB Motions:**

**Habitat Remapping**

Motion/Second by Longcore/Durbin: Deny Staff Recommendation #1 to modify habitat mapping in existing lawfully-established fuel modification zones, which are in part based on structures that do not exist.

**Vote – Ayes: Longcore, Durbin, Goode, Griswold, Pease  
Abstaining: Ibarra**

Motion/Second by Goode/Griswold: Approve Staff Recommendation #2 to deny the request to modify mapped habitat in cleared areas outside of lawfully-established brush clearance zones.

**Vote – Ayes: Longcore, Durbin, Goode, Griswold, Pease**

**Abstaining: Ibarra**

Motion/Second by Goode/Pease: Regarding Staff Recommendation #3, deny remapping of H1 habitat in the northern portion of the parcel, and instead remap to extend the H1 habitat to include the oak woodland in recovery mode that is located in the northern part of the site.

**Vote – Ayes: Longcore, Durbin, Goode, Griswold, Pease**

**Abstaining: Ibarra**

### **Sensitive Habitats, Plants, and Animals**

Motion/Second by Goode/Griswold: Incorporate staff's recommended conditions for Biological Monitor, Staking of Grading Limits and Screening, Nesting Bird Surveys, Woodrat Survey, Avoidance, and Relocation, Oak Tree Protection, Glass, and Exterior Lighting.

**Vote – Ayes: Longcore, Durbin, Goode, Griswold, Pease**

**Abstaining: Ibarra**

### **Adequacy of Biological Report**

Motion/Second by Griswold/Goode: The project's biological report, as reviewed by the staff biologist, adequately addresses the requirements of the SMMLCP, after incorporation of ERB remapping recommendations.

**Vote – Ayes: Longcore, Durbin, Goode, Griswold, Pease**

**Abstaining: Ibarra**

### **Consistency**

Motion/Second by Durbin/Goode: Continue project review at a subsequent meeting when applicant can return with new mapping and consideration of the site in reference to remapping.

**Vote – Ayes: Longcore, Durbin, Goode, Griswold, Pease**

**Abstaining: Longcore, Ibarra**

- B. Kay SFR Project, 3300 Kanan Dume Road, Malibu**  
**Project No. R2014-00461**  
**Permit Nos. RCDP 201500007, RENV 201400038**  
**APNs: 4465-002-023 and access 4465-002-028**  
**Location: 3300 Kanan Dume Road, Malibu, CA 90265 (Ramirez Canyon Watershed)**  
**USGS Quad: Point Dume (residence and access)**  
**Applicant: Nicole Farnoush, Schmitz & Associates**  
**Biologist: Jacqueline Worden, Impact Sciences**  
**Planner: Joshua Huntington**

### **Project Description:**

Applicant proposes construction of a 40-foot tall, 8,724 sq. ft., 3-story, single-family residence, turnaround meeting the Fire Dept. requirements, landscaping, hardscaping, retaining walls, a water well, two 30,000 gallon water storage tanks, drainage devices, and a private septic system.

The driveway is a 1,550-ft. fire road approaching from the south. The driveway will need to have road improvements of grading, paving, drainage devices, widening to 15-20-ft., and retaining walls to meet Fire Dept. requirements. Grading is estimated at 6,310 CY total with 200 CY of imported material. The grading for the building site area is 2,330 CY, and the grading for the access driveway/fire lane is 3,980 CY. The septic system is to be on a fire road northeast of the residence. The project will encroach on 190 coast live-oaks, one bigpod ceanothus, one big-leaf maple, and one toyon. One coast live-oak, and California black walnut, and one toyon are proposed to be removed as part of this project. The required mitigation trees include 515 coast-live oaks, 15 toyon, 10 California black walnut, five big-leaf maple, and five bigpod ceanothus. One black locust is also proposed to be removed as part of this project. This is a non-native tree and will not require mitigation. No runoff control plans were provided.

PRESENT: Don Schmitz, Jackie Worden (Biologist, Impact Sciences)

**ERB Comments:**

1. There is no adopted standard for minimum mapping unit of habitat areas. The LCP specifically invites this kind of debate, recognizing that the resolution of the habitat maps in the adopted plans was not fine enough to incorporate all the variability that might happen. For this case the question is whether a grassland that you can see in aerials from the 60s should be carved out separately or included as a variation inside of the riparian zone.
2. To call the slope area in question riparian habitat, ERB needs to make a finding that it is connected hydrologically to the stream. The question is whether the large shrubs are influenced by the stream drainage. ERB does not think the area meets the definition of riparian habitat for the following reasons:
  - This area occurs on an incredibly steep slope.
  - The dirt road next to the area in question creates a water condition that is unnatural relative to the original slope, and likely results in increased runoff/sheet flow onto the slope from the road. It is a common phenomenon to find bigger shrubs downslope from a road because of the drainage off the road.
  - It has been 40 years since the last fire, and there are other big shrubs on the site.
  - The occurrence of greenbark ceanothus on a south-facing slope is unusual and indicates a presence of water; however, the water is probably drainage from the road.
  - Not all slope moisture is considered riparian. Some slopes have more moisture than other slopes. The fill slope is likely impacting how water is moving.
3. The applicant has indicated that it was their intent for the sycamore canopy to be included in the riparian area. If it is not clear, they will clarify that it is.
4. In areas with native herbaceous vegetation along the access road, fuel modification should consist solely of weed-whipping vegetation down to a few inches, rather than mowing, scraping or disking. This may benefit native grasses by cutting back the annual grasses and eliminating the seed source.
5. Defensible space – first 100 feet is subject to state fire code, which would extend into H1. There would have to be modification of oak woodland on both sides of the road. State fire code does not require irrigation in the first 100 feet, County fire code does. Irrigation may not be required in oak woodland. Thinning of understory would be required.
6. Understory plants in an oak woodland have a large amount of ecological value.
7. In terms of fire the new configuration is better for defensible space. This configuration is also superior from the habitat point of view.
8. Location of seepage pits was discussed in a previous meeting.
9. Even if project was reduced to the size of a pinpoint, it will never get to a place where it doesn't impact H1 with defensible space alone. Impacts to H1 seem unavoidable in this

location, regardless of the size of the structure. The question then becomes whether the structure is located in the right place that minimizes impacts.

### **ERB Motions:**

#### **Habitat Remapping**

Motion/Second by Goode/Durbin: Accept remapping of annual grassland as H3 habitat, and accept remapping of the slope area as H2, recognizing it as very mature chaparral and acknowledging that some species present can be riparian but are not always.

**Vote – Ayes: unanimous**

#### **Adequacy of Biological Report**

Motion/Second by Longcore/Durbin: The project's biological report, as reviewed by the staff biologist, adequately addresses the requirements of the SMMLCP, after identification and mapping of understory species along the access road and consideration of the jurisdictional nature of some of the storm water drainage areas.

**Vote – Ayes: unanimous**

#### **Consistency**

Motion/Second by Durbin/Pease: The project, even after incorporation of ERB recommendations, is not consistent with the biological resource protection policies and development standards of the Santa Monica Mountains Local Coastal Program and Local Implementation Program, chiefly due to planned impacts in H1 riparian habitat that are not permitted uses in that habitat category. (§22.44.1890.C)

**Vote – Ayes: unanimous**

### **NEW BUSINESS**

- C. Van Ruitenbeek SFR, 3806 Latigo Canyon Road, Malibu**  
**Project No. R2016-000392-(3)**  
**Permit Nos. CDP & VAR-RPPL2017005685; Env-RPPL2017005685**  
**APNs: 4461-042-002**  
**Location: 3806 Latigo Canyon Road, Malibu (Baller Road, Malibu Creek Watershed)**  
**USGS Quad: Point Dume**  
**Applicant: Vitus Matore**  
**Biologist: Andrew Forde**  
**Planner: Tyler Montgomery**

#### **Project Description:**

Applicant proposes the construction of a 3,401-square-foot single-family residence and 1,600-square-foot garage on an existing graded pad in the Santa Monica Mountains Local Coastal Plan Area. Because development would occur on a designated Significant Ridgeline, a variance is required. The residence would have a maximum height of 18 feet above grade, and a total of 1,816 cubic yards of grading would occur (1,116 c.y. cut, 700 c.y. fill, 413 c.y. export). The project would also include a swimming pool, septic system, driveways, retaining walls, and other appurtenant facilities on a total building site of approximately 8,000 square feet. ERB review is

required, as the project site is within 200 feet of H1 and H2 Habitats, although development would occur within H3 Habitat only. The pad has an elevation of approximately 1,780 feet and has views of the Pacific Ocean to the south and the Santa Monica Mountains to the north and east. Four single-family residences and a Las Virgenes Municipal Water District water tank are immediately adjacent to the south and west, and mountainous vacant land is located further out in all directions. The project site is accessed by Baller Road, a long, winding private driveway that connects to Latigo Canyon Road, approximately two miles to the west. Land use designation is RL40, Mountains Lands—1 du/40ac; Zoning Code is R-C-40, Rural Coastal—40 Acre min. lot size.

PRESENT: Mr. and Mrs. Van Ruitenbeek, Andy Forde (Biologist, Forde Biological Consultants)

**ERB Comments:**

1. Pepper trees are highly invasive and should be removed.
2. Since some chaparral will be removed, ERB would like to see an additional mitigation measure consisting of restoration of chaparral in an amount equal to the area of chaparral being removed for fuel modification for the proposed residence, to be planted onsite along the top of the plateau, outside of the fuel modification zones of any adjacent structures.

**ERB Motions:**

**Habitat Remapping**

Motion/Second by Goode/Durbin: Accept remapping of habitat as specified in the Staff Report and documented in the project's Biological Assessment Report.

**Vote – Ayes: unanimous**

**Adequacy of Biological Report**

Motion/Second by Griswold/Pease: The Biological Report, as reviewed by the staff biologist, adequately addresses the requirements of the Santa Monica Mountains Local Coastal Program.

**Vote – Ayes: unanimous**

**Consistency**

Motion/Second by Goode/Durbin: The project is consistent with the biological resource protection policies and development standards of the SMMLCP and meets the Burden of Proof after incorporation of the project specific recommendations proposed by staff, and with additional mitigation consisting of removal of the pepper trees and restoration of chaparral in nonnative grassland areas that are outside of fuel modification zones.

**Vote – Ayes: unanimous**

- D. Trujillo SFR, 24600 Thousand Peaks Road, Calabasas**  
**Project No. R2014-03698-(3)**  
**Permits Coastal Development RPPL 201400019**  
**APN 4455-052-002**  
**Location: 24600 Thousand Peaks Road, Calabasas (Dry Canyon-Cold Canyon Watershed / Malibu Creek Watershed)**  
**USGS Quad: Malibu Beach**  
**Applicant: Erfan Zamani, John Andrews Architects**  
**Biologist: DUDEK: John Davis**

**Biologist:** Erin Roberts, Envicom  
**Planner:** Martin Gies

**Project Description:**

The applicant is requesting a Minor Coastal Development Permit to authorize the construction of a new 18-foot tall, 8,018 sq. ft., two-story single-family residence with a basement, an attached 932 square foot four-car garage, and 4,175 cubic yards of grading with 2,943 cubic yards of export in the R-C-20 (Rural Coastal) Zone. The project is located within H3 and a portion of the required Fuel Modification radius is within H2 Habitat, which requires review by the Environmental Review Board. The project is within a Scenic Resource Area because of its proximity to scenic resources being the Stokes Ridge Trail and Mulholland Highway, a designated Scenic Route. The height of the proposed residence is restricted to an 18-foot maximum height because of its proximity to scenic resources. The access driveway paving will remove 3 and encroach on 12 other Fremont Cottonwood (*Populus fremontii*) trees, requiring 95 mitigation trees. The applicant proposes removal of the numerous invasive species on the development pad, and planting all mitigation trees in the manmade, seasonally dry, drainage feature, which is chiefly in Zone B but partially in Zone C. The Native Tree Replacement plan has substituted a mix of appropriate natives for the site: 25 *Heteromeles arbutifolia*, 15 *Platanus racemosa*, 15 *Populus fremontii*, 15 *Quercus agrifolia*, 25 *Sambucus nigra ssp. caerulea*. The landscape plan has all natives in Zone B, and a native seed mix in a cleared part of Zone C. The landscape plan needs to integrate the Native Tree Replacement Plan.

PRESENT: John Andrews (Architect and owner), Erin Roberts (Biologist, Envicom)

**ERB Comments:**

1. All trees should be mapped, clearly identified by species, and marked as retained or removed on a site plan.
2. Mitigation plantings:
  - Mitigation trees should be spread out and incorporated into the landscape.
  - Trees should be grouped by hydrozone depending on water needs.
  - Trees need to be drawn at ¾ mature size for landscape plan. This helps with determining appropriate spacing.
  - Species selection and location should be driven by water availability so that irrigation is not needed, i.e. sycamores and cottonwoods are riparian species and should only be planted where there is sufficient water.
  - Mitigating using a mix of native species is appropriate.
  - There is some skepticism over whether mitigation should be required for plants that the owner planted in the first place.
3. There is general agreement with the proposed herbicide protocols. A good alternative to cut and paint would be to drill holes in the stems and pour the herbicide into the holes. Herbicides work best when warm or hot outside. Spanish broom can be pulled out by the roots with a weed wrench.
4. Planting smaller trees (one gallon as opposed to 5 or 15 gallon) is better because they require less disturbance, are easier to get going, and require less water to get established.
5. Fencing should follow LIP requirements.

## **ERB Motions:**

### **Consistency**

**Motion/Second by Goode/Durbin:** The project is consistent with the biological resource protection policies and development standards of the SMMLCP and meets the Burden of Proof after incorporation of ERB recommendations regarding the landscape plan, size of mitigation trees, out of kind mitigation, and the recommendations from the staff biologist report.

**Vote – Ayes:** Longcore, Durbin, Goode, Ibarra, and Pease in support for approval and Griswold recorded as absent from voting.

- E. Abronson, Retroactive Horse Facility Fencing, 543 Cold Canyon Road, Calabasas**  
**Permit Nos. CDP RPPL 2016001512**  
**APNs: 4456-012-022; 4456-012-023; 4456-014-004**  
**Location: 543 Cold Canyon Road, Calabasas (Monte Nido, Cold Canyon Watershed)**  
**USGS Quad: Malibu Beach**  
**Applicant: Charles & Stephanie Abronson**  
**Biologist: Daniel Cooper**  
**Planner: Joshua Huntington**

### **Project Description:**

The project consists of retroactive permit for fencing on horse facilities. These have been in place since 1983. The Barn was included with the California Coastal Permit and residence. The Barn has an LA County building permit. At the time the permit was obtained, the Abronsons were told by LA County that no permits were required for fencing. All fencing materials are made of metal and are fire proof. Corral fencing is 5-6 ft. high with 4-5 pipe rails. Arena fencing is 4 feet high with a three pipe rails. The owners have used LA County Best Management Practices since the beginning of the project. The property was used by the Resource Conservation District SMM for their video/DVD "Horse Management Program." All corrals and arenas are maintained to prevent any waste materials from contaminating local streams. A large grass/wood chip area lies between corrals and local streams to filter all water runoff. Most trees have roots and trunks protected from equine damage with chainlink or plastic mesh fencing, pipe corral fencing, and/or treated wood boxes. The southwestern border has a 20-ft. wide trail easement required by the California Coastal Commission in 1983 at the time of residence construction approval. Protected oaks on the property number 74.

PRESENT: Stephanie and Charles Abronson, Daniel S. Cooper (Biologist, Cooper Ecological)

### **ERB Comments:**

1. In areas where soil is heavily compacted, some of the soil should be carefully decompacted in such a way as to not damage the root zone of the oaks.
2. If bank repair is needed, applicant should explore soft engineering for protecting the road from creek erosion. Examples include brush boxes or grape stakes woven together with wire and stuffed with brush, which will accumulate sediment as the creek flows through them. Suzanne Goode can provide guidance on methodology upon request.
3. Investigate the root-flare at the base of oak trees and potentially expose the trunk down to the root crown if it appears to be the appropriate solution for the health of the tree.



## **ERB Motions:**

### **Adequacy of Biological Report & Consistency**

**Motion/Second by Ibarra/Pease:** The Biological Report, as reviewed by the staff biologist, adequately addresses the requirements of the SMMLCP, and the project is consistent with the biological resource protection policies and development standards of the SMMLCP and meets the Burden of Proof after modifications as recommended by staff and as further elaborated by ERB comments.

**Vote – Ayes:** Longcore, Durbin, Goode, Ibarra, and Pease in support for approval and Griswold recorded as absent from voting.

## **OTHER ITEMS**

**Update on ERB Coordinator Changes:** Jennifer Mongolo will be taking over the ERB Coordinator role from Dr. Shirley Imsand moving forward.



# Los Angeles County Department of Regional Planning

*Planning for the Challenges Ahead*



**Amy J. Bodek, AICP**  
Director

**Dennis Slavin**  
Chief Deputy Director

October 16, 2018

TO: David W. Louie, Chair  
Elvin W. Moon, Vice Chair  
Doug Smith, Commissioner  
Laura Shell, Commissioner  
Pat Modugno, Commissioner

FROM: Joshua Huntington, AICP  
Coastal Permits Section

**Project No. R2014-00461-(3) – Major Coastal Development Permit No. RCDP-201500099 Variance No. RCDP-201500100 - RPC Meeting: October 17, 2018 - Agenda Item: 8**

The above-mentioned item is a request to authorize the construction of a 8,724-sq. ft., 40-foot-tall single-family residence with an attached 1,290-sq. ft., five-car garage, and associated infrastructure including a 1,550-foot-long driveway, a motor court, landscaping, hardscaping, retaining walls, a private septic system, two water wells, two water tanks, 6,300 cubic yards of grading, a 9,000-sq. ft. building site area, and native tree impacts. Staff recommends denial.

Please find, enclosed, correspondence from Stanley Lamport, the applicant's attorney. This correspondence for the above referenced item was received on October 16, 2018, after the hearing package was submitted to the Regional Planning Commission.

If you need further information, please contact Joshua Huntington, AICP, at (213) 974 - 1522 or [jhuntington@planning.lacounty.gov](mailto:jhuntington@planning.lacounty.gov). Department office hours are Monday through Thursday from 7:00 a.m. to 6:00 p.m. The Department is closed on Fridays.

RG:JH

Enclosure(s): Correspondence from Stanley Lamport, applicant's attorney

## Joshua Huntington

---

**From:** Lamport, Stanley W. <slamport@coxcastle.com>  
**Sent:** Tuesday, October 16, 2018 10:18 AM  
**To:** Joshua Huntington  
**Cc:** Don Schmitz (dons@schmitzandassociates.net); Briseno, Monica R.  
**Subject:** Project No: R2014-00461-(3) - October 17, 2018 Agenda - November 14, 2017 Letter & Exhibits Missing from Agenda Package  
**Attachments:** 20171113164543.pdf; Exhibit A.PDF; Exhibit B.PDF; Exhibit C.PDF

Dear Mr. Huntington:

In reviewing the Staff Report for the item referenced above, I discovered that it does not include my November 14, 2017 letter and attachments. The letter and attachments were in the notebooks Mr. Schmitz handed to you and Mr. Glaser when Mr. Schmitz met with you at that time. The letter and exhibits are attached to this email. I request that you immediately transmit the letter and attachments to the Regional Planning Commissioners and include the letter and attachments in the record for the hearing.

If you have any questions, please do not hesitate to contact me.

### Stanley W. Lamport



Cox, Castle & Nicholson LLP  
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Stanley W. Lamport  
310.284.2275  
slamport@coxcastle.com

File No. 78759

November 14, 2017

**VIA HAND DELIVERY**

Mr. Dennis Slavin  
Director of Regional Planning  
County of Los Angeles  
Department of Regional Planning  
320 West Temple Street  
Los Angeles, CA 90012

**Re: Permit Nos. RCDP 201500007, RENV 201400038  
3300 S. Kanan Road Project**

Dear Mr. Slavin:

We represent Gregory and Susan Kay (the “**Kays**”), owners of property located at 3300 S. Kanan Dume Road in Malibu, California (the “**Property**”) in connection with pending applications to construct a 7,600 sq. ft. (3-story) single-family residence and related improvements on the Property (the “**Project**”).

On August 28, 2017, the Environmental Review Board (“**ERB**”) concluded that the Project is not consistent with the Santa Monica Mountains Local Coastal Program (“**LCP**”) based on a construction of the LCP that renders the Property undevelopable and, therefore, results in a classic taking under both the United States and California Constitutions. As this letter will explain, the County’s contemplated construction of the LCP is not consistent with the LCP’s terms and the Coastal Commission’s construction of the LCP. If the County persists with its current construction of the LCP, the County needs to recognize its constitutional obligation to compensate the Kays for the taking.

**A. The County’s Current Construction of the LCP Renders the Property Undevelopable.**

In its August 28, 2017 Biological Resources Recommendations, the ERB and Department of Regional Planning (DPR) staff determined that the Kays’ project was not consistent with the biological resource protection policies of the LCP due to impacts in H1 caused by the fuel modification that would be required by the County Fire Department Forestry Division for the Project. Specifically, the ERB’s finding interprets the LCP to prohibit any development that would require fuel modification in any area that is mapped as H1 under the LCP. Although the Kays’ proposed residence and related improvements are located outside of the H1 areas on the Property, the ERB’s construction of the LCP means that no structure can be built in the non-H1

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areas on the Property unless all of the County required fuel modification can occur outside of the H1 areas.

Given the location of the H1 on the property relative to the areas on which a structure can be feasibly located on the Property, it is impossible to build any structure that would not require fuel modification in H1 under the County fire standards for brush clearance.

The Kays amply documented this fact at the ERB hearing. The Kays presented a constraint analysis at the ERB hearing that showed that there are no feasible building sites on the Property that would not require fuel modification in H1 areas under the County's fuel modification standards.

Simply put, under the County's current construction of the LCP, no structure can be erected if fuel modification under the County's fire standards would occur in areas designated as H1 in the LCP. There are no locations on the Property where a residence or any other structure could be located that would avoid fuel modification in H1 areas. Therefore, as a result of the County's current construction of the LCP, no structure can be erected on the Property.

Practically speaking, based on the County's current construction, the LCP requires the Property to remain undevelopable open space.

**B. The County's Current Construction of the LCP Constitutes a Taking that Would Require the County to Pay Just Compensation to the Kays.**

The Fifth Amendment of the United States Constitution provides that private property shall not "be taken for public use, without just compensation." Similarly, Article 1, section 19 of the California Constitution states, "Private property may be taken or damaged for public use only when just compensation...has first been paid to...the owner."

The United States Supreme Court has long held that a taking occurs when a "regulation denies all economically beneficial or productive use of land." (*Lucas v. South Carolina Coastal Council*, (1992) 505 U.S. 1003, 1114.) The Supreme Court recognized this as a categorical taking, which is "compensable without case-specific inquiry into the public interest advanced in support of the restraint." (*Id.*)

Applying the LCP to require the Property to remain undevelopable open space is a taking for which compensation is required. The *Lucas* court noted that "regulations that leave the owner of land without economically beneficial or productive options for its use" typically occur when they require "land to be left substantially in its natural state." (*Lucas*, at p. 1118.) Indeed, the Court stated, "We think, in short, that there are good reasons for our frequently expressed belief that when the owner of real property has been called upon to sacrifice all economically beneficial uses in the name of the common good, that is, to leave his property economically idle, he has suffered a taking." (*Lucas*, at p. 1120.)

In enacting the Coastal Act, the Legislature codified that the Act was subordinate to the foregoing principles. Specifically, Public Resources Code §30010 states:

The Legislature hereby finds and declares that this division is not intended, and shall not be construed as authorizing the commission, port governing body, **or local government acting pursuant to this division** to exercise their power to grant or deny a permit in a manner which will take or damage private property for public use, without the payment of just compensation therefor. This section is not intended to increase or decrease the rights of any owner of property under the Constitution of the State of California or the United States. (Emphasis added.)

Thus, the fact that the County's current construction of the LCP is in connection with carrying out the California Coastal Act does not absolve the County's obligation to compensate the Kays for the taking that will result if the County denies the Project. Indeed, in the certification proceedings at the Coastal Commission, the Commission and the County acknowledged that the County would be required to compensate owners for a taking if the County's application of the H1 policy prohibited any development on a property.

The County's current application of the LCP to the Property is placing the County in a position where it will be required to compensate the Kays for a per se taking of their Property. The Kays conservatively estimate that the County would be required to pay the Kays \$ 1.2 million as compensation for the taking.

### **C. The LCP Should Not Be Constructed to Preclude the Project**

We emphasize that a taking will result from the County's current construction of the LCP, because the LCP does not support that construction. The LCP in fact allows for development in circumstances such as this, where a proposed development will unavoidably require fuel modification in H1.

First, Section 22.44.1920.I<sup>1</sup> contemplates that development may be approved to occur within 200 feet of H1, while Section 22.44.1240.C<sup>2</sup> recognizes that fuel modification zones

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<sup>1</sup> LIP Section 22.44.1920.I: "Future Improvements. **Any CDP that includes the approval of structures within 200 feet of H1, H2 "High Scrutiny," or H2 Habitat** shall be conditioned to require that any future improvements to the approved development will require an amendment or new CDP. The CDP shall specify that the exemptions otherwise provided in subsections A.1 or A.2 of Section 22.44.820 shall not apply to the development approved therein. The condition shall require the applicant to provide evidence of the recordation of a deed restriction against the property, free of prior liens, including tax liens and encumbrances which the Director determines may affect the interest being conveyed, the text of which has been approved by the Director, reflecting the future improvements restriction. The deed restriction shall apply to the entirety of the project site, and shall insure that any future structures, future improvements, or change of use to the permitted structures authorized by the CDP, including but not limited to, any grading, clearing or other disturbance of vegetation shall require the approval of an amendment to the CDP or the approval of an additional CDP, and that the exemptions otherwise provided in subsections A.1 or A.2 of Section 22.44.820 shall not apply. The permittee shall provide evidence that the deed restriction appears on a preliminary report issued by a licensed title insurance company for the project site."

extend at least 200 feet from an approved structure. Obviously, if development can occur within 200 feet of H1 and fuel modification extends 200 feet from the approved development, then the LCP allows the County to approve development that will result in fuel modification within H1.

Second, Policy CO-44 states that “New development shall be sited in a manner that avoids the most biologically-sensitive habitat onsite where feasible, while not conflicting with other LCP policies in the following order of priority: H1, H2 High Scrutiny, H2, H3.”<sup>3</sup> The policy contemplates that new development may be approved that will impact H1 when avoidance is infeasible.

Third, section 22.44.1950<sup>4</sup> allows for mitigation of loss of H1 habitat, which would not be possible if no impact on H1 was possible under the LCP. It states, “if development is permitted within H1 or H1 buffer, then the alternative that would result in the fewest or least significant impacts shall be selected” and “[t]he CDP shall include conditions that require implementation of all feasible mitigation measures that would significantly reduce adverse impacts of the development.” Section 22.44.1950.A-E then specifically deals with mitigation options for unavoidable impacts to H1 and H1 Habitat.<sup>5</sup>

The foregoing LCP provisions demonstrate that the LCP need not produce a taking if the entirety of the LCP is considered and the County acknowledges, as the Coastal Commission has, that fuel modification in H1 can be allowed if necessary to avoid a taking.

#### **D. The California Coastal Commission Has Construed the LCP to Allow Fuel Modification in H1 with Mitigation**

Applying the LCP, the Coastal Commission has approved residential structures on property located outside of H1 that would result in fuel modification in H1. (CDP 4-13-1397, 4-14-0100, 4-14-0201, 4-14-0202, 4-14-0621, Approved 2/12/2015.) The Commission’s staff

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<sup>2</sup> LIP Section 22.44.1240.C.2. “Fuel modification zones as defined by the Fire Department consist of: a. Fuel Modification **Zone A**, Setback Zone—Typically **20 feet offset from structures** that require fuel modification as per the Fire Department; b. Fuel Modification **Zone B**, Irrigation/Transition Zone—Typically up to **80 feet offset from Zone A**; c. Fuel Modification **Zone C**, Thinning Zone—Typically up to **100 feet offset from Zone B**; and d. Roads—Typically up to 10 feet on each side of a public or private roadway.”

<sup>3</sup> LUP Policy CO-44: “New development shall be sited in a manner that avoids the most biologically-sensitive habitat onsite where feasible, while not conflicting with other LCP policies, in the following order of priority: H1, H2 High Scrutiny, H2, H3. Priority shall be given to siting development in H3 habitat, but outside of areas that contain undisturbed native vegetation that is not part of a larger contiguous habitat area. If infeasible, priority shall be given to siting new development in such H3 habitat. If it is infeasible to site development in H3 habitat areas, development may be sited in H2 habitat if it is consistent with the specific limitations and standards for development in H2 habitat and all other provisions of the LCP. New development is prohibited in H1 habitat unless otherwise provided in Policy CO-41.”

<sup>4</sup> LIP Section 22.44.1950: “New development shall be sited and designed to avoid any impacts to H1 Habitat, with the exception of uses permitted within H1 and H1 buffer, consistent with Section 22.44.1890. New development shall be sited and designed to avoid any impacts to H2 “High Scrutiny” Habitat and H2 Habitat, if feasible. If there is no feasible alternative that can avoid all impacts to H2 “High Scrutiny” Habitat and H2 Habitat, or if development is permitted within H1 or H1 buffer, then the alternative that would result in the fewest or least significant impacts shall be selected, consistent with Sections 22.44.1910 and 22.44.1920. The CDP shall include conditions that require implementation of all feasible mitigation measures that would significantly reduce adverse impacts of the development. Mitigation shall not substitute for the implementation of the project alternative that would avoid impacts. In addition to other mitigation measures required by the LCP, the following mitigation is required for unavoidable impacts to H1 and H2 Habitat.”

<sup>5</sup> A copy of LIP Section 22.44.1950.A-E is attached as Exhibit A.

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report for these applications states that, “although the proposed residence will be located in an area designated as H3, fuel modification will adversely impact the surrounding H1, H2 and H2-High Scrutiny habitat, as such, consistent with the Santa Monica Mountains LCP, the Commission has required habitat mitigation.”<sup>6</sup>

California courts have held that “the [Coastal] Commission, not the County, [has] the final word on the interpretation of the LCP.” (*Charles A. Pratt Const. Co., Inc. v. California Coastal Com’n* (2008) 162 Cal.App.4th 1068, 1077.) Thus, the Coastal Commission’s construction of the LCP governs the County’s construction of that document. The Commission’s construction clearly allows residential development located outside of H1 to impact H1 through fuel modification with mitigation as allowed under the LCP. That construction should prevail with respect to the Property as well.

For all of these reasons, the County’s current construction of the LCP to preclude any development that would result in fuel modification in H1 is not an appropriate construction of the LCP.

**E. The Limited Fuel Modification Required by the Project Will Not Affect the Habitat Status of Oak Woodland on the Property as an H1 Habitat**

The H1 habitat that would be affected by the Project consists only of small, isolated coast live oak stands. The ERB’s chair, Travis Longcore, stated at the ERB hearing that the Project has been sited to have the least impact on these small coast live oak stands.

The only impacts in question here concern fuel modification beneath the canopy of some of the coast live oak stands on the Property. These stands are within the farthest and least invasive fuel modification zone required by the Los Angeles County Fire Department.

As the attached report from Dr. Christopher A. Dicus (“Dicus Report”)<sup>7</sup> shows, the Project will have negligible impacts on the coast live oak stands on the Property. (Dicus Report, pg. 10.) Dr. Dicus concluded that if fuel modification is completed judiciously, it may actually improve the habitat value for the oaks. (Dicus Report, pg. 10.)

Specifically, the Dicus Report notes that given the location of the stands relative to the proposed home site, there would be “minimal need for work in most of the coast live oak stands (an H1 habitat) due to deep shade that has precluded much of the competing vegetation and subsequent vertical fuel continuity into the canopy of the oak trees.” (Dicus Report, pg. 8.) In the instances where modification of some understory vegetation would take place, the material being removed “is already dead and will have little impact to the coast like oaks.” (Dicus Report, pg. 9.) The report notes that vegetation under the stands that would be removed for fuel

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<sup>6</sup> A copy of the staff report for Application Nos. 4-13-1397, 4-14-0100, 4-14-0201, 4-14-0202, 4-14-0621 is attached as Exhibit B.

<sup>7</sup> A copy of the Dicus Report is attached as Exhibit C.



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modification “are not sensitive and their removal could actually help provide greater water availability to the oaks.” (Dicus Report, pg. 9.)

The LCP recognizes that oak woodlands that are subject to minimal fuel modification measures do not lose their significance as H1 habitat as a result of such measures.<sup>8</sup> Given that the LCP’s focus is on the application of minimal fuel modification measures to oak woodland, the outcome is the same whether the measures are applied to protect either new or existing development. The Dicus Report reinforces the point that the minimal fuel modification measures that would be applied to the isolated oak woodlands on the Property as a result of the Project will have no effect on the H1 habitat value of the woodland.

Thus, the County’s current construction of the LCP produces a taking without advancing any meaningful habitat protection. In light of the policies cited above and the Coastal Commission’s construction of the LCP to allow fuel modification in H1, there is no reason for the County to continue advancing its current construction.

#### **F. Conclusion**

As the foregoing shows, it is not necessary for the County to adopt the construction of the LCP that is reflected in the ERB’s findings. In applying the LCP not long after it was certified, the Coastal Commission recognized that a proper application of the LCP allows the County to approve the Project on the Property.

However, if the County persists in pursuing its current construction of the LCP with respect to the Property, the County will effect a taking which will require the County to pay compensation to the Kays.

We will be happy to discuss any questions you may have in this regard.

Very truly yours,

  
Stanley W. Lamport

SWL/rs1  
Enclosures  
078759/9159939

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<sup>8</sup> LIP Section 22.44.1810.E.: “The areas occupied by existing, legally established structures, agricultural uses, and confined animal facilities do not meet the criteria of the H1 or H2 Habitat categories. Additionally, the fuel modification areas required by the County Fire Department for existing, lawfully established structures do not meet the criteria of the H1 or H2 habitat categories, with the exception of the areas subject to the minimal fuel modification measures that are required in riparian or woodland habitats (e.g., removal of deadwood). In the latter areas, the habitat maintains its biological significance, rarity, and sensitivity and shall be accorded all the protection provided for the H1 habitat category in the LCP.”

6. The CDP approving development subject to this section shall include a condition requiring habitat impact mitigation, in accordance with subsection B of Section 22.44.1950.

F. The maximum area of impacts to H2 Habitat outside of the fuel modification area required by the Fire Department for the approved structures comprising the principal permitted use for confined animal facilities shall be five percent of the total parcel size, or two acres, whichever is less, and this maximum shall be cumulative for facilities allowed by subsections D and E above.

G. Where confined animal facilities are approved as the only use of a parcel in H2 Habitat, instead of a principal permitted use, said use and its required fuel modification, if any, shall not exceed three contiguous acres, including graded areas, if any, and shall be restricted to slopes of 3:1 or less.

**22.44.1950 Mitigation.**

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

mitigation measures required by the LCP, the following mitigation is required for unavoidable impacts to H1 and H2 Habitat.

A. Resource Conservation Program. Unavoidable impacts to H1 habitat from the provision of less than a 100-foot H1 habitat buffer, and/or to H2 Habitat from direct removal or modification, shall be compensated by the following, at a minimum. At its sole election, the County may require restoration as mitigation instead of reliance on the Resource Conservation Program.

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

2. For purposes of analyzing and implementing the RCP, and subsection B of this Section 22.44.1950, the County shall prepare a Habitat Fee Study within five years of certification of the LCP to determine the appropriate fees to adequately compensate for adverse impacts to H1 habitat from the provision of less than a 100 foot buffer, and to H2 habitat from direct removal or modification. The Habitat Fee shall be submitted to the Coastal Commission through an LCP amendment within five years of certification of the LCP. After the first five years following certification of the LCP, no CDPs that involve impacts to H1 habitat from the provision of less than a 100-foot H1 habitat buffer and/or to H2 habitat from direct removal or modification may be processed until the amount of the in-lieu fee pursuant to the study is incorporated

into this LCP through an LCP amendment, subject to the provisions of Section 22.44.700, that is certified by the Coastal Commission.

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

a. An overview of each prospective year's acquisition priorities and approach;

b. A statement of the prior year's efforts in coordination with other agencies to enhance acquisition, preservation, protection, and connectivity of habitat and open space;

c. A summary of the land acquisitions made for that calendar year, including a breakdown of the location, area, habitat composition/classifications, and preservation mechanisms utilized for each acquisition;

d. The number of CDPs issued: in the previous year, and cumulatively since the starting date of the RCP;

e. The number of acres of each sensitive habitat classification allowed to be developed or otherwise impacted from issued CDPs in the previous year, and cumulatively since the starting date of the RCP;

f. The amount of the Habitat Impact fee as determined appropriate for each CDP in accordance with the following:

i. Current In-Lieu Fee: During the first five years following certification of the LCP, or until an updated fee is certified through an LCP amendment, the County shall utilize the Coastal Commission's Habitat Impact Fee that

was implemented through individual coastal development permit actions prior to certification of the LCP, adjusted for inflation. The current fee amounts are:

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

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

ii. Updated In-Lieu Fee: The amount of the Habitat Impact Fee, approved through an amendment to the LCP, pursuant to subsection A.2 of this Section 22.44.1950, shall be used and adjusted for inflation annually.

g. A table or tables depicting the cumulative acreage of impact from issued CDPs in relation to the acreage acquired and preserved pursuant to the RCP, the cumulative amount of the Habitat Impact Fee that would otherwise have been required for the issued CDPs, and monies spent and monies remaining under the RCP. All acres of habitat shall be categorized by the number of acres of each sensitive habitat classification impacted/acquired;

h. A summary of other restoration or enhancement efforts in the Coastal Zone, such as TDCs, donation of other property, and grants for further funding of the RCP.

4. The County shall review each annual monitoring report to analyze progress achieved in relation to the habitat impacts of CDPs approved by the County. The County shall provide a copy of the annual monitoring report for the review of the Executive Director of the Coastal Commission.

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

6. If, at the end of the ten year period, the County implements an extension of the RCP, or a similar program, the terms of such a program shall be incorporated into this section through an LCP amendment, subject to the provisions of Section 22.44.700, and certified by the Coastal Commission. Any expenditures exceeding \$2,000,000 for the purchase and preservation of habitat over the ten-year period shall be credited proportionately to the new RCP term.

B. Habitat Impact Fee. Unavoidable impacts to H1 Habitat from the provision of less than a 100-foot H1 habitat buffer and/or to H2 Habitat from direct removal or modification, shall be compensated by the provision of a required in-lieu habitat impact fee, as a condition of approval of individual projects (CDP's), in either of the cases described in subsection 1 or 2 below:

1. When the earliest of the following events occurs: a) the ten-year period of the RCP ends; or b) the cumulative amount of the Habitat Impact Fee required for issued CDPs exceeds \$2,000,000; or c) at such time as the County elects to discontinue the RCP.

2. When approved confined animal facilities result in the expansion of the required fuel modification area of the principal permitted use and/or equestrian

pasture is approved outside the required fuel modification area of the principal permitted use on a property, pursuant to subsection D or E of Section 22.44.1940.

3. The amount of the habitat impact fee, on a per-acre basis, will be determined by the in-lieu fee study required pursuant to subsection A2 of Section 22.44.1950. No CDPs that involve impacts to H1 habitat from the provision of less than a 100-foot H1 habitat buffer and/or to H2 habitat from direct removal or modification may be processed until the amount of the in-lieu fee is incorporated into this LCP through an LCP amendment, subject to the provisions of Section 22.44.700, that is certified by the Coastal Commission.

4. A determination of the total area of H1 and/or H2 Habitat impacted by a project and the total fee amount required (based on the fee per acre multiplied by the total area of habitat impacted) shall be included in the findings of every coastal development permit approved for development that is subject to the provisions of this policy. A condition of approval on each coastal development permit for development subject to the provisions of this subsection, shall require the payment of the in-lieu fee into the "Habitat Impact Fund" administered by the County. The proceeds of the "Habitat Impact Fund" shall be used by the County to purchase and permanently preserve properties that contain substantial areas of H1 and/or H2 habitat in the coastal zone of the Santa Monica Mountains.

C. Mitigation for unavoidable permanent impacts to H1 Habitat for one of the non-resource dependent uses allowed by this LCP shall be provided, at a minimum, through the restoration and/or enhancement of like habitat type, at the ratio of 4:1 (acres of restored habitat to each acre of impacted H1 Habitat) for wetland habitat, or the ratio of 3:1 (acres of restored habitat to each acre of impacted H1 Habitat) for all other H1 Habitat types. Priority shall be given to on-site restoration or enhancement, unless

there is not sufficient area of disturbed habitat on the project site, in which case off-site mitigation may be allowed. The County shall coordinate with other public agencies and/or qualified non-profit land preservation organizations to establish priorities for off-site restoration and enhancement efforts, where appropriate, for proposed development projects lacking adequate on-site mitigation opportunities.

D. If the restoration site is off-site, written evidence that the property owner has irrevocably agreed to allow the restoration work, maintenance and monitoring required by this condition and not to disturb any native vegetation in the restoration area. The area of habitat to be restored shall be permanently preserved through the recordation of an open space deed restriction that applies to the entire restored area. The open space deed restriction shall be recorded free of prior encumbrances other than tax liens, prior to issuance of the CDP.

E. The habitat restoration or enhancement shall be carried out prior to or concurrently with construction of the development project. In any case, installation of vegetation and irrigation for the restoration project shall be complete prior to the issuance of certificate(s) of occupancy for any structure(s) approved in the CDP.

## **SCENIC RESOURCE AREAS**

### **22.44.1990 Establishment and Purpose.**

The Coastal Zone is a highly scenic area of regional and national importance. Scenic Resource Areas (also referred to as "scenic resources" and "scenic areas" throughout this LCP) are established to protect and enhance the scenic and visual qualities of the Santa Monica Mountains. Scenic Resource Areas include the scenic features identified in Section 22.44.2000. However, the entire Coastal Zone is visually sensitive, and therefore regulated herein.



## CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA  
89 SOUTH CALIFORNIA ST., SUITE 200  
VENTURA, CA 93001  
(805) 585-1800

# Th22c-g



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## ADDENDUM

**DATE:** February 9, 2015  
**TO:** Commissioners and Interested Parties  
**FROM:** South Central Coast District Staff  
**SUBJECT:** Agenda Items 22c-g, Thursday, February 12, 2015, Coastal Development Permit Application Numbers 4-13-1397, 4-14-0100, 4-14-0201, 4-14-0202, and 4-14-0621

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The purpose of this addendum is to correct inadvertent staff errors, and to attach correspondence received from the applicants' representative.

1) In order to ensure that all special conditions are accurately referenced in Section VI. Findings of the staff report dated January 29, 2014; the following references shall be modified.

- A. The reference to Special Condition One (1) on page 42 shall be replaced by Special Condition Fourteen (14).
- B. The references to Special Condition One (1) on page 43 shall be replaced by Special Condition Fourteen (14).
- C. The reference to Special Condition Seven (7) on page 46 shall be replaced by Special Condition Eight (8).
- D. The reference to Special Condition Two (2) on page 48 shall be replaced by Special Condition Sixteen (16).
- E. The references to Special Condition One (1) on page 48 shall be replaced by Special Condition Fifteen (15).
- F. The reference to Special Condition Three (3) on page 48 shall be replaced by Special Condition Seventeen (17).

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**Th22c-g**

February 3, 2015

Chairman Steve Kinsey  
and Coastal Commissioners  
California Coastal Commission  
45 Fremont Street, #2000  
San Francisco, CA 94105

Re: CDP Application Nos. 4-13-1397, 4-14-0100, 4-14-0201, 4-14-0202, 4-14-0621  
Agenda Items 22 c - g, Thursday, February 12, 2015  
3215, 3217, 3219 and 3221 Serra Road, and 3240 Cross Creek Road, Malibu

Dear Chairman Kinsey and Commissioners:

On Thursday, February 12, 2015, I will appear before you on Agenda Items 22 c-g which have a consolidated Staff Report and Recommendation and which will have a consolidated hearing. The CDP Applications are for the construction of five separate single family dwellings located at 3215, 3217, 3219 and 3221 Serra Road, and 3240 Cross Creek Road, Malibu. Although the post office address is Malibu and the property abuts the boundary of the City, the property is in the unincorporated area covered by the recently certified County LCP.

The Applicants have reviewed the Staff Report and Recommendation and agree with the proposed Special Conditions. The proposed Special Conditions are extensive, but this arises from the application of the newly certified County LCP and not because the project is particularly unusual or has any material impacts which the Special Conditions do not mitigate. The property is immediately behind the Serra Retreat and is served by roads and utilities all of which come through the City of Malibu. None of the construction is on habitat identified by the County as ESHA.

Four of the five lots were created by a subdivision map approved by the Commission in CDP 4-95-137 and 4-95-137-A2. The Commission also approved the grading, construction of the entry road to all four lots, placement of underground utilities and the construction of a bridge over the "unnamed" stream referred to on Pages 3 and 24 of the Staff Report. The construction under CDP 4-95-137 and 4-95-137-A2 has been completed at a cost of more than \$1,200,000 in hard costs and \$1,000,000 in engineering and environmental mitigation including TDC's and the change from an originally approved Arizona crossing of the stream to a full span bridge.

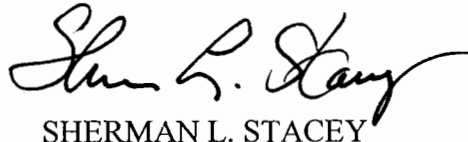
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February 3, 2015  
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Due to the large designation of ESHA by the County LCP, there will be some necessary, but very limited, fire clearance and thinning to meet fire safety standards. The original subdivision already clustered the homesites together on the portion of the property closest to existing development. The fifth home is surrounded by previously constructed homes and fire suppression on the fifth home is limited to a small area not already impacted by previously approved development.

On Page 44 of the Staff Report, the Staff notes that a 200 foot radius from a single home within ESHA can result in impacts on 4-5 acres of habitat. The homes in these Applications are not within ESHA and only near ESHA to the north. Overlapping fire suppression zones limit impacts. All five of the proposed homes will have impacts on less than 2 acres. These impacts will be fully mitigated as required by Special Condition No. 10.

We wish to thank the Staff for its review of these applications. We realize that this is only the second time that the Commission has been called upon to implement the County LCP. The Staff Recommendation follows the LCP and the Special Conditions establish more rigid and detailed restrictions than the Commission had found necessary under the Coastal Act. The Applicant accepts these Special Conditions and asks the Commission to approve each of the CDPs. I may contact you during the next week to inquire if you have any questions concerning these Applications.

Sincerely,



SHERMAN L. STACEY

SLS/dc

cc: All Commissioners and Alternates  
Dr. Charles Lester, Executive Director  
Mr. John Ainsworth, South Central Coast District  
Ms. Jacqueline Blaugrund, South Central Coast District  
Ms. Leslie London  
Ms. Sharon A. Gee  
Mr. Doug Burdge

**CALIFORNIA COASTAL COMMISSION**

SOUTH CENTRAL COAST AREA  
 89 SOUTH CALIFORNIA ST., SUITE 200  
 VENTURA, CA 93001  
 (805) 585-1800

**Th22c-g**

Filed: 4-13-1397, 4-14-0100, 4-14-0202, 4-14-0621: 10/9/14  
 4-14-0201: 9/16/14  
 180th Day: 4-13-1397, 4-14-0100, 4-14-0202, 4-14-0621: 4/7/15  
 4-14-0201: 3/15/15  
 Staff: J. Blaugrund  
 Staff Report: 1/29/15  
 Hearing Date: 2/12/15

**STAFF REPORT: REGULAR CALENDAR**

**Application Numbers:** 4-13-1397, 4-14-0100, 4-14-0201, 4-14-0202, 4-14-0621

**Applicants:** Eucalyptus Ranch LP, Hacienda Robles LP, Pepper Creek LP, Canary Island Palm LP, Rancho Tecolote LP

**Agents:** Derrick Davis, Burdge & Associates Architects, Inc.  
 Schumetta McLendon and Adam Goff, SM Permitting & Design Services

**Project Location:** 3215, 3217, 3221, 3219 Serra Road and 3240 Cross Creek Road, Santa Monica Mountains, Los Angeles County

**Project Description:** These applications are for five new single-family residences ranging from 4,283 sq. ft. to 8,894 sq. ft. in size, and associated development on five adjoining lots. In total, the applicants propose 6,046 cu. yds. of grading (3,682 cu. yds. cut and 2,364 cu. yds. fill) for the five residences and associated development. Due to the related nature of the five coastal development permit ("CDP") applications, all of the proposed development will be addressed in one staff report. The project descriptions for each separate application are provided below.

**CDP Application 4-13-1397 (Eucalyptus Ranch, LP) (APN 4457-003-023)**

The applicant is proposing to construct a 28'9" high (as measured from finished grade), two-level with basement, 7,485 sq. ft. single family residence on an approximately 7.6 acre lot, with a detached 748 sq. ft. garage and 548 sq. ft. guest house. The proposed development also includes a swimming pool and spa, onsite waste water treatment system, and 18,000 gallon belowground water tank. In total, the proposed project requires 960 cu. yds. grading (820 cu. yds. cut, 140 cu. yds. fill), and retaining walls.

**CDP Application 4-14-0100 (Hacienda Robles, LP) (APN 4451-003-022)**

The applicant is proposing to construct a 27'8" high (as measured from finished grade), two-level, 6,523 sq. ft. single family residence on an approximately 13 acre lot, with an attached 729 sq. ft. garage. The proposed development also includes a swimming pool and spa, gazebo, onsite waste water treatment system, and 18,000 gallon belowground water tank. In total, the proposed project requires 700 cu. yds. grading (320 cu. yds. cut, 380 cu. yds. fill), and retaining walls.

**CDP Application 4-14-0201 (Pepper Creek, LP) (APN 4457-003-020)**

The applicant is proposing to construct a 29'8" high (as measured from finished grade), two-level with basement, 8,894 sq. ft. single family residence on an approximately 7.2 acre lot, with an attached 834 sq. ft. garage. The proposed development also includes a swimming pool and spa, onsite waste water treatment system, and 18,000 gallon belowground water tank. In total, the proposed project requires 2,140 cu. yds. grading (635 cu. yds. cut, 1,505 cu. yds. fill), and retaining walls.

**CDP Application 4-14-0202 (Canary Island Palm, LP) (APN 4457-003-019)**

The applicant is proposing to construct a 27'5" high (as measured from finished grade), two-level with basement, 7,139 sq. ft. single family residence on an approximately 7.2 acre lot, with an attached 537 sq. ft. garage. The proposed development also includes a swimming pool and spa, onsite waste water treatment system, and 18,000 gallon belowground water tank. In total, the proposed project requires 820 cu. yds. grading (580 cu. yds. cut, 240 cu. yds. fill), and retaining walls.

**CDP Application 4-14-0621 (Rancho Tecolote, LP) (APN 4457-002-038)**

The applicant is proposing to construct a 28'8" high (as measured from finished grade), three-level, 4,283 sq. ft. single family residence on an approximately 14 acre lot, with an attached 701 sq. ft. garage. The proposed development also includes a swimming pool and spa, and onsite waste water treatment system. In total, the proposed project requires 1,426 cu. yds. grading (1,327 cu. yds. cut, 99 cu. yds. fill), and retaining walls.

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**SUMMARY OF STAFF RECOMMENDATION**

Staff recommends **approval** of the proposed development with conditions. The proposed development includes five residences and associated development, on five parcels located in the Santa Monica Mountains portion of Los Angeles County, just north of the City of Malibu. Four of the five proposed residences would be located on parcels that were created through a subdivision approved by the Commission in Coastal Development Permit (CDP) 4-95-173. The fifth residence is proposed on a legal parcel which is immediately adjacent to those that resulted

from CDP 4-95-173. Due to the related nature of the five CDP applications, all of the proposed development will be addressed in one staff report<sup>1</sup>.

Specifically, the subject properties are situated among existing single-family residences to the east, south, and west, and State Park lands are located to the north, as depicted on Exhibit 2. The properties consist of very steep south facing slopes to the north and gentle slopes on the southerly sections of the properties where the five residences and associated development are proposed to be located. A portion of one unnamed USGS blue-line stream flows in a southwesterly direction near four of the residential building sites, toward Malibu Creek, which is approximately 0.6 miles away. Malibu Lagoon is approximately 1.1 miles southwest of the site.

The proposed residences would be located on areas designated as H3 on Santa Monica Mountains Land Use Plan (LUP) Map 2: Biological Resources, which does not constitute ESHA. However, habitat adjacent to the proposed building sites has been designated H1, H2, and H2-High Scrutiny, all of which constitute ESHA. The Santa Monica Mountains LCP requires that all development in H3 conform to a building site area that is no more than 10,000 square feet in size. The applicants have proposed building site areas that are larger than 10,000 square feet. The Commission has therefore required revised plans, which depict a building site area that is no more than 10,000 square feet in size. Additionally, although the proposed residences will be located in an area designated as H3, fuel modification will adversely impact the surrounding H1, H2, and H2-High Scrutiny habitat, as such, consistent with the Santa Monica Mountains LCP, the Commission has required habitat impact mitigation.

Additionally, CDP 4-13-1397 includes a proposed guest house; however, the applicant has not proposed a transfer of development credit (TDC), or an additional on-site waste water treatment system, as required by the LCP. As such, cumulative impact mitigation and County of Los Angeles Department of Environmental Health and Public Works approval have been required. Should the applicant fail to provide adequate evidence of the applicable extinguishment of development rights, or fail to obtain County approval, revised plans which delete the proposed guest house have been required.

The Santa Monica Mountains Local Coastal Program was effectively certified by the Commission on October 10, 2014. Pursuant to Section 22.44.910 of the certified LCP, coastal development permit applications that were filed complete by the Commission on or before the certification date may, at the option of the applicant, remain with the Coastal Commission for completion of review. The standard of review for such an application is the policies and provisions of the certified LCP.

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<sup>1</sup> The applications are being considered together pursuant to section 13058 of the Commission's regulations (14 CCR § 13058), which states, in part, that "[w]here two or more applications are legally or factually related, the executive director may prepare a consolidated staff report. Either the commission or the executive director may consolidate a public hearing where such consolidation would facilitate or enhance the commission's ability to review the developments for consistency with the requirements of the Coastal Act."

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## APPENDICES

Appendix 1 Substantive File Documents

### EXHIBITS

- Exhibit 1. Vicinity Map
- Exhibit 2. Aerial Photograph
- Exhibit 3. Parcel Map
- Exhibit 4. Project Plans for 4-13-1397
- Exhibit 5. Project Plans for 4-14-0100
- Exhibit 6. Project Plans for 4-14-0201
- Exhibit 7. Project Plans for 4-14-0202
- Exhibit 8. Project Plans for 4-14-0621
- Exhibit 9. Open Space Easement Area for CDP 4-14-0621

**LOCAL APPROVALS RECEIVED:** County of Los Angeles Department of Regional Planning, Approval in Concept; County of Los Angeles Environmental Health Services, Sewage Disposal System Conceptual Approval, County of Los Angeles Fire Department, Preliminary Fuel Modification Plan Approval, County of Los Angeles Fire Department, Fire Prevention Engineering Approval.

## I. MOTIONS AND RESOLUTIONS

The staff recommends that the Commission adopt the following resolutions:

### A. APPROVAL OF CDP NUMBER 4-13-1397

**Motion:**

*I move that the Commission **approve** Coastal Development Permit Number 4-13-1397 pursuant to the staff recommendation.*

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

**Resolution:**

*The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies and provisions of the Santa Monica Mountains Local Coastal Program. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would*



*substantially lessen any significant adverse impacts of the development on the environment.*

**B. APPROVAL OF CDP NUMBER 4-14-0100**

**Motion:**

*I move that the Commission **approve** Coastal Development Permit Number 4-14-0100 pursuant to the staff recommendation.*

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

**Resolution:**

*The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies and provisions of the Santa Monica Mountains Local Coastal Program. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.*

**C. APPROVAL OF CDP NUMBER 4-14-0201**

**Motion:**

*I move that the Commission **approve** Coastal Development Permit Number 4-14-0201 pursuant to the staff recommendation.*

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

**Resolution:**

*The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies and provisions of the Santa Monica Mountains Local Coastal Program. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would*

*substantially lessen any significant adverse impacts of the development on the environment.*

**D. APPROVAL OF CDP NUMBER 4-14-0202**

**Motion:**

*I move that the Commission **approve** Coastal Development Permit Number 4-14-0202 pursuant to the staff recommendation.*

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

**Resolution:**

*The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies and provisions of the Santa Monica Mountains Local Coastal Program. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.*

**E. APPROVAL OF CDP NUMBER 4-14-0621**

**Motion:**

*I move that the Commission **approve** Coastal Development Permit Number 4-14-0621 pursuant to the staff recommendation.*

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

**Resolution:**

*The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies and provisions of the Santa Monica Mountains Local Coastal Program. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would*

*substantially lessen any significant adverse impacts of the development on the environment.*

## II. STANDARD CONDITIONS

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

## III. SPECIAL CONDITIONS

*Special Conditions One (1) through Thirteen (13) shall apply to CDPs 4-13-1397, 4-14-0100, 4-14-0201, 4-14-0202, 4-14-0621.*

### 1. Plans Conforming to Geotechnical Engineer's Recommendations

By acceptance of this permit, the applicant agrees to comply with the recommendations contained in all of the geology, geotechnical, and/or soils reports referenced as Substantive File Documents. These recommendations, including recommendations concerning foundations, sewage disposal, and drainage, shall be incorporated into all final design and construction plans, which must be reviewed and approved by the consultant prior to commencement of development.

The final plans approved by the consultant shall be in substantial conformance with the plans approved by the Commission relative to construction, grading, and drainage. Any substantial changes in the proposed development approved by the Commission that may be required by the consultant shall require amendment(s) to the permit(s) or new Coastal Development Permit(s).

## **2. Assumption of Risk, Waiver of Liability and Indemnity**

By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from wildfire and erosion; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

## **3. Permanent Drainage and Polluted Runoff Control Plan**

A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director, two (2) copies of a final Drainage and Runoff Control Plan for the post-construction project site, prepared by a qualified licensed professional. The Plan shall include detailed drainage and runoff control plans with supporting calculations. The plans shall incorporate long-term post-construction Best Management Practices (BMPs) that protect water quality and minimize increases in runoff volume and rate in the project design of developments in the following order of priority:

- a. Site Design BMPs: Project design features that reduce the creation or severity of potential pollutant sources, or reduce the alteration of the project site's natural stormwater flow regime. Examples are minimizing impervious surfaces, preserving native vegetation, and minimizing grading.
- b. Source Control BMPs: Methods that reduce potential pollutants at their sources and/or avoid entrainment of pollutants in runoff, including schedules of activities, prohibitions of practices, maintenance procedures, managerial practices, or operational practices. Examples are covering outdoor storage areas, use of efficient irrigation, and minimizing the use of landscaping chemicals.
- c. Treatment Control BMPs: Systems designed to remove pollutants from stormwater, by gravity settling of particulate pollutants, filtration, biological uptake, media adsorption, or any other physical, biological, or chemical process. Examples are vegetated swales, detention basins, and storm drain inlet filters. Where post-construction treatment of stormwater runoff is required, treatment control BMPs (or suites of BMPs) shall, at a minimum, be sized and designed to treat, infiltrate, or filter stormwater runoff from each storm event, up to and including the 85th percentile, 24-hour storm event for volume-based BMPs, or the 85th percentile, 1-hour storm event (with an appropriate safety factor of 2 or greater) for flow-based BMPs.

The qualified licensed professional shall certify in writing that the final Drainage and Runoff Control Plan is in substantial conformance with the following minimum requirements:

- (1) Projects shall incorporate Low Impact Development (LID) techniques in order to minimize stormwater quality and quantity impacts from development, unless a credible and compelling explanation is provided as to why such features are not feasible and/or appropriate. LID strategies use small-scale integrated and distributed management practices, including minimizing impervious surfaces, infiltrating stormwater close to its source, and preservation of permeable soils and native vegetation.

- (2) Post-development runoff rates from the site shall be maintained at levels similar to pre-development conditions.
- (3) Selected BMPs shall consist, or primarily consist, of site design elements and/or landscape based systems or features that serve to maintain site permeability, avoid directly connected impervious area and/or retain, infiltrate, or filter runoff from rooftops, driveways and other hardscape areas, where feasible. Examples of such features include but are not limited to porous pavement, pavers, rain gardens, vegetated swales, infiltration trenches, cisterns.
- (4) Landscape plants shall have low water and chemical treatment demands and be consistent with **Special Condition 5, Landscaping and Fuel Modification Plans**. An efficient irrigation system designed based on hydrozones and utilizing drip emitters or micro-sprays or other efficient design shall be utilized for any landscaping requiring water application.
- (5) All slopes shall be stabilized in accordance with provisions contained in the Landscaping and/or Interim Erosion and Sediment Control Condition for this Coastal Development Permit and, if applicable, in accordance with engineered plans prepared by a qualified licensed professional.
- (6) Runoff shall be discharged from the developed site in a non-erosive manner. Energy dissipating measures shall be installed where needed to prevent erosion. Plan details and cross sections for any rock rip-rap and/or other energy dissipating devices or structures associated with the drainage system shall be prepared by a qualified licensed professional. The drainage plans shall specify, the location, dimensions, cubic yards of rock, etc. for the any velocity reducing structure with the supporting calculations showing the sizing requirements and how the device meets those sizing requirements. The qualified, licensed professional shall ensure that all energy dissipaters use the minimum amount of rock and/or other hardscape necessary to protect the site from erosion.
- (7) All BMPs shall be operated, monitored, and maintained in accordance with manufacturer's specifications where applicable, or in accordance with well recognized technical specifications appropriate to the BMP for the life of the project and at a minimum, all structural BMPs shall be inspected, cleaned-out, and where necessary, repaired prior to the onset of the storm season (October 15<sup>th</sup> each year) and at regular intervals as necessary between October 15<sup>th</sup> and April 15<sup>th</sup> of each year. Debris and other water pollutants removed from structural BMP(s) during clean-out shall be contained and disposed of in a proper manner.
- (9) For projects located on a hillside, slope, or which may otherwise be prone to geologic instability, site drainage and BMP selection shall be developed concurrent with the preliminary development design and grading plan, and final drainage plans shall be approved by a licensed geotechnical engineer or engineering geologist.
- (10) Should any of the project's surface or subsurface drainage/filtration structures or other BMPs fail or result in increased erosion, the applicant/landowner or successor-in-interest shall be responsible for any necessary repairs to the drainage/filtration system or BMPs and restoration of the affected area. Should repairs or restoration become necessary, prior to the commencement of such repair or restoration work, the applicant shall submit a repair and restoration plan to the Executive Director to determine if an amendment or new coastal development permit is required to authorize such work.

B. The final Drainage and Runoff Control Plan shall be in conformance with the site/development plans approved by the Coastal Commission. Any necessary changes to the Coastal Commission approved site/development plans required by a qualified, licensed professional shall be reported to the Executive Director. No changes to the Coastal Commission approved final site/development plans shall occur without an amendment to the coastal development permit, unless the Executive Director determines that no amendment is required.

#### **4. Interim Erosion Control Plans and Construction Responsibilities**

A. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director an Interim Erosion Control and Construction Best Management Practices Plan, prepared by a qualified, licensed professional. The qualified, licensed professional shall certify in writing that the Interim Erosion Control and Construction Best Management Practices (BMPs) plan are in conformance with the following requirements:

##### 1. Erosion Control Plan

- (a) The plan shall delineate the areas to be disturbed by grading or construction activities and shall include any temporary access roads, staging areas and stockpile areas. The natural areas on the site shall be clearly delineated on the plan and on-site with fencing or survey flags.
- (b) Include a narrative report describing all temporary run-off and erosion control measures to be used during construction.
- (c) The plan shall identify and delineate on a site or grading plan the locations of all temporary erosion control measures.
- (d) The plan shall specify that grading shall take place only during the dry season (April 1 – October 31). This period may be extended for a limited period of time if the situation warrants such a limited extension, if approved by the Executive Director. The applicant shall install or construct temporary sediment basins (including debris basins, desilting basins, or silt traps), temporary drains and swales, sand bag barriers, silt fencing, and shall stabilize any stockpiled fill with geofabric covers or other appropriate cover, install geotextiles or mats on all cut or fill slopes, and close and stabilize open trenches as soon as possible. Basins shall be sized to handle not less than a 10 year, 6 hour duration rainfall intensity event.
- (e) The erosion control measures shall be required on the project site prior to or concurrent with the initial grading operations and maintained throughout the development process to minimize erosion and sediment from runoff waters during construction. All sediment should be retained on-site, unless removed to an appropriate, approved dumping location either outside of the coastal zone or within the coastal zone to a site permitted to receive fill.
- (f) The plan shall also include temporary erosion control measures should grading or site preparation cease for a period of more than 30 days, including but not limited to: stabilization of all stockpiled fill, access roads, disturbed soils and cut and fill slopes with geotextiles and/or mats, sand bag barriers, silt fencing; temporary drains and swales and sediment basins. The plans shall also specify that all disturbed areas shall be seeded

with native grass species and include the technical specifications for seeding the disturbed areas. These temporary erosion control measures shall be monitored and maintained until grading or construction operations resume.

- (g) All temporary, construction related erosion control materials shall be comprised of bio-degradable materials (natural fiber, not photo-degradable plastics) and must be removed when permanent erosion control measures are in place. Bio-degradable erosion control materials may be left in place if they have been incorporated into the permanent landscaping design.

## 2. Construction Best Management Practices

- (a) No demolition or construction materials, debris, or waste shall be placed or stored where it may enter sensitive habitat, receiving waters or a storm drain, or be subject to wave, wind, rain, or tidal erosion and dispersion.
- (b) No demolition or construction equipment, materials, or activity shall be placed in or occur in any location that would result in impacts to environmentally sensitive habitat areas, streams, wetlands or their buffers.
- (c) Any and all debris resulting from demolition or construction activities shall be removed from the project site within 24 hours of completion of the project.
- (d) Demolition or construction debris and sediment shall be removed from work areas each day that demolition or construction occurs to prevent the accumulation of sediment and other debris that may be discharged into coastal waters.
- (e) All trash and debris shall be disposed in the proper trash and recycling receptacles at the end of every construction day.
- (f) The applicant shall provide adequate disposal facilities for solid waste, including excess concrete, produced during demolition or construction.
- (g) Debris shall be disposed of at a permitted disposal site or recycled at a permitted recycling facility. If the disposal site is located in the coastal zone, a coastal development permit or an amendment to this permit shall be required before disposal can take place unless the Executive Director determines that no amendment or new permit is legally required.
- (h) All stock piles and construction materials shall be covered, enclosed on all sides, shall be located as far away as possible from drain inlets and any waterway, and shall not be stored in contact with the soil.
- (i) Machinery and equipment shall be maintained and washed in confined areas specifically designed to control runoff. Thinners or solvents shall not be discharged into sanitary or storm sewer systems.
- (j) The discharge of any hazardous materials into any receiving waters shall be prohibited.
- (k) Spill prevention and control measures shall be implemented to ensure the proper handling and storage of petroleum products and other construction materials. Measures shall include a designated fueling and vehicle maintenance area with appropriate berms and protection to prevent any spillage of gasoline or related petroleum products or contact

with runoff. The area shall be located as far away from the receiving waters and storm drain inlets as possible.

- (l) Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) designed to prevent spillage and/or runoff of demolition or construction-related materials, and to contain sediment or contaminants associated with demolition or construction activity, shall be implemented prior to the on-set of such activity
- (m) All BMPs shall be maintained in a functional condition throughout the duration of construction activity.

B. The final Interim Erosion Control and Construction Best Management Practices Plan shall be in conformance with the site/ development plans approved by the Coastal Commission. Any necessary changes to the Coastal Commission approved site/development plans required by a qualified, licensed professional shall be reported to the Executive Director. No changes to the Coastal Commission approved final site/development plans shall occur without an amendment to the coastal development permit, unless the Executive Director determines that no amendment is required.

## **5. Landscaping and Fuel Modification Plans**

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit two sets of landscaping and fuel modification plans, prepared by a licensed landscape architect or a qualified resource specialist. The consulting landscape architect or qualified landscape professional shall certify in writing that the final Landscape and Fuel Modification plans are in conformance with the following requirements:

### **A) Landscaping Plan**

- (1) All graded & disturbed areas on the subject site shall be planted and maintained for erosion control purposes within thirty (30) days of receipt of the certificate of occupancy for the residence. To minimize the need for irrigation all landscaping shall consist primarily of native/drought resistant plants, as listed by the California Native Plant Society, Santa Monica Mountains Chapter, in their document entitled Recommended List of Plants for Landscaping in the Santa Monica Mountains, dated February 5, 1996. All native plant species shall be of local genetic stock. No plant species listed as problematic and/or invasive by the California Native Plant Society (<http://www.CNPS.org/>), the California Invasive Plant Council (formerly the California Exotic Pest Plant Council) (<http://www.cal-ipc.org/>), or as may be identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as a “noxious weed” by the State of California or the U.S. Federal Government shall be utilized within the property.
- (2) All cut and fill slopes shall be stabilized with planting at the completion of final grading. Planting should be of native plant species indigenous to the Santa Monica Mountains using accepted planting procedures, consistent with fire safety requirements. All native plant species shall be of local genetic stock. Such planting shall be adequate to provide 90 percent coverage within two (2) years, and this requirement shall apply to all disturbed soils;



- (3) Plantings will be maintained in good growing condition throughout the life of the project and, whenever necessary, shall be replaced with new plant materials to ensure continued compliance with applicable landscape requirements;
- (4) Rodenticides containing any anticoagulant compounds (including, but not limited to, Warfarin, Brodifacoum, Bromadiolone or Diphacinone) shall not be used.
- (5) Fencing of the entire property is prohibited. Fencing shall extend no further than the approved development area. The fencing type and location shall be illustrated on the landscape plan. Fencing shall also be subject to the color requirements outlined in **Special Condition 6, Structural Appearance**, below.

**B) Fuel Modification Plans**

Vegetation within 20 feet of the proposed house may be removed to mineral earth, vegetation within a 200-foot radius of the main structure may be selectively thinned in order to reduce fire hazard. However, such thinning shall only occur in accordance with an approved long-term fuel modification plan submitted pursuant to this special condition. The fuel modification plan shall include details regarding the types, sizes and location of plant materials to be removed, and how often thinning is to occur. In addition, the applicant shall submit evidence that the fuel modification plan has been reviewed and approved by the Forestry Department of Los Angeles County. Irrigated lawn, turf and ground cover planted within the twenty foot radius of the proposed house shall be selected from the most drought tolerant species or subspecies, or varieties suited to the Mediterranean climate of the Santa Monica Mountains.

**C) Conformance with Commission Approved Site/Development Plans**

The Permittee shall undertake development in accordance with the final Landscape and Fuel Modification Plans. The final Landscape and Fuel Modification Plans shall be in conformance with the site/development plans approved by the Coastal Commission. Any changes to the Coastal Commission approved site/development plans shall be reported to the Executive Director. No changes to the Coastal Commission approved final site/development plans shall occur without an amendment to the coastal development permit, unless the Executive Director determines that no amendment is legally required.

**D) Monitoring**

Three years from the date of the receipt of the Certificate of Occupancy for the residence the applicant shall submit to the Executive Director, a landscape monitoring report, prepared by a licensed Landscape Architect or qualified Resource Specialist, that certifies the on-site landscaping is in conformance with the landscape plan approved pursuant to this Special Condition. The monitoring report shall include photographic documentation of plant species and plant coverage.

If the landscape monitoring report indicates the landscaping is not in conformance with or has failed to meet the requirements specified in this condition, the applicant, or successors in interest, shall submit, within 30 days of the date of the monitoring report, a revised or supplemental landscape plan, certified by a licensed Landscape Architect or a qualified Resource Specialist, that specifies additional or supplemental landscaping measures to remediate those portions of the original plan that have failed or are not in conformance with the original approved plan. This

remedial landscaping plan shall be implemented within 30 days of the date of the final supplemental landscaping plan and remedial measures shall be repeated as necessary to meet the requirements of this condition.

## **6. Structural Appearance**

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit for the review and approval of the Executive Director, a color palette and material specifications for the outer surface of all structures authorized by the approval of this Coastal Development Permit. The palette samples shall be presented in a format not to exceed 8½” x 11” x ½” in size. The palette shall include the colors proposed for the roofs, trims, exterior surfaces, driveways, retaining walls, and other structures authorized by this permit. Acceptable colors shall be limited to colors compatible with the surrounding environment (earth tones) including shades of green, brown and gray with no white or light shades and no bright tones. All windows shall be comprised of non-glare glass.

The approved structures shall be colored with only the colors and window materials authorized pursuant to this special condition. Alternative colors or materials for future repainting or resurfacing or new windows may only be applied to the structures authorized by this Coastal Development Permit if such changes are specifically authorized by the Executive Director as complying with this special condition.

## **7. Lighting Restriction**

A. The only outdoor night lighting allowed on the subject parcel is limited to the following:

- (1) The minimum necessary to light walkways used for entry and exit to the structures, including parking areas on the site. This lighting shall be limited to fixtures that do not exceed two feet in height above finished grade, are directed downward and generate the same or less lumens equivalent to those generated by a 60 watt incandescent bulb, unless a greater number of lumens is authorized by the Executive Director.
- (2) Security lighting attached to the residence and garage shall be controlled by motion detectors and is limited to same or less lumens equivalent to those generated by a 60 watt incandescent bulb.
- (3) The minimum necessary to light the entry area to the driveway with the same or less lumens equivalent to those generated by a 60 watt incandescent bulb.

B. No lighting around the perimeter of the site and no lighting for aesthetic purposes is allowed.

## **8. Future Development Restriction**

This permit is only for the development described in this Coastal Development Permit. Pursuant to Title 14 California Code of Regulations section 13250(b)(6) and 13253(b)(6), the exemptions otherwise provided in Public Resources Code section 30610(a) and (b) shall not apply to the development governed by this Coastal Development Permit. Accordingly, any future structures, future improvements, or change of use to the permitted structures authorized by this permit, including but not limited to, any grading, clearing or other disturbance of vegetation other than

as provided for in the approved landscape plan prepared pursuant to **Special Condition 5, Landscaping and Fuel Modification Plans**, shall require an amendment to this Coastal Development Permit from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

## **9. Deed Restriction**

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the applicant has executed and recorded against the parcel(s) governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

## **10. Habitat Impact Mitigation**

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and approval of the Executive Director, a map delineating all areas of chaparral and coastal sage scrub habitat (ESHA) that will be disturbed by the proposed development, including fuel modification and brush clearance requirements on the project site and adjacent property. The chaparral and coastal sage scrub ESHA areas on the site and adjacent property shall be delineated on a detailed map, to scale, illustrating the subject parcel boundaries and, if the fuel modification/brush clearance zones extend onto adjacent property, adjacent parcel boundaries. The delineation map shall indicate the total acreage for all chaparral and coastal sage scrub ESHA, both on and offsite, that will be impacted by the proposed development, including the fuel modification/brush clearance areas. A 200-foot clearance zone from the proposed structures shall be used to determine the extent of off-site brush clearance for fire protection purposes. The delineation shall be prepared by a qualified resource specialist or biologist familiar with the ecology of the Santa Monica Mountains.

Mitigation shall be provided for impacts to the chaparral and coastal sage scrub ESHA from the proposed development and fuel modification/brush clearance requirements by one of the three following habitat mitigation methods:

### **A. Habitat Restoration**

#### 1) Habitat Restoration Plan

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit a habitat restoration plan, for the review and approval of the Executive

Director, for an area of degraded chaparral and/or coastal sage scrub habitat equivalent to the area of chaparral and/or coastal sage scrub ESHA impacted by the proposed development and fuel modification/brush clearance area. The habitat restoration area may either be onsite or offsite within the coastal zone either in the City of Malibu or elsewhere in the Santa Monica Mountains. The habitat restoration area shall be delineated on a detailed site plan, to scale, that illustrates the parcel boundaries and topographic contours of the site. The habitat restoration plan shall be prepared by a qualified resource specialist or biologist familiar with the ecology of the Santa Monica Mountains and shall be designed to restore the area in question for habitat function, species diversity and vegetation cover. The restoration plan shall include a statement of goals and performance standards, revegetation and restoration methodology, and maintenance and monitoring provisions. If the restoration site is offsite, the applicant shall submit written evidence to the Executive Director that the property owner has irrevocably agreed to allow the restoration work, maintenance and monitoring required by this condition and not to disturb any native vegetation in the restoration area.

The applicant shall submit, on an annual basis for five years, a written report, for the review and approval of the Executive Director, prepared by a qualified resource specialist, evaluating compliance with the performance standards outlined in the restoration plan and describing the revegetation, maintenance and monitoring that was conducted during the prior year. The annual report shall include recommendations for mid-course corrective measures. At the end of the five-year period, a final detailed report shall be submitted for the review and approval of the Executive Director. If this report indicates that the restoration project has been, in part or in whole, unsuccessful, based on the approved goals and performance standards, the applicant shall submit a revised or supplemental restoration plan with maintenance and monitoring provisions, for the review and approval of the Executive Director, to compensate for those portions of the original restoration plan that were not successful. Should supplemental restoration be required, the applicant shall submit, on an annual basis for five years, a written report, for the review and approval of the Executive Director, prepared by a qualified resource specialist, evaluating the supplemental restoration areas. At the end of the five-year period, a final report shall be submitted evaluating whether the supplemental restoration plan has achieved compliance with the goals and performance standards for the restoration area. If the goals and performance standards are not met within 10 years, the applicant shall submit an application for an amendment to the coastal development permit for an alternative mitigation program and shall implement whatever alternative mitigation program the Commission approves, as approved.

The habitat restoration work approved in the restoration plan shall be carried out prior to occupancy of the residence.

## 2) Open Space Deed Restriction

No development, as defined in section 30106 of the Coastal Act, shall occur in the habitat restoration area, as shown on the habitat restoration site plan required pursuant to (A)(1) above.

PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit evidence that the applicant has executed and recorded a deed restriction (if the applicant is not the owner, then the applicant shall submit evidence that the owner has executed and recorded the deed restriction), in a form and content acceptable to the Executive Director, reflecting the above restriction on development and designating the habitat restoration area as open space. The deed restriction shall include a graphic depiction and narrative legal descriptions of both the parcel on which the restoration area lies and the open space area/habitat restoration area. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

### 3) Performance Bond

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall post performance bonds to guarantee implementation of the restoration plan as follows: a) one equal to the value of the labor and materials; and b) one equal to the value of the maintenance and monitoring for a period of 5 years. Each performance bond shall be released upon satisfactory completion of items (a) and (b) above. If the applicant fails to either restore or maintain and monitor according to the approved plans, the Coastal Commission may collect the security and complete the work on the property.

## **B. Habitat Conservation**

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall (or, if the applicant is not the owner of the habitat conservation site, then the owner of the habitat conservation site shall) execute and record an open space deed restriction in a form and content acceptable to the Executive Director, over the entirety of a legal parcel or parcels containing chaparral and/or coastal sage scrub ESHA. The chaparral and/or coastal sage scrub ESHA located on the mitigation parcel or parcels must be of equal or greater area than the ESHA area impacted by the proposed development, including the fuel modification/brush clearance areas. No development, as defined in section 30106 of the Coastal Act, shall occur on the mitigation parcel(s) and the parcel(s) shall be preserved as permanent open space. The deed restriction shall include a graphic depiction and narrative legal descriptions of the parcel or parcels. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction.

Prior to occupancy of the residence, the applicant shall submit evidence, for the review and approval of the Executive Director, that the recorded documents have been reflected in the Los Angeles County Tax Assessor Records.

If the mitigation parcel(s) is/are larger in size than the impacted habitat area, the excess acreage may be used to provide habitat impact mitigation for other development projects that impact like ESHA.

## **C. Habitat Impact Mitigation Fund**

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit evidence, for the review and approval of the Executive Director, that payment for compensatory mitigation has been provided to the Mountains Recreation and Conservation Authority to mitigate adverse impacts to chaparral and coastal sage scrub habitat ESHA. The payment shall be calculated as follows:

**1. Development Area, Irrigated Fuel Modification Zones, Off-site Brush Clearance**

The payment for these areas shall be \$15,500 per acre within the development area, any required irrigated fuel modification zones, and required off-site brush clearance areas (assuming a 200-foot radius from all structures). The total acreage shall be based on the map delineating these areas required by this condition.

**2. Non-irrigated Fuel Modification Zones**

The payment for non-irrigated fuel modification areas (on-site) shall be \$3,900 per acre. The total acreage shall be based on the map delineating these areas required by this condition.

Prior to the payment for mitigation to the Mountains Recreation and Conservation Authority, the applicant shall submit, for the review and approval of the Executive Director, the calculation of the payment required to mitigate adverse impacts to chaparral and/or coastal sage scrub habitat ESHA, in accordance with this condition. After review and approval of the payment calculation, the payment shall be made to the Mountains Recreation and Conservation Authority's Coastal Habitat Impact Mitigation Fund for the acquisition, permanent preservation or restoration of habitat in the Santa Monica Mountains coastal zone, with priority given to the acquisition of or extinguishment of all development potential on properties containing environmentally sensitive habitat areas and properties adjacent to public parklands.. The payment may not be used to restore areas where development occurred in violation of the Coastal Act's permit requirements.

**11. Removal of Excavated Material**

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall provide evidence to the Executive Director of the location of the disposal site for all excess excavated material from the site. If the disposal site is located in the Coastal Zone, the disposal site must have a valid coastal development permit for the disposal of fill material. If the disposal site does not have a coastal permit, such a permit will be required prior to the disposal of material.

**12. Pool and Spa Drainage and Maintenance**

By acceptance of this permit, the applicant agrees to install a no chlorine or low chlorine purification system and agrees to maintain proper pool water pH, calcium and alkalinity balance to ensure any runoff or drainage from the pool or spa will not include excessive amounts of chemicals that may adversely affect water quality or environmentally sensitive habitat areas. In addition, the applicant agrees not to discharge chlorinated or non-chlorinated pool water into a

street, storm drain, creek, canyon drainage channel, or other location where it could enter receiving waters.

### **13. Archaeological Resources**

By acceptance of this permit the applicant agrees to have a qualified archaeologist(s) and appropriate Native American consultant(s) present on-site during all grading, excavation and site preparation that involve earth moving operations. The number of monitors shall be adequate to observe the activities of each piece of active earth moving equipment. Specifically, the earth moving operations on the project site shall be controlled and monitored by an archaeologist(s) for the purpose of locating, recording, and collecting any archaeological materials. In the event that an area of intact buried cultural deposits are discovered during operations, grading work in this area shall be halted and an appropriate data recovery strategy shall be developed by the applicant's archaeologist and the Native American consultant and implemented subject to the review and approval of the Executive Director.

*The following Special Condition Fourteen (14) shall also apply to CDPs 4-13-1397, 4-14-0100, 4-14-0201, and 4-14-0202.*

### **14. Revised Plans**

A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and approval of the Executive Director, two sets of final revised project plans. All plans must be drawn to scale with dimensions shown. The final revised project plans and project description shall depict a maximum 10,000 square foot building site area and shall delete any grading that would expand the existing graded pad (including the cut/fill slopes for the graded pad). New driveways shall utilize existing graded pad areas to the maximum extent feasible. All approved flammable structures shall be located within the 10,000 square foot building site area.

B. The Permittee shall undertake development in accordance with the final approved plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Coastal Commission - approved amendment to the coastal development permit, unless the Executive Director determines that no amendment is legally required.

*The following Special Conditions Fifteen (15) through Seventeen (17) shall also apply to CDP 4-13-1397.*

### **15. Revised Plans**

A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and approval of the Executive Director, two (2) sets of final revised project plans. All plans must be drawn to scale with dimensions shown. The final revised project plans and project description shall reflect one of the following:

- (1) Delete the proposed guest house, unless the applicant has demonstrated that a Transfer of Development Credit (TDC) has been obtained in accordance with **Special Condition**

**Sixteen (16)** below and that County approvals have been obtained in accordance with **Special Condition Seventeen (17)** below.

- (2) Should the applicants demonstrate fulfillment of Special Condition Sixteen (16) and Special Condition Seventeen (17), the applicant shall submit revised plans that depict the location of the on-site wastewater treatment system that will serve the guesthouse.

B. The Permittee shall undertake development in accordance with the final approved plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Coastal Commission - approved amendment to the coastal development permit, unless the Executive Director determines that no amendment is legally required.

## **16. Cumulative Impacts Mitigation**

### A. Transfer of Development Credit

- a. The applicant shall mitigate the cumulative impacts of the subject development with respect to build-out of the Santa Monica Mountains by ensuring that development rights have been permanently extinguished for a property(ies) equivalent to one Transfer of Development Credit (TDC) in the Santa Monica Mountains Coastal Zone that satisfies the criteria for TDC donor lots established in Santa Monica Mountains LIP Section 22.44.1230 and that has not previously been retired, through a Transfer of Development Credit (TDC) transaction as described below. That lot shall be known as the “TDC lot”.
- b. The TDC transaction shall result in development, as defined in Section 22.44.630 of the Santa Monica Mountains LIP, grazing, or agricultural activities being prohibited on the TDC lot(s) except for:
  1. Brush clearance required by Los Angeles County for permitted structures on adjacent parcels.
  2. Planting of native vegetation and other restoration activities, if approved by Los Angeles County in a coastal development permit;
  3. If approved by Los Angeles County in a new coastal development permit,
    - a) construction and maintenance of public hiking trails; and
    - b) construction and maintenance of roads, trails, and utilities consistent with existing easements.
- c. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall provide evidence, for the review and approval of the Executive Director, that all of the following steps have been completed for one of the following two methods.
  1. Open space easement dedication and the merging or recombination of the retired lot(s) with one or more adjacent developed or buildable parcel(s).
    - a) The applicant shall submit, for the review and approval of the Executive Director, evidence that a public entity or private non-profit



association acceptable to the Executive Director has acquired an Open Space / Conservation Easement, pursuant to a grant deed acceptable to the Executive Director, over the TDC lot(s). The recorded easement grant deed shall include the current legal description on title to the property, as shown in the current deed or Preliminary Report, of the TDC lot(s). The recorded document shall reflect that development of the TDC lot(s) is restricted as set forth in section B, above. The grant of easement shall be recorded free of prior liens and encumbrances that the Executive Director determines may affect the interest being conveyed. Such grant of easement shall run with the land in favor of the People of the State of California, binding all successors and assigns, and shall be irrevocable.

- b) The applicants shall provide evidence, for the review and approval of the Executive Director, that the TDC lot(s) has been either: (a) combined with an adjacent lot that is (i) developed or developable, (ii) held in common ownership with the TDC lot(s), and (iii) in the same tax rate area as the TDC lot(s); or (b) dedicated in fee title to a public entity other than the easement-holder. If the TDC lot(s) has been combined with an adjacent lot, the document combining them shall be subject to the review and approval of the Executive Director, and recorded free of prior liens, including tax liens on all of the properties involved; and the combined lot shall be considered and treated as a single parcel of land for all purposes with respect to the lands included therein, including but not limited to sale, conveyance, taxation, lease, development, or encumbrance.
- c) If the TDC lot(s) has been combined with an adjacent lot, the applicant shall submit, for the review and approval of the Executive Director, a Preliminary Report for the combined lot created pursuant to Section 1b above that demonstrates that the easement deed required in Section 1a above is on the title and that the combined lot is described as a single lot. The applicants shall also provide evidence to the Executive Director that the applicant has provided documentation of the combination to the county assessor's office and requested that the assessor's office (1) revise its records and maps to reflect the combination of the parcels, including assigning a new, single APN for the unified parcel and (2) send the Commission notice when it has done so, indicating the new, single APN.

2. Open space deed restriction and transfer in fee title to a public entity.

- a) The applicant shall submit to the Executive Director for review and approval documentation demonstrating that the applicant has executed and recorded against the TDC lot(s) an open space deed restriction, in a form and content acceptable to the Executive Director, restricting development of the TDC lot(s) consistent with section B, above. The deed restriction shall include a legal description of the entire TDC lot(s). The deed restriction shall be recorded free of prior liens and

encumbrances that the Executive Director determines may affect the interest being conveyed.

- b) The applicant shall submit, for the review and approval of the Executive Director, evidence that fee title to the TDC lot has been successfully transferred to a public entity, acceptable to the Executive Director, after the recordation of the deed restriction listed in Section 2a above and that the document effectuating the conveyance has been recorded with the Los Angeles County Recorder.
- d. Should the applicant fail to submit the evidence of lot extinguishment required by this Special Condition, the applicant shall submit plans deleting the guest house from the project plans, consistent with **Special Condition Number Fifteen (15), Revised Plans**.

#### **17. Departments of Environmental Health and Public Works Approval**

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall submit, for the review and approval of the Executive Director, evidence of Approval from the County of Los Angeles Departments of Environmental Health and Public Works for an on-site waste water treatment system (OWTS) for the proposed guest house that is separate from the OWTS for the primary structure, to comply with Section 22.44.1370 of the Santa Monica Mountains Local Coastal Program. Should the applicants fail to submit the evidence of County approval required by this Special Condition, the applicants must submit revised plans deleting the guest house from the project plans, consistent with **Special Condition Number Fifteen (15), Revised Plans**.

*The following Special Condition Fourteen (14) shall also apply to CDP 4-14-0621.*

#### **14. Open Space Conservation Easement**

A. No development, as defined in Section 30106 of the Coastal Act, grazing, or agricultural activities shall occur outside of the approved building site, within the portion of the property identified as the “open space conservation easement area”, as shown in **Exhibit Nine (9)** except for:

- (1) Fuel modification required by the Los Angeles County Fire Department undertaken in accordance with the final approved fuel modification plan for structures approved by the County of Los Angeles in a coastal development permit;
- (2) Drainage and polluted runoff control activities required and approved by the County of Los Angeles in a coastal development permit;
- (3) Planting of native vegetation and other restoration activities, if approved by the County of Los Angeles in a coastal development permit;
- (4) If approved by the County of Los Angeles in a coastal development permit,
  - a. construction and maintenance of public hiking trails; and
  - b. construction and maintenance of roads, trails, and utilities consistent with existing easements.

B. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall execute and record a document in a form and content acceptable to the Executive Director, granting to the Mountains Recreation and Conservation Authority (“MRCA”) on behalf of the people of the State of California an open space conservation easement over the “open space conservation easement area” described above, for the purpose of habitat protection. The recorded easement document shall include a formal legal description of the entire property; and a metes and bounds legal description and graphic depiction, prepared by a licensed surveyor, of the open space conservation easement area, as generally shown on **Exhibit Nine (9)**. The recorded document shall reflect that no development shall occur within the open space conservation easement area except as otherwise set forth in this permit condition. The grant of easement shall be recorded free of prior liens and encumbrances (other than existing easements for roads, trails, and utilities) which the Executive Director determines may affect the interest being conveyed, and shall run with the land in favor of the MRCA on behalf of the people of the State of California, binding all successors and assigns.

#### **IV. FINDINGS AND DECLARATIONS**

The Commission hereby finds and declares:

##### **A. PROJECT DESCRIPTION AND BACKGROUND**

The subject applications are for five new single-family residences ranging from 4,283 sq. ft. to 8,894 sq. ft. in size, and associated development on five adjoining lots in Los Angeles County, just north of the City of Malibu. The properties consists of very steep south facing slopes to the north and gentle slopes on the southerly sections of the properties where the five residences and associated development are proposed to be located. A portion of one unnamed USGS blue-line stream flows in a southwesterly direction near four of the residential building sites, toward Malibu Creek, which is approximately 0.6 miles away. Malibu Lagoon is approximately 1.1 miles southwest of the site. The subject properties are situated among existing single-family residences to the east, south, and west, and State Park lands are located to the north, as depicted on Exhibit 2. The subject properties do not contain, and are not visible from any public trails.

Four of the five proposed residences (Coastal Development Permit applications 4-13-1397, 4-14-0100, 4-14-0201, and 4-14-0621) would be located on parcels and existing building pads created pursuant to Coastal Development Permit (CDP) 4-95-173, as depicted on Exhibit 3. This CDP was approved on August 15, 1996, and allowed for the subdivision of a 35.8 acre parcel (APN 4457-002-037) into four single-family residential parcels ranging in size from 7.3 to 13.1 acres, private roadway improvements, dedication of 30 acres of permanent open space, existing water storage tank and access road, building pads and utilities, drainage management devices (culverts, energy dissipaters), 8,460 cubic yards of grading, and an Arizona creek crossing. The approved development also included the removal of four-fire damaged coastal live oak trees and approximately 150 avocado trees.

CDP 4-95-173 was subsequently amended (Permit Amendment No. 4-95-173-A1) to include a road easement for a previously existing dirt access road as an allowable use in the dedicated open space area to the northwest of lot 4. Additionally, a second amendment (Permit Amendment No. 4-95-173-A2) was approved to consolidate two driveways into one realigned driveway to

provide access to all four lots and to eliminate an Arizona crossing and replace it with a prefabricated bridge.

CDP Application 4-14-0621 includes a residence and associated development on a parcel that did not result from the subdivision approved in CDP 4-95-173. This parcel, however, is located immediately adjacent to the parcels resulting from the subdivision, and was created legally through a succession of lot splits. The majority of the lot splits occurred prior to the effective date of the Coastal Act. One land division between the subject site and property to the north of this site occurred in 1984. This division was brought about in connection with the purchase of the land to the north by State Parks for public recreational use, so that division was not development (as defined by Section 30106 of the Coastal Act) and did not require approval of a coastal development permit.

To clearly address what is proposed on each parcel, the project descriptions are provided below for each separate application.

CDP Application Number	Applicant	Assessor's Parcel Number	Lot Number
4-13-1397	Eucalyptus Ranch	4457-003-023	Lot 1
4-14-0100	Hacienda Robles	4457-003-022	Lot 2
4-14-0201	Pepper Creek	4457-003-020	Lot 4
4-14-0202	Canary Island Palm	4457-003-019	Lot 3
4-14-0621	Rancho Tocolote	4457-002-038	Lot 5

**CDP Application 4-13-1397 (Eucalyptus Ranch, LP) (APN 4457-003-023)**

The applicant is proposing to construct a 28’9” high (as measured from finished grade), two-level with basement, 7,485 sq. ft. single family residence on an approximately 7.6 acre lot, with a detached 748 sq. ft. garage and 548 sq. ft. guest house. The proposed development also includes a swimming pool and spa, onsite waste water treatment system, and 18,000 gallon belowground water tank. In total, the proposed project requires 960 cu. yds. grading (820 cu. yds. cut, 140 cu. yds. fill), and retaining walls.

**CDP Application 4-14-0100 (Hacienda Robles, LP) (APN 4451-003-022)**

The applicant is proposing to construct a 27’8” high (as measured from finished grade), two-level, 6,523 sq. ft. single family residence on an approximately 13 acre lot, with an attached 729 sq. ft. garage. The proposed development also includes a swimming pool and spa, gazebo, onsite waste water treatment system, and 18,000 gallon belowground water tank. In total, the proposed project requires 700 cu. yds. grading (320 cu. yds. cut, 380 cu. yds. fill), and retaining walls.

**CDP Application 4-14-0201 (Pepper Creek, LP) (APN 4457-003-020)**

The applicant is proposing to construct a 29’8” high (as measured from finished grade), two-level with basement, 8,894 sq. ft. single family residence on an approximately 7.2 acre lot, with an attached 834 sq. ft. garage. The proposed development also includes a swimming pool and spa, onsite waste water treatment system, and 18,000 gallon belowground water tank. In total,

the proposed project requires 2,140 cu. yds. grading (635 cu. yds. cut, 1,505 cu. yds. fill), and X retaining walls.

**CDP Application 4-14-0202 (Canary Island Palm, LP) (APN 4457-003-019)**

The applicant is proposing to construct a 27'5" high (as measured from finished grade), two-level with basement, 7,139 sq. ft. single family residence on an approximately 7.2 acre lot, with an attached 537 sq. ft. garage. The proposed development also includes a swimming pool and spa, onsite waste water treatment system, and 18,000 gallon belowground water tank. In total, the proposed project requires 820 cu. yds. grading (580 cu. yds. cut, 240 cu. yds. fill), and retaining walls.

**CDP Application 4-14-0621 (Rancho Tecolote, LP) (APN 4457-002-038)**

The applicant is proposing to construct a 28'8" high (as measured from finished grade), three-level, 4,283 sq. ft. single family residence on an approximately 14 acre lot, with an attached 701 sq. ft. garage. The proposed development also includes a swimming pool and spa, and onsite waste water treatment system. In total, the proposed project requires 1,426 cu. yds. grading (1,327 cu. yds. cut, 99 cu. yds. fill), and retaining walls.

**B. HAZARDS AND GEOLOGIC STABILITY**

Policy SN-1 of the Santa Monica Mountains Land Use Plan states:

*All new development shall be sized, designed and sited to minimize risks to life and property from geologic hazard.*

Policy SN-11 of the Santa Monica Mountains Land Use Plan states:

*New development shall assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.*

SN-12 of the Santa Monica Mountains Land Use Plan states:

*Site, design and size all new development to minimize risks to life and property from flood hazard, considering changes to inundation and flood zones caused by rising sea level.*

SN-16 of the Santa Monica Mountains Land Use Plan states:

*New development shall provide adequate drainage and erosion control facilities that convey site drainage in a non-erosive manner in order to minimize hazards resulting from increased runoff, erosion and other hydrologic impacts to streams.*

SN-17 of the Santa Monica Mountains Land Use Plan states:

*New development shall not increase peak stormwater flows.*

Policy SN-19 of the Santa Monica Mountains Land Use Plan states:

*Ensure that all new development is sized, designed and sited to minimize risks to life and property from fire hazard.*

Policy SN-20 of the Santa Monica Mountains Land Use Plan states:

*Design and site new development in a manner that minimizes the threat of loss from wildland fires while avoiding the need for excessive vegetation clearance.*

Policy SN-21 of the Santa Monica Mountains Land Use Plan states:

*Design and site new development in a manner that minimizes the threat of loss from wildland fires while avoiding the need for excessive vegetation clearance.*

SN-24 of the Santa Monica Mountains Land Use Plan states:

*Structures shall be constructed with appropriate features and building materials, including but not limited to: fire-resistant exterior materials, windows and roofing, and eaves and vents that resist the intrusion of flame and burning embers.*

SN-25 of the Santa Monica Mountains Land Use Plan states:

*Structures that require fuel modification shall be set back 200 feet from adjoining vacant lands, where feasible. If it is not feasible to provide a 200 foot setback, then structures shall be set back to the maximum extent possible. However, a lesser setback may be approved where it will serve to cluster development, minimize fire hazards, or minimize impacts to coastal resources.*

Policy SN-26 of the Santa Monica Mountains Land Use Plan states:

*New development adjacent to public parkland shall be sited at least 200 feet from all parkland, where feasible, and designed to ensure that all required fuel modification is located within the project site boundaries and no brush clearance is required within the public parkland. New development that requires unavoidable brush clearance in parklands shall only be approved to allow a reasonable economic use, brush clearance shall be minimized to the maximum extent feasible, and all resource impacts shall be fully mitigated.*

Policy SN-32 of the Santa Monica Mountains Land Use Plan states:

*Maintain onsite, where feasible, alternative water resources for fire-fighting purposes. Water tanks shall be sized consistent with County minimum requirements, clustered with approved structures, and sited to minimize impacts to coastal resources.*

In addition, the following certified Santa Monica Mountains Local Implementation Plan (LIP) sections are specifically applicable in this case.

LIP Section 22.44.2102 “Development Standards,” in relevant part, states:

A. *All new development shall be sized, sited, and designed to minimize risks to life and property from geologic, flood, and fire hazard, considering changes to inundation and flood zones caused by rising sea level.*

...

D. *All recommendations of the consulting licensed professional and/or the County geotechnical staff shall be incorporated into all final design and construction...*

...

G. *New development, including construction, grading, and landscaping shall be designed to incorporate drainage and erosion control measures prepared by a qualified licensed professional that incorporate structural and non-structural Best Management Practices (BMPs) to control the volume, velocity and pollutant load of stormwater runoff in compliance with the LID requirements of this LIP.*

...

K. *As a condition of approval of new development within or adjacent to an area subject to flooding, land or mudslide, or other high geologic hazard, prior to issuance of the Coastal Development Permit, the property owner shall be required to execute and record a deed restriction which acknowledges and assumes said risks and waives any future claims of damage or liability against the County and agrees to indemnify the County against any liability, claims, damages, or expenses arising from any injury or damage due to such hazards.*

The proposed development is located in the Santa Monica Mountains area, an area historically subject to significant natural hazards including, but not limited to, landslides, erosion, and flooding. In addition, fire is an inherent threat to the indigenous chaparral community of the coastal mountains. Wild fires often denude hillsides in the Santa Monica Mountains of all existing vegetation, thereby contributing to an increased potential for erosion and landslides on property. Therefore, to address these hazards, the LCP includes a number of policies and provisions related to hazards and geologic stability. Policies SN-1, SN-11, SN-12 and SN-20 require that new development be sited, sized and designed to minimize risks to life and property from different kinds of hazards. Policies SN-16 and SN-17 require that new development shall provide adequate drainage and erosion control facilities that convey site drainage in a non-erosive manner in order to minimize hazards resulting from increased runoff, erosion and other hydrologic impacts to streams and new development shall not increase peak stormwater flows.

The submitted geology, geotechnical, and/or soils reports referenced as Substantive File Documents conclude that the project site is suitable for the proposed project based on the evaluation of the site's geology in relation to the proposed development. The reports contain recommendations to be incorporated into the project plans to ensure the stability and geologic safety of the proposed project, the project site, and the adjacent properties. To ensure stability and structural integrity and to protect the site and the surrounding sites, and pursuant to LIP Section 22.44.2102 (D), the Commission requires **Special Condition One (1)** to ensure that the applicants comply with the recommendations contained in the applicable reports, to incorporate those recommendations into all final design and construction plans, and to obtain the geotechnical consultant's approval of those plans prior to the commencement of construction.

Additionally, to minimize erosion and ensure stability of the project site, the project must include adequate drainage and erosion control measures. Pursuant to LIP Section 22.44.2102(G), the Commission requires **Special Condition Three (3)**, which requires that the applicants submit

drainage control plans certified by the geotechnical engineer. Further, for the project to ensure stability and avoid contributing significantly to erosion, **Special Condition Five (5)** requires all slopes and disturbed areas of the subject site must be landscaped, primarily with native plants, to stabilize disturbed soils and reduce erosion resulting from the development.

Policies SN-21, SN-24, and SN-25 require that all new development is sited and designed in a manner that minimizes the threat of loss from wildland fires while avoiding the need for excessive vegetation clearance encourages the clustering of residential structures both on individual lots and on multiple adjacent lots to provide for more localized and effective fire protection measures such as consolidated of required fuel modification and brush clearance. As previously mentioned above, because the proposed development is surrounded by existing residential development on neighboring properties with overlapping fuel modification zones, the fuel modification requirements for the existing residence with proposed as-built additions will not result in any new vegetation clearance in offsite areas.

Although the conditions described above render the project sufficiently stable to satisfy the geologic, flood, and fire hazard policies of the Santa Monica Mountains LCP, no project is wholly without risks. Due to the fact that the proposed project is located in an area subject to an extraordinary potential for damage or destruction from natural hazards, including wildfire and erosion, those risks remain substantial here. Pursuant to LIP Section 22.44.2102 (D), if the applicant nevertheless chooses to proceed with the project, the Commission requires **Special Condition Two (2)** for the applicants to assume the liability from these associated risks. Through Special Condition Two (2), the applicant acknowledges the nature of the fire and/or geologic hazard that exists on the site and that may affect the safety of the proposed development.

Lastly, consistent with LIP Section 22.44.2102(K), the Commission requires **Special Condition Nine (9)**, which requires the applicants to record a deed restriction that imposes the terms and conditions of this permit as restrictions on use and enjoyment of the property and provides any prospective purchaser of the site with recorded notice that the restrictions are imposed on the subject property.

For the reasons set forth above, the Commission finds that, as conditioned, the proposed project is consistent with the applicable geologic, fire and flood hazard policies of the Santa Monica Mountains LCP.

### **C. ARCHAEOLOGICAL RESOURCES**

Policy CO-204 of the Santa Monica Mountains Land Use Plan states:

*Protect and preserve archaeological, historical, and paleontological resources from destruction, and avoid impacts to such resources where feasible. Where avoidance is not feasible, minimize impacts to resources to the maximum extent feasible.*

Policy CO-205 of the Santa Monica Mountains Land Use Plan states:

*Where development would adversely impact archaeological or paleontological resources as identified by the State Historic Preservation Officer, reasonable mitigation measures shall be required. Mitigation shall be designed to accord with guidelines of the State*



*Office of Historic Preservation and the State of California Native American Heritage Commission.*

Policy CO-206 of the Santa Monica Mountains Land Use Plan states:

*Regulate landform alteration to ensure minimal disturbance of known archaeological and historic cultural sites. New development on sites identified as archaeologically sensitive shall include onsite monitoring of all grading, excavation, and site preparation that involve earthmoving operations by a qualified archaeologist(s) and appropriate Native American consultant(s).*

Policy CO-208 of the Santa Monica Mountains Land Use Plan states:

*New development within archaeologically-sensitive areas shall implement appropriate mitigation measures, designed in accord with guidelines of the State Office of Historic Preservation and the State of California Native American Heritage Commission.*

Policy CO-209 of the Santa Monica Mountains Land Use Plan states:

*Preserve and protect cultural resources and traditions that are of importance to Native Americans, including the Chumash and Gabrieliño/Tongva peoples.*

Policy CO-211 of the Santa Monica Mountains Land Use Plan states:

*Notify all appropriate agencies, including Native American tribes, and the Department of Regional Planning of archaeological or paleontological resources discovered during any phase of development construction to ensure proper surface and site recordation and treatment.*

The greater province of the Santa Monica Mountains is the locus of one of the most important concentrations of archaeological sites in Southern California. Although most of the area has not been systematically surveyed to compile an inventory, the sites already recorded are sufficient in both numbers and diversity to predict the ultimate significance of these unique resources. As so many archaeological sites have been destroyed or damaged as a result of development activity or natural processes, the remaining sites, even if they are less rich in materials, have become increasingly valuable. As such, the above referenced LUP policies require the protection of archaeological resources and the implementation of mitigation measures to avoid or minimize any impacts.

Archaeological sites have been identified both on and adjacent to the subject sites. Although a majority of the grading, excavation, and earthwork necessary for the proposed development has been completed pursuant to CDP 4-95-137, additional earthwork is proposed as a component of the subject CDP applications. New development on natural sites or additional development on natural areas of developed sites can damage or destroy archaeological resources. Site preparation can disturb and/or obliterate archaeological materials to such an extent that the information that could have been derived would be lost. If a project is not properly monitored and managed during construction activities, archaeological resources can be degraded or destroyed. Thus, **Special Condition Thirteen (13)** requires that all grading, excavation, and site preparation that involves earth-moving operations be monitored by a qualified archaeologist and appropriate Native American consultants, and that if cultural resources are identified on the project site, the

development must protect or avoid such resources, consistent with the recommendations of the archaeologist and Native American consultant.

Therefore, the Commission finds that the proposed project, as conditioned, consistent with the applicable archaeological resource policies of the Santa Monica Mountains LCP.

#### **D. WATER QUALITY**

Policy SN-16 of the Santa Monica Mountains Land Use Plan states:

*New development shall provide adequate drainage and erosion control facilities that convey site drainage in a non-erosive manner in order to minimize hazards resulting from increased runoff, erosion and other hydrologic impacts to streams.*

Policy CO-2 of the Santa Monica Mountains Land Use Plan states:

*Site, design, and manage new development and improvements, including: but not limited to: landscaping, to protect coastal waters from non-point source pollution by minimizing the introduction of pollutants in runoff and minimizing increases in runoff rate and volume. Review new development and improvements for potential degradation of water quality, and ensure that they meet the requirements of the NPDES Municipal Stormwater Permit's Low Impact Development (LID) Requirement, included as part of the Local Implementation Program.*

Policy CO-3 of the Santa Monica Mountains Land Use Plan states:

*To reduce runoff and erosion and provide long-term, post-construction water quality protection in all physical development, prioritize the use of Best Management Practices (BMPs) in the following order: 1) site design BMPs, 2) source control BMPs, 3) treatment control BMPs. When the combination of site design and source control BMPs is not sufficient to protect water quality, require treatment control BMPs, in addition to site design and source control measures. Design, construct, and maintain any required treatment control BMPs (or suites of BMPs) so that they treat, infiltrate, or filter the amount of storm water runoff produced by all storms up to and including the 85<sup>th</sup> percentile, 24-hour storm event for volume-based BMPs and/or the 85<sup>th</sup> percentile, 1-hour storm event (with an appropriate safety factor of 2 or greater) for flow-based BMPs. Prioritize the use of Low Impact Development in project design to preserve the natural hydrologic cycle and minimize increase in storm water or dry weather flows.*

Policy CO-4 of the Santa Monica Mountains Land Use Plan states:

*Minimize impervious surfaces in new development, especially directly-connected impervious areas. Require redevelopment projects to increase the area of pervious surfaces, where feasible.*

Policy CO-5 of the Santa Monica Mountains Land Use Plan states:

*Infiltrate development runoff on-site, where feasible, to preserve or restore the natural hydrologic cycle and minimize increases in stormwater or dry weather flows.*

Policy CO-17 of the Santa Monica Mountains Land Use Plan states:

*Prohibit non-emergency earthmoving operations during the rainy season (extending from October 15 to April 15). Approved grading shall not be commenced unless there is sufficient time to complete grading operations before the rainy season. If grading operations are not completed before the rainy season begins, grading shall be halted and temporary erosion control measures shall be put into place to minimize erosion until grading resumes after April 15, unless the County determines that completion of grading would be more protective of sensitive environmental resources and would minimize erosion and sedimentation. Erosion control measures shall be required for any ongoing grading project or any completed grading project that is still undeveloped.*

Policy CO-30 of the Santa Monica Mountains Land Use Plan states:

*Site new OWTS and require them to be designed so that impacts to sensitive environmental resources are minimized, including grading, site disturbance, and the introduction of increased amounts of water. Adequate setbacks and/or buffers shall be required to protect HI habitat and surface waters from lateral seepage from the sewage effluent dispersal system and, on or adjacent to beaches, to preclude the need for bulkheads, seawalls or revetments to protect the OWTS from coastal erosion, flooding and inundation, initially or as a result of sea level rise.*

Policy CO-54 of the Santa Monica Mountains Land Use Plan states:

*Use primarily locally-indigenous plant species in landscape areas within Fuel Modification Zones A and B of structure(s) requiring fuel modification. Non-locally-indigenous plants and gardens that are not invasive may be allowed within the building site area and in Fuel Modification Zones A and B, with associated irrigation, provided that the species are consistent with Fire Department requirements and all efforts are made to conserve water. Invasive plants are strictly prohibited. The removal or trimming, thinning or other reduction of natural vegetation, including locally-indigenous vegetation, is prohibited except when required for construction of an approved development and/or for compliance with fuel modification requirements for approved or lawfully-existing development. Los Angeles County will work with organizations, homeowners, and park agencies on educational programs to reduce the spread of invasive plant species within the Coastal Zone.*

Policy CO-76 of the Santa Monica Mountains Land Use Plan states:

*All new development shall be sited and designed so as to minimize grading, alteration of physical features, and vegetation clearance in order to prevent soil erosion, stream siltation, reduced water percolation, increased runoff, and adverse impacts on plant and animal life and prevent net increases in baseline flows for any receiving water body.*

In addition, the following certified Santa Monica Mountains Local Implementation Plan (LIP) sections are specifically applicable in this case.

LIP Section 22.44.1340 “Water Resources,” in relevant part, states:

*B. Water wells, geologic testing, and on-site wastewater treatment systems (OWTS).*

...

*3. New OWTS shall comply with all current County Environmental Health OWTS standards and Water Resources Control Board requirements. Coastal development permit applications for OWTS installation and expansion, where groundwater, nearby surface drainages or slope stability are likely to be adversely impacted as a result of the projected effluent input to the subsurface, shall include a study prepared by a California Certified Engineering Geologist or Registered Geotechnical Engineer that analyzes the cumulative impact of the proposed OWTS on groundwater level, quality of nearby surface drainages, and slope stability...*

*a. New OWTS shall be sited so that impacts to sensitive environmental resources are minimized including grading, site disturbance, and the introduction of increased amounts of water. To the extent feasible, OWTS shall be sited within the approved building site area and/or the associated irrigated fuel modification zones, and in an area that can be accessed from existing or approved roads for maintenance purposes;*

...

*E. Where BMPs are required, BMPs shall be selected that have been shown to be effective in reducing the pollutants typically generated by the proposed land use. The selection of the BMPs shall be prioritized in the following order: 1) site design BMPs (e.g., minimizing the project's impervious footprint or using pervious pavements), 2) source control BMPs (e.g., revegetate using a plant palette that has low fertilizer/pesticide requirements), and 3) treatment control BMPs (e.g., use vegetated swales). When the combination of site design and source control BMPs is not sufficient to protect water quality, treatment control BMPs shall be required, in addition to site design and source control measures. The design of BMPs shall be guided by the current edition of the California Stormwater Quality Association (CASQA) Stormwater BMP Handbooks, or an equivalent BMP manual that describes the type, location, size, implementation, and maintenance of BMPs suitable to address the pollutants generated by the development, and specific to a climate similar to the Santa Monica Mountains.*

...

*H. Construction Runoff and Pollution Control Plan (CRPCP) is required for all development projects that involve on-site construction to address the control of construction-phase erosion, sedimentation, and polluted runoff. This plan shall specify the temporary BMPs that will be implemented to minimize erosion and sedimentation during construction, and minimize pollution of runoff by construction chemicals and materials.*

...

*I. A Post-Construction Runoff Plan (PCRP) is required for all development that involves on-site construction or changes in land use (e.g., subdivisions of land) if the development has the potential to degrade water quality or increase runoff rates and volume, flow rate, timing, or duration.*

The Commission recognizes that new development in the Santa Monica Mountains has the potential to adversely impact coastal water quality and aquatic resources because changes such as the removal of native vegetation, the increase in impervious surfaces, and the introduction of new residential uses cause increases in runoff, erosion, and sedimentation, reductions in groundwater recharge and the introduction of pollutants such as petroleum, cleaning products,

pesticides, and other pollutants, as well as effluent from septic systems. LUP Policy CO-2 requires that development is sited and designed to minimize the introduction of pollutants in runoff and minimize increases in runoff rate and volume. To reduce runoff and erosion and provide long-term, post construction water quality protection in all physical development, CO-3 states that the use of Best Management Practices (BMPs) shall be employed to the maximum extent practicable to minimize polluted runoff. New development is required to minimize impervious surfaces, convey drainage in a non-erosive manner, and infiltrate runoff on-site, where feasible, to preserve or restore the natural hydrologic cycle and minimize increases in stormwater or dry weather flows (CO-4 and CO-5).

The proposed development will result in an increase in impervious surfaces, which leads to an increase in the volume and velocity of stormwater runoff that can be expected to leave the site and eventually be discharged to coastal waters, including streams, wetlands, and estuaries. The pollutants commonly found in runoff associated with residential use can reduce the biological productivity and the quality of such waters and thereby reduce optimum populations of marine organisms and have adverse impacts on human health.

Therefore, in order to minimize the potential for such adverse impacts to water quality and aquatic resources resulting from runoff both during construction and in the post-development stage, the LUP Policy CO-3 and LIP Section 22.44.1340, require the incorporation of Best Management Practices designed to control the volume, velocity and pollutant load of stormwater and dry weather flows leaving the developed site, including: 1) site design, source control and/or treatment control measures; 2) implementing erosion sediment control measures during construction and post construction; and 3) revegetating all graded and disturbed areas with primarily native landscaping. Thus, the Commission requires **Special Condition Four (4)**, for the submittal of an interim erosion control plan and construction responsibilities which incorporates BMPs during the construction and post-development stages of the project.

Additionally, both leakage and periodic maintenance drainage of the proposed swimming pools, if not monitored and/or conducted in a controlled manner, may result in excess runoff and erosion potentially causing the instability of the site and adjacent properties and potential impacts from pool chemicals (i.e. pool water algaecides, chemical pH balancing, and other water conditioning chemicals). In order to minimize adverse impacts to water quality resulting from the proposed pools and spas, the Commission requires **Special Condition Twelve (12)**, which requires the applicants to install no or low chlorine purification systems, and to not discharge pool water into a street, storm drain, creek, canyon drainage channel, or other location where it could enter receiving waters.

Much of the Santa Monica Mountains is served by onsite wastewater treatment systems (OWTS). Many of the private systems employ state-of-the-art technology, but some failures have been reported in older systems. Failures of OWTS can adversely impair water quality, human health, biological communities in the surrounding watershed, and other coastal resources. The applicant's geologic consultants have concluded that the sites are suitable for the proposed septic systems and that there would be no adverse impact to the sites or surrounding areas from the use of a septic system. To ensure that on-site wastewater treatment systems (OWTS) prevent the introduction of pollutants into coastal waters and protect the overall quality of coastal waters and resources, Policy CO-30 requires that new OWTS minimize impacts to sensitive resources, including grading, site disturbance, and the introduction of increased amounts of water. The

County of Los Angeles Environmental Health Department has given in-concept approval of the proposed septic system, indicating that it meets the plumbing code requirements. The Commission has found that conformance with the provisions of the plumbing code is protective of water resources.

Lastly, to ensure that excess excavated materials are moved off site so as not to contribute to unnecessary landform alteration, the Commission finds it necessary to require the applicant to dispose of the material at an appropriate disposal site or to a site that has been approved to accept the material, as specified in **Special Condition Eleven (11)**.

Therefore, the Commission finds that the proposed project, as conditioned, consistent with the applicable water quality policies of the Santa Monica Mountains LCP.

#### **E. ENVIRONMENTALLY SENSITIVE HABITAT**

Policy CO-33 of the Santa Monica Mountains Land Use Plan states:

*Sensitive Environmental Resource Areas (SERAs) are areas containing habitats of the highest biological significance, rarity, and sensitivity. SERAs are divided into two habitat categories – H1 habitat and H2 habitat – that are subject to strict land use protections and regulations.*

- 1) *H1 habitat consists of areas of highest biological significance, rarity, and sensitivity--alluvial scrub, coastal bluff scrub, dune, native grassland and scrub with a strong component of native grasses or forbs, riparian, native oak, sycamore, walnut and bay woodlands, and rock outcrop habitat types. Wetlands, including creeks, streams, marshes, seeps and springs, are also H1 habitat. Coast live and valley oak, sycamore, walnut, and bay woodlands are all included in H1 habitat. H1 habitat also includes populations of plant and animals species (1) listed by the State or Federal government as rare, threatened or endangered, listed by NatureServe as State or Global-ranked 1, 2, or 3, and identified as California Species of Special Concern, and/or (2) CNPS-listed 1B and 2 plant species, normally associated with H1 habitats, where they are found within H2 or H3 habitat areas.*
- 2) *H2 habitat consists of areas of high biological significance, rarity, and sensitivity that are important for the ecological vitality and diversity of the Santa Monica Mountains Mediterranean Ecosystem. H2 habitat includes large, contiguous areas of coastal sage scrub and chaparral-dominated habitats. A subcategory of H2 habitat is H2 “High Scrutiny” habitat, which comprises sensitive H2 habitat species/habitats that should be given avoidance priority over other H2 habitat. This habitat contains (1) CNDDDB-identified rare natural communities; (2) plant and animal species listed by the State or Federal government as rare, threatened, or endangered; listed by NatureServe as State or Global-ranked 1, 2, or 3, and identified as California Species of Special Concern; and/or (3) CNPS-listed 1B and 2 plant species, normally associated with H2 habitats. H2 “High Scrutiny” habitat also includes (1) plant and animals species listed by the State or Federal government as rare, threatened or endangered, listed by NatureServe as State or*

*Global ranked 1, 2, or 3, and identified as California Species of Special Concern, and/or (2) CNPS-listed 1B and 2 plant species, normally associated with H1 habitats, where they are found as individuals (not a population) in H2 habitat.*

Policy CO-34 of the Santa Monica Mountains Land Use Plan states:

*H3 habitat consists of areas that would otherwise be designated as H2 habitat, but the native vegetation communities have been significantly disturbed or removed as part of lawfully-established development. This category also includes areas of native vegetation that are not significantly disturbed and would otherwise be categorized as H2 habitat, but have been substantially fragmented or isolated by existing, legal development and are no longer connected to large, contiguous areas of coastal sage scrub and/or chaparral-dominated habitats. This category includes lawfully-developed areas and lawfully-disturbed areas dominated by non-native plants such as disturbed roadside slopes, stands of non-native trees and grasses, and fuel modification areas around existing development (unless established illegally in an H2 or H1 area). This category further includes isolated and/or disturbed stands of native tree species (oak, sycamore, walnut, and bay) that do not form a larger woodland or savannah habitat. While H3 habitat does not constitute a SERA, these habitats provide important biological functions that warrant specific development standards for the siting and design of new development.*

Policy CO-44 of the Santa Monica Mountains Land Use Plan states:

*New development shall be sited in a manner that avoids the most biologically-sensitive habitat onsite where feasible, while not conflicting with other LCP policies, in the following order of priority: H1, H2 High Scrutiny, H2, H3. Priority shall be given to siting development in H3 habitat, but outside of areas that contain undisturbed native vegetation that is not part of a larger contiguous habitat area. If infeasible, priority shall be given to siting new development in such H3 habitat. If it is infeasible to site development in H3 habitat areas, development may be sited in H2 habitat if it is consistent with the specific limitations and standards for development in H2 habitat and all other provisions of the LCP. New development is prohibited in H1 habitat unless otherwise provided in Policy CO-41.*

Policy CO-51 of the Santa Monica Mountains Land Use Plan states in relevant part:

*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.*

Policy CO-54 of the Santa Monica Mountains Land Use Plan states in relevant part:

*Use primarily locally-indigenous plant species in landscape areas within Fuel Modification Zones A and B of structure(s) requiring fuel modification. Non-locally-indigenous plants and gardens that are not invasive may be allowed within the building site area and in Fuel Modification Zones A and B, with associated irrigation, provided that the species are consistent with Fire Department requirements and all efforts are made to conserve water. Invasive plants are strictly prohibited. The removal or trimming, thinning or other reduction of natural vegetation, including locally-indigenous*

*vegetation, is prohibited except when required for construction of an approved development and/or for compliance with fuel modification requirements for approved or lawfully-existing development. Los Angeles County will work with organizations, homeowners, and park agencies on educational programs to reduce the spread of invasive plant species within the Coastal Zone.*

Policy CO-74 of the Santa Monica Mountains Land Use Plan states in relevant part:

*New development shall be clustered to the maximum extent feasible and located as close as possible to existing roadways, services and other developments to minimize impacts to biological resources.*

Policy CO-67 of the Santa Monica Mountains Land Use Plan states:

*Coastal development permits for the development of uses allowed within or adjoining H1 and H2 habitat shall include an open space conservation easement over the remaining H1 habitat, H1 habitat buffer, or H2 habitat, in order to avoid and minimize impacts to biological resources.*

Policy CO-77 of the Santa Monica Mountains Land Use Plan states:

*New development in H2 and H3 habitat areas shall be sited and designed to minimize removal of native vegetation and required fuel modification and brushing to the maximum extent feasible in order to minimize habitat disturbance or destruction, removal or modification of natural vegetation, and irrigation of natural areas, while providing for fire safety. Where clearance to mineral soil is not required by the Fire Department, fuel load shall be reduced through thinning or mowing, rather than complete removal of vegetation. All vegetation removal, thinning and mowing required for new development must avoid disturbance of wildlife and special-status species, including nesting birds.*

Policy CO-94 of the Santa Monica Mountains Land Use Plan states:

*Exterior lighting (except traffic lights, navigational lights, and other similar safety lighting) shall be minimized, restricted to low-intensity features, shielded, and cause no light to trespass into native habitat to minimize impacts on wildlife. Night lighting for development allowed in H2 or H3 habitat may be permitted when subject to the following standards.*

*a. The minimum lighting necessary shall be used to light walkways used for entry and exit to the structures, including parking areas, on the site. This lighting shall be limited to fixtures that do not exceed two feet in height, that are directed downward, and use bulbs that do not exceed 60 watts, or the equivalent. All other lighting of driveways or access roads is prohibited.*

*b. Security lighting shall be attached to the residence or permitted accessory structures that is controlled by motion detectors, and is limited to 60 watts, or the equivalent.*



*c. Night lighting for sports courts or other private recreational facilities shall be prohibited except for minimal lighting for equestrian facilities as provided for in CO-103.*

*d. Lighting is prohibited around the perimeter of the parcel or for aesthetic purposes.*

*e. Prior to issuance of a CDP, the applicant shall be required to execute and record a deed restriction reflecting the above restrictions. Public agencies shall not be required to record a deed restriction, but may be required to submit a written statement agreeing to any applicable restrictions contained in this subsection.*

Policy CO-117 of the Santa Monica Mountains Land Use Plan states:

*Require open space easements or deed restrictions as part of development projects on sites containing SERAs in order to ensure that approved building site areas are limited and impacts to coastal habitat are minimized.*

Section 22.44.1320 of the Santa Monica Mountains Implementation Plan states in relevant part: Building construction and site design shall be subject to the following standards:

- A. Clustering of structures and lots shall be required to site new construction in areas of least visibility, unless to do so would cause substantial habitat damage and destruction.*
- B. Minimize the apparent size of exterior wall surfaces visible from offsite by using landscaping and/or other means of horizontal and vertical articulation to create changing shadow lines and break up the appearance of massive forms. Avoidance of impacts to visual resources through site selection and design alternatives is the preferred method over landscape screening. Landscape screening, as mitigation of visual impacts, shall not substitute for project alternatives including re-siting or reducing the height or bulk of structures.*
- C. Reflective, glossy, polished, and/or roll-formed type metal siding shall be prohibited.*
- D. Polished and/or roll-formed type metal roofing shall be prohibited.*
- E. Colors and exterior materials used for new development shall be compatible with the surrounding landscape. Acceptable colors shall be limited to earth tones that blend with the surrounding environment, including shades of green, brown, and gray, and no white or light shades, and no bright tones.*

Section 22.44.1910 of the Santa Monica Mountains Implementation Plan states in relevant part:

- A. New non-resource dependent development shall be prohibited in areas designated H1 Habitat to protect these most sensitive environmental resource areas from disruption of habitat values, unless otherwise provided in Section 22.44.1890 and subject to the standards of this section, Section 22.44.1920, and Section 22.44.1950.*
- B. New development shall avoid H2 Habitat (including H2 High Scrutiny Habitat), where feasible, to protect these sensitive environmental resource areas from*

*disruption of habitat values, subject to the standards of this section, Section 22.44.1920, and Section 22.44.1950. H2 High Scrutiny Habitat is considered a rare and extra sensitive H2 Habitat subcategory that shall be given protection priority over other H2 habitat and shall be avoided to the maximum extent feasible.*

- C. *New development shall be sited in a manner that avoids the most biologically-sensitive habitat on site where feasible, in the following order of priority--(H1, H2 High Scrutiny, H2, H3-- while not conflicting with other LCP policies.*

Section 22.44.1920(J) of the Santa Monica Mountains Implementation Plan states in relevant part:

*Open Space Requirement. All CDPs that include the approval of structures within H2 "High Scrutiny" Habitat or H2 Habitat, adjacent to H1 habitat, or adjacent to parklands, shall be conditioned to require the preservation in perpetuity of the remaining H1 habitat, H2 habitat, H1 habitat buffer, or parkland buffer onsite. -On a parcel that includes steep lands (lands over 50 percent slope), all CDPs that include the approval of structures shall be conditioned to require the permanent preservation of the steep lands onsite.*

1. *All portions of the project site outside of the Fire Department required irrigated fuel modification area (Zones A and B) shall be designated as an Open Space Conservation Easement Area to be held by the County on behalf of the People of the State of California or another public entity acceptable to the Director. The permit condition and the easement shall indicate that no development, as defined in Section 22.44.630, grazing, or agricultural activities shall occur within the Open Space Conservation Easement Area, with the exception of the following:*
  - a. *Fuel modification required by the County Fire Department undertaken in accordance with the final approved fuel modification plan for the permitted development and/or required brush clearance required by the County Fire Department for existing development on adjoining properties.*
  - b. *Drainage and polluted runoff control activities required and approved by the County for the permitted development.*
  - c. *If approved by the County as an amendment to the CDP or a new CDP:*
    - i. *Planting of native vegetation and other restoration activities;*
    - ii. *Construction and maintenance of public hiking trails;*
    - iii. *Construction and maintenance of roads, trails, and utilities consistent with easements in existence prior to approval of the permit;*
    - iv. *Confined animal facilities only where consistent with Section 22.44.1940.*
2. *The applicant shall provide evidence of the recordation of a valid dedication to the County (and acceptance by the County) or to another public entity acceptable to the Director, and acceptance by said public entity, of a permanent, irrevocable open space conservation easement in favor of the People of the State of California over the Open Space*

*Conservation Easement Area for the purpose of habitat protection, the text of which has been approved by the Director. The recorded easement document shall include a formal legal description of the entire property and a metes and bounds legal description and graphic depiction, prepared by a licensed surveyor, of the open space conservation easement area; and it shall be recorded free of prior liens, including tax liens, and encumbrances. The recorded document shall reflect that no development shall occur within the open space conservation easement area except as otherwise set forth in the CDP condition, consistent with the exceptions detailed in this section. Recordation of said easement on the project site shall be permanent.*

3. *Open Space Deed Restriction and Transfer in Fee Title to a Public Entity. Where appropriate, the CDP open space condition may provide that, as an alternative to the recordation of an open space conservation easement, the applicant may record an open space deed restriction over the required open space conservation area and dedicate the lot or the open space portion of the lot in fee title to a public entity acceptable to the Director.
  - a. *The applicant shall provide evidence of the recordation of an open space deed restriction, free of prior liens, including tax liens and encumbrances which the Director determines may affect the interest being conveyed, that applies to the entirety of the open space conservation area, that insures that no development, as defined in Section 22.44.630, grazing, or agricultural activities shall occur within the Open Space Conservation Area and that restrictions are enforceable; and*
  - b. *Evidence that fee title to the open space conservation site(s) has been successfully transferred to a public entity acceptable to the Director after the recordation of the deed restriction listed in subsection a above and that the document effectuating the conveyance has been recorded with the Los Angeles County Recorder. The permittee shall provide evidence that the ownership transfer and the open space deed restriction appear on a preliminary report issued by a licensed title insurance company for the site.**
4. *All of the procedures detailed in subsection J must be approved by County Counsel for form and legal sufficiency to assure that the purposes intended are accomplished.*
5. *Prior to recordation of the easement required in subsection 1 and 2 or the fee title dedication required in subsection 3, the applicant shall pay for and provide to the County a title report, no more than three months old, for any parcel containing an open space conservation area that will be protected through an open space conservation easement, or fee title dedication.*

Section 22.44.1950 of the Santa Monica Mountains Implementation Plan states in relevant part:

- a. *The amount of the Habitat Impact fee determined appropriate for each CDP in accordance with the following:*

- i. *Current In-Lieu Fee: During the first five years following certification of the LCP, or until an updated fee is certified through an LCP amendment, the County shall utilize the Coastal Commission's Habitat Impact Fee that was implemented through individual coastal development permit actions prior to certification of the LCP, adjusted for inflation. The current fee amounts are:
  - (A) \$15,500 per acre for the approved building site area, driveway/access roads and turnarounds areas, any required irrigated fuel modification zones, and required off-site brush clearance areas (assuming a 200-foot radius from all structures).
  - (B) \$3,900 per acre for non-irrigated fuel modification areas (on-site).*
- ii. *Updated In-Lieu Fee: The amount of the Habitat Impact Fee, approved through an amendment to the LCP pursuant to subsection B above, shall be used and adjusted for inflation annually.*

## **1. Project Description and Site Specific Biological Resource Information**

The project site is located in Los Angeles County, just north of the City of Malibu. Malibu Lagoon is located approximately 1.1 miles southwest of the project site, and Malibu Creek is located approximately 0.6 miles to the west. Much of the site is characterized by steep, generally south facing slopes. However, the location of the proposed residences is on a generally level area on the southern portion of the site, which has been designated as H3 (existing development) on LUP Map 2: Biological Resources. The upper portion of the properties has been designated H1, H2, and H2- High Scrutiny, all of which constitute ESHA. Additionally, a portion of the project site is traversed by a blue-line stream.

As mentioned above, the proposed residences and associated development have been sited on the portions of the property that have been designated as H3. These locations are clustered in the southernmost portion of the property and are directly adjacent to existing residential development. The applicants have submitted fuel modification plans (approved by the Los Angeles County Fire Department), which show the use of the standard three zones of vegetation modification. Zones "A" (setback zone) and "B" (irrigation zone) are shown extending in a radius of approximately 100 feet from the proposed structures. A "C" Zone (thinning zone) is provided for a distance of 100 feet beyond the "A" and "B" zones.

## **2. Siting and Design Alternatives to Minimize Significant Disruption of Habitat Values**

The construction of residential development, including vegetation removal for both the development area as well as required fuel modification, grading, construction of a residence and accessory structures, and the use of the development by residents will result in unavoidable loss of ESHA. The development can be sited and designed to minimize ESHA impacts by measures that include but are not limited to: limiting the size of structures, limiting the number of accessory structures and uses, clustering structures, siting development in any existing disturbed habitat areas rather than undisturbed habitat areas, locating development as close to existing

roads and public services as feasible, and locating structures near other residences in order to minimize additional fuel modification.

In this case, siting and design alternatives have been considered in order to identify the alternative that can avoid and minimize impacts to habitat to the greatest extent feasible. The building sites approved pursuant to CDP 4-95-173 are located in a clustered configuration in the most southerly location of the project site. The proposed building site for CDP 4-14-0621 is also located in the most southerly portion of the property. Additionally, all proposed residences will be located immediately adjacent to existing surrounding residential development.

Through past permit actions, the Commission has limited the development area (building site) for residential development in ESHA to a maximum area of 10,000 square feet in order to minimize cumulative impacts and adverse impacts to ESHA from fuel modification requirements. As mentioned above, the subject parcels contain H1, H2, H2- High Scrutiny, and H3 habitat. The Commission has found that H1, H2, and H2- High Scrutiny habitat constitute ESHA, and areas designated as H3 constitute existing developed areas. The location of the proposed building sites are within designated H3 habitat. The Santa Monica Mountains LCP also requires a maximum building site of 10,000 square feet in H3 habitat. The applicants have provided plans which depict a residence at the location of the proposed building site on APN 4457-002-038 (CDP 4-14-0621), which conforms to the required 10,000 square foot maximum building site area. The applicants have also provided project plans which depict the proposed residences at the building sites approved pursuant to CDP 4-95-137. However, the building sites for these proposed residences (CDP 4-13-1397, 4-14-0100, 4-14-0201, and 4-14-0202) exceed 10,000 square feet. Further, the applicants propose additional grading as part of the subject projects that would expand the building sites over those previously approved in CDP 4-95-137. While the Commission approved building sites (building pads) as part of the subdivision approval that are in excess of 10,000 sq. ft. The four building sites were considered and constructed prior to the certification of the LCP. As such, the pad areas are vested and the Commission does not find it appropriate to require the applicants to reduce the building pads. However, as described above, there is H1, H2 and H2 High Scrutiny habitat areas adjacent to the building sites that could be adversely impacted by fuel modification. In order to minimize such impacts to the maximum extent feasible, it is necessary to require the applicants to designate a 10,000 sq. ft. building site area and to ensure that all flammable structures that would require fuel modification are located within the building site. Other improvements that do not require fuel modification like patios, yard areas, etc. can be allowed on each building pad, outside the 10,000 sq. ft. building site, because such improvements would not impact ESHA. Finally, because the existing building pads are already in excess of the LCP 10,000 sq. ft. building site standard for H3 areas, additional grading that further expands the pads cannot be approved.

Therefore, in order to ensure that the building sites proposed by the applicants conform to the maximum development area of 10,000 square feet that the policies and provisions of the Santa Monica Mountains LCP require, **Special Condition One (1)** requires that the applicants submit revised plans. The revised plans must show that all proposed flammable structures are located within each designated 10,000 sq. ft. building site and that all grading that expands the existing building pads is deleted.

### 3. Open Space Conservation

The policies and provisions of the Santa Monica Mountains LUP specifically require the recordation of open space easements or deed restrictions in order to ensure that approved building site areas are limited and impacts to coastal habitat are minimized. In this case, CDP 4-95-173 required the recordation of an open space deed restriction over the remaining portions of the property that were not designated as building site areas. As such, APN 4457-002-038 (CDP 4-14-0621), which was not part of the subdivision approved in CDP 4-95-137, is the only subject parcel without a previously recorded open space restriction. Therefore, in order to ensure that the remaining habitat on this site is protected, **Special Condition One (1)** requires that the applicants grant to the Mountains Conservation and Recreation Authority an open space and conservation easement on the portions of the properties outside of the designated building site, as depicted on Exhibit 9. As detailed in Special Condition One (1), the open space and conservation easement will run with the land and will prohibit all development, with exceptions including fuel modification required by the Los Angeles County Fire Department undertaken in accordance with development approved in a CDP(s) issued by the County; drainage and polluted runoff control activities approved in a CDP(s) issued by the County; construction and maintenance of public hiking trails, if approved by the County in a coastal development permit; and construction and maintenance of roads, trails, and utilities pursuant to existing easements, if approved by the County in a coastal development permit.

Under the terms of Special Condition One (1), an open space and conservation easement over the open space will be granted by the applicant to the Mountains Recreation and Conservation Authority (“MRCA”), a joint powers authority. The MRCA is a partnership between the Santa Monica Mountains Conservancy, the Conejo Recreation and Park District, and the Rancho Simi Recreation and Park District. The MRCA is dedicated to the preservation and management of open space, parkland, watershed lands, trails, and wildlife habitat. The MRCA manages and provides ranger services for almost 50,000 acres of public lands and parks that it owns or are owned by the Santa Monica Mountains Conservancy. The governing board of the MRCA has agreed to accept all open space easements required by the Commission for properties within the Santa Monica Mountains National Recreation Area.

### 4. Habitat Impact Mitigation

While impacts resulting from development can be reduced through siting and design alternatives for new development and by ensuring that the remaining ESHA on the site is permanently protected, they cannot be completely avoided, given the location of ESHA on and around the project site, the high fire risk in the Santa Monica Mountains, and the need to modify fuel sources to protect life and property from wildfire.

Fuel modification is the removal or modification of combustible native or ornamental vegetation. It may include replacement with drought tolerant, fire resistant plants. The amount and location of required fuel modification will vary according to the fire history of the area, the amount and type of plant species on the site, topography, weather patterns, construction design, and siting of structures. There are typically three fuel modification zones applied by the Los Angeles County Fire Department, which include a setback zone immediately adjacent to the structure (Zone A) where all native vegetation must be removed, an irrigated zone adjacent to Zone A (Zone B) where most native vegetation must be removed or widely spaced, and a thinning zone (Zone C) where native vegetation may be retained if thinned or widely spaced although particular high-

fuel plant species must be removed. The combined required fuel modification area around structures can extend up to a maximum of 200 feet. If there is not adequate area on the project site to provide the required fuel modification for structures, then brush clearance may also be required on adjacent parcels. In this way, for a large area around any permitted structures, native vegetation will be cleared, selectively removed to provide wider spacing, and thinned. The Commission has found in past permit actions, that a new residential development (with a 10,000 sq. ft. development area) within ESHA with a full 200 foot fuel modification radius will result in impact (either complete removal, irrigation, or thinning) to ESHA habitat of four to five acres.

Obviously, native vegetation that is cleared and replaced with ornamental species or substantially removed and widely spaced will be lost as habitat and watershed cover. As discussed in the LCP, the cumulative loss of habitat cover also reduces the value of the sensitive resource areas as a refuge for birds and animals, for example by making them—or their nests and burrows—more readily apparent to predators. Further, fuel modification can result in changes to the composition of native plant and wildlife communities, thereby reducing their habitat value. Although, in these cases, the impacts from habitat removal cannot be avoided, the Commission finds that the loss of sensitive habitat resulting from the removal, conversion, or modification of natural habitat for new development including the building site area can be minimized by siting and design measures. As described above, the proposed developments have been sited and designed to minimize removal of H2 habitat for fuel modification. Further, fuel modification can be mitigated in order to ensure that impacts are minimized to the extent feasible.

The LCP has identified three appropriate methods for providing mitigation for the unavoidable loss of ESHA resulting from development; namely, habitat restoration, habitat conservation, and payment for mitigation. The Commission finds that any of these measures is appropriate in this case to mitigate the loss of sensitive habitat on the project sites. The first method is to provide mitigation through the restoration of an area of degraded habitat (either on the project site, or at an off-site location) that is equivalent in size to the area of habitat impacted by the development. A restoration plan must be prepared by a biologist or qualified resource specialist and must provide performance standards, and provisions for maintenance and monitoring. The restored habitat must be permanently preserved through the recordation of an open space easement.

The second habitat impact mitigation method is habitat conservation. This includes the conservation of an area of intact habitat of a similar type as that impacted equivalent to the area of the impacted habitat. The parcel containing the habitat conservation area must be restricted from future development and permanently preserved. If the mitigation parcel is larger in size than the impacted habitat area, the excess acreage could be used to provide habitat impact mitigation for other development projects that impact ESHA.

The third habitat impact mitigation option is the payment for mitigation of impacts to habitat. The payment is based on the habitat types in question, the cost per acre to restore or create comparable habitat types, and the acreage of habitat affected by the project. The Commission has, in past permit decisions, determined the appropriate payment for the restoration or creation of chaparral and coastal sage scrub habitat, based on research carried out by the Commission's biologist. A range of cost estimates was obtained that reflected differences in restoration site characteristics including topography (steeper is harder), proximity to the coast (minimal or no irrigation required at coastal sites), types of plants (some plants are rare or difficult to cultivate), density of planting, severity of weed problem, condition of soil, etc.

The appropriate mitigation for loss of coastal sage scrub or chaparral ESHA should be based on the actual installation of replacement plantings on a disturbed site, including the cost of acquiring the plants (seed mix and container stock) and installing them on the site (hydroseeding and planting). The payment amount found by the Commission to be appropriate to provide mitigation for the habitat impacts to ESHA areas where all native vegetation will be removed (building site, the “A” zone required for fuel modification, and off-site brush clearance areas), and where vegetation will be significantly removed and any remaining vegetation will be subjected to supplemental irrigation (the “B” zone or any other irrigated zone required for fuel modification) is \$15,500 per acre. Further, the LCP has required a payment of \$3,900 per acre for areas where the vegetation will be thinned, but not irrigated (“C” zone or other non-irrigated fuel modification zone).

The acreage of ESHA that is impacted must be determined based on the size of the development area, required fuel modification (as identified on the fuel modification plan approved by the Los Angeles County Fire Department) on the site, and required brush clearance off-site. As such, **Special Condition Ten (10)** is necessary to condition the applicants to delineate the total acreage of ESHA on the site (and offsite brush clearance areas, if applicable) that will be impacted by the proposed development, and provide mitigation to compensate for this loss of habitat, through one of the three methods described above.

## 5. Additional Mitigation Measures to Address Additional ESHA Impacts

The use of non-native and/or invasive plant species for residential landscaping results in both direct and indirect adverse effects to native plants species indigenous to the Malibu/Santa Monica Mountains area. Direct adverse effects from such landscaping result from the direct occupation or displacement of native plant communities by new development and associated non-native landscaping, and mitigation for that effect was discussed in the previous section. Indirect adverse effects include offsite migration and colonization of native plant habitat by non-native/invasive plant species (which tend to outcompete native species) adjacent to new development. The use of exotic plant species for residential landscaping has already resulted in significant adverse effects to native plant communities in the Malibu/Santa Monica Mountains area. Therefore, in order to minimize adverse effects to the indigenous plant communities of the Malibu/Santa Monica Mountains area that are not directly and immediately affected by the proposed development, **Special Condition Five (5)** requires that all landscaping consist primarily of native plant species and that invasive plant species shall not be used. Furthermore, fencing of the property would adversely impact the movement of wildlife through the ESHA on this parcel. Therefore, the Commission finds it is necessary to limit fencing to the perimeter of the approved development area, turnaround, and driveway. This is required to be shown on the landscaping plan.

In addition, the night lighting of sensitive habitat areas in the Malibu/Santa Monica Mountains may alter or disrupt feeding, nesting, and roosting activities of native wildlife species. Therefore, **Special Condition Seven (7)** limits night lighting of the site in general; limits lighting to the developed area of the site; and requires that lighting be shielded downward. Limiting security lighting to low intensity security lighting will assist in minimizing the disruption of wildlife that is commonly found in this rural and relatively undisturbed area and that traverses the area at night. To further minimize impacts associated with development of the project site, **Special**



**Condition Six (6)** requires that the structures be finished in a color consistent with the surrounding natural landscape; that windows on the development be made of non-reflective glass; use of appropriate, adequate, and timely planting of native landscaping to soften the visual impact of the development from public view areas; and a limit on night lighting of the site to protect the nighttime rural character of this portion of the Santa Monica Mountains.

Lastly, the amount and location of any new development that could be built in the future on the subject site consistent with the resource protection policies of the LCP is significantly limited by the unique nature of the site and the environmental constraints discussed above. Therefore, the permitting exemptions that apply for, among other things, improvements to existing single family homes and repair and maintenance activities may be inappropriate here. In recognition of that fact, and to ensure that any future structures, additions, change in landscaping or intensity of use at the project site that may otherwise be exempt from coastal permit requirements are reviewed for consistency with the resource protection policies of the LCP, **Special Condition Seven (7)** is required.

Therefore, the Commission finds that the proposed project, as conditioned, consistent with the applicable environmentally sensitive habitat policies of the Santa Monica Mountains LCP.

## **F. CUMULATIVE IMPACTS**

Policy LU-1 Santa Monica Mountains Land Use Plan states:

*New residential, commercial, or industrial development shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it, or where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels.*

Policy LU-24 Santa Monica Mountains Land Use Plan states:

*The maximum number of structures permitted in a residential development shall be limited to one main residence, one second residential structure, and accessory structures such as detached garage, stable, workshop, gym, studio, pool cabana, office, or tennis court structures are clustered to minimize required fuel modification. Certain confined animal facilities may be allowed outside of the building site area consistent with Policy CO-103. Second residential units (guesthouse, granny units, etc.) shall be limited in size to a maximum of 750 square feet. The maximum square footage shall include the total floor area of all enclosed space, including lofts, mezzanines, and storage areas. Garages provided as part of a second residential unit shall not exceed an additional 750 square feet (3-car) maximum.*

Policy LU-33 Santa Monica Mountains Land Use Plan states:

*Require that new development be compatible with the rural character of the area and the surrounding natural environment.*

Policy CO-74 Santa Monica Mountains Land Use Plan states:

*New development shall be clustered to the maximum extent feasible and located as close as possible to existing roadways, services and other developments to minimize impacts to biological resources.*

Section 22.44.1370 of the IP states in relevant part:

- A. *The purpose of this section is to provide for accessory dwelling units and other habitable accessory structures. Only one such accessory dwelling unit or habitable accessory structure shall be allowed on a property.*
- B. *All proposed accessory dwelling units and habitable accessory structures shall be required to retire one transfer of development credit pursuant to Section 22.44.1230. Caretaker's dwelling units (caretaker's residences and mobile homes), as described in this section, shall be exempt from this requirement.*
- C. *Accessory Dwelling Units.*
  - 1. *The following accessory dwelling units may be permitted in the Coastal Zone subject to the following requirements. All accessory dwelling units shall:*
    - a. *Contain no more than 750 square feet of floor area;*
    - b. *Be clearly subordinate to the primary use or dwelling on the property, and shall be clustered on the same building site area as the primary use or residence;*
    - c. *Be compatible in terms of external appearance with existing residences in the vicinity of the lot or parcel of land on which it is proposed to be constructed;*
    - d. *Have an on-site wastewater treatment system (OWTS) approved by the Departments of Public Health and Public Works that is separate from the OWTS for the primary structure(s) if applicable;*
    - e. *Have a maximum height consistent with the standard in Section 22.44.1250;*

...

The Santa Monica Mountains LCP emphasizes the need to address the cumulative impacts of new development in the Santa Monica Mountains area, particularly those of subdivisions, multi-family residential development, and second residential units, all of which result in increased density. It is particularly critical to evaluate the potential cumulative impacts of increased density given the existence of thousands of undeveloped and poorly sited parcels in the mountains that were created decades ago in antiquated subdivisions. Furthermore, construction of a guesthouse unit or second unit on a site where a primary residence exists intensifies the use of the subject parcel. The intensified use creates additional demands on public services, such as water, sewage, electricity, and roads. Thus, guesthouses and second units pose potential cumulative impacts in addition to the impacts otherwise caused by the primary residential development.

As described above, all proposed residences are located in a clustered configuration, immediately adjacent to existing residential development, roadways, and services, consistent with LCP policies LU-1 and CO-74. As a component of CDP 4-13-1397, the applicant is proposing a 548 square foot guest unit that is consistent with the maximum square footage (750 square feet) outlined in LIP Section 22.44.1370. LIP Section 22.44.1370 also requires that all proposed accessory dwelling units and habitable accessory structures shall be required to retire one transfer of development credit. In order to ensure that cumulative impacts are minimized, consistent with LIP Section 22.44.1370, the Commission has required **Special Condition Two (2)**, which requires that prior to issuance of the coastal development permit, the applicant submit evidence that the development rights have been retired on a parcel(s) equivalent to one transfer of development credit. As detailed in the LIP, this may be accomplished either through: 1) an open space easement dedication and the merging or recombination of the retired lot(s) with one or more adjacent developed or buildable parcels, or 2) an open space deed restriction and transfer in fee title to a public entity. Alternately, if the applicant does not provide adequate evidence of the applicable extinguishment of development rights, the Commission requires **Special Condition One (1)**, which requires the applicant to submit revised project plans deleting the proposed guest house.

LIP Section 22.44.1370 also requires that all accessory dwelling units have an OWTS separate from the OWTS utilized for the primary structure. As mentioned above, a component of CDP 4-13-1397 includes the construction of an approximately 548 square foot guest house. The applicant, however, has not proposed the construction of an additional OWTS to separately serve the guest house, as required by LIP Section 22.44.1370. As such, the Commission requires **Special Condition Three (3)**, in order to ensure that the applicants obtain County of Los Angeles approval for the subject system, and submit project plans depicting its location on the subject property. Alternately, if the applicant does not provide adequate evidence of County approval, the Commission requires **Special Condition One (1)**, which requires the applicants to submit revised project plans deleting the proposed guest house.

Therefore, the Commission finds that the proposed project, as conditioned, consistent with the applicable cumulative impact policies of the Santa Monica Mountains LCP.

#### **G. CALIFORNIA ENVIRONMENTAL QUALITY ACT**

Section 13096(a) of the Commission's administrative regulations requires Commission approval of a Coastal Development Permit application to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect that the activity may have on the environment.

The Commission incorporates its findings on Local Coastal Program consistency at this point as if set forth in full. These findings address and respond to all public comments regarding potential significant adverse environmental effects of the project that were received prior to preparation of the staff report. As discussed above, the proposed developments, as conditioned, are consistent with the policies of the Certified Local Coastal Program. Feasible mitigation measures, which will minimize all adverse environmental effects, have been required as special conditions. All of

the special conditions required for each of the five coastal development permits (as detailed above) are required to assure the projects' consistency with Section 13096 of the California Code of Regulations.

As conditioned, there are no feasible alternatives or feasible mitigation measures available, beyond those required, which would substantially lessen any significant adverse impact that the activity may have on the environment. Therefore, the Commission finds that the proposed projects, as conditioned to mitigate the identified impacts, can be found to be consistent with the requirements of the Coastal Act to conform to CEQA.

# APPENDIX 1

## Substantive File Documents

Certified Los Angeles County Santa Monica Mountains Local Coastal Program; Memorandum Regarding the Designation of ESHA in the Santa Monica Mountains, prepared by John Dixon, Ph. D, dated March 25, 2003.

### **Geologic and Geotechnical Engineering Reports, all prepared by GeoConcepts, Inc.:**

4-13-1397 (Eucalyptus Ranch)

Update Report, dated October 8, 2009

Building Plan Report and Percolation Testing, dated July 13, 2007

Addendum Report, dated November 14, 2001

Limited Geologic and Soils Engineering Investigation, dated September 13, 1999

4-14-0100 (Hacienda Robles)

Update Report, dated October 8, 2009

Building Plan Report and Percolation Testing, dated July 13, 2007

Limited Geologic and Soils Engineering Investigation, dated September 13, 1999

4-14-0201 (Pepper Creek)

Update Letter, dated February 26, 2010

Limited Geologic and Soils Engineering Investigation, dated December 24, 2007

4-14-0202 (Canary Island Palm)

Update Letter, dated January 21, 2010

Limited Geologic and Soils Engineering Investigation, dated September 13, 1999

4-14-0621 (Rancho Tecolote)

Preliminary Geologic and Geotechnical Engineering Investigation, dated June 13, 2014

### **Archaeological Reports, all prepared by Robert J. Wlodarski:**

4-14-0202 (Canary Island Palm)

A Letter Response to the California Coastal Commission Regarding the Cultural Resource Status of Canary Island Palm, LP, dated June 2010

4-13-1397 (Eucalyptus Ranch)

A Letter Response to the California Coastal Commission Regarding the Cultural Resource Status of Eucalyptus Ranch, LP, dated June 2010

4-14-0621 (Rancho Tecolote)

A Phase I Archaeological Study for Rancho Tecolote, LP, dated June 2010

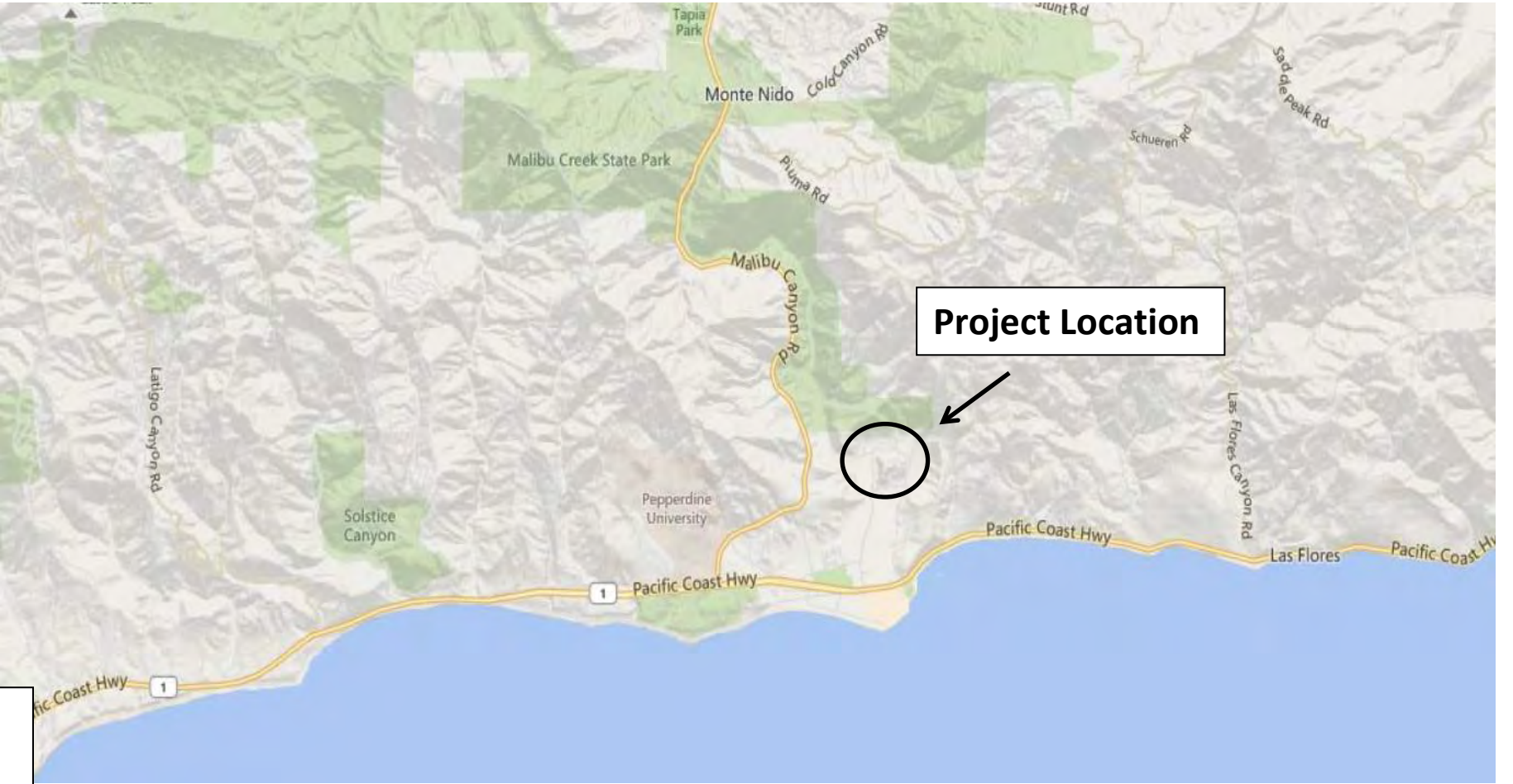


Exhibit 1  
4-13-1397, 4-14-0100, 4-14-  
0201, 4-14-0202, 4-14-0621  
Vicinity Map

4-14-0621 (Rancho Tocolote)

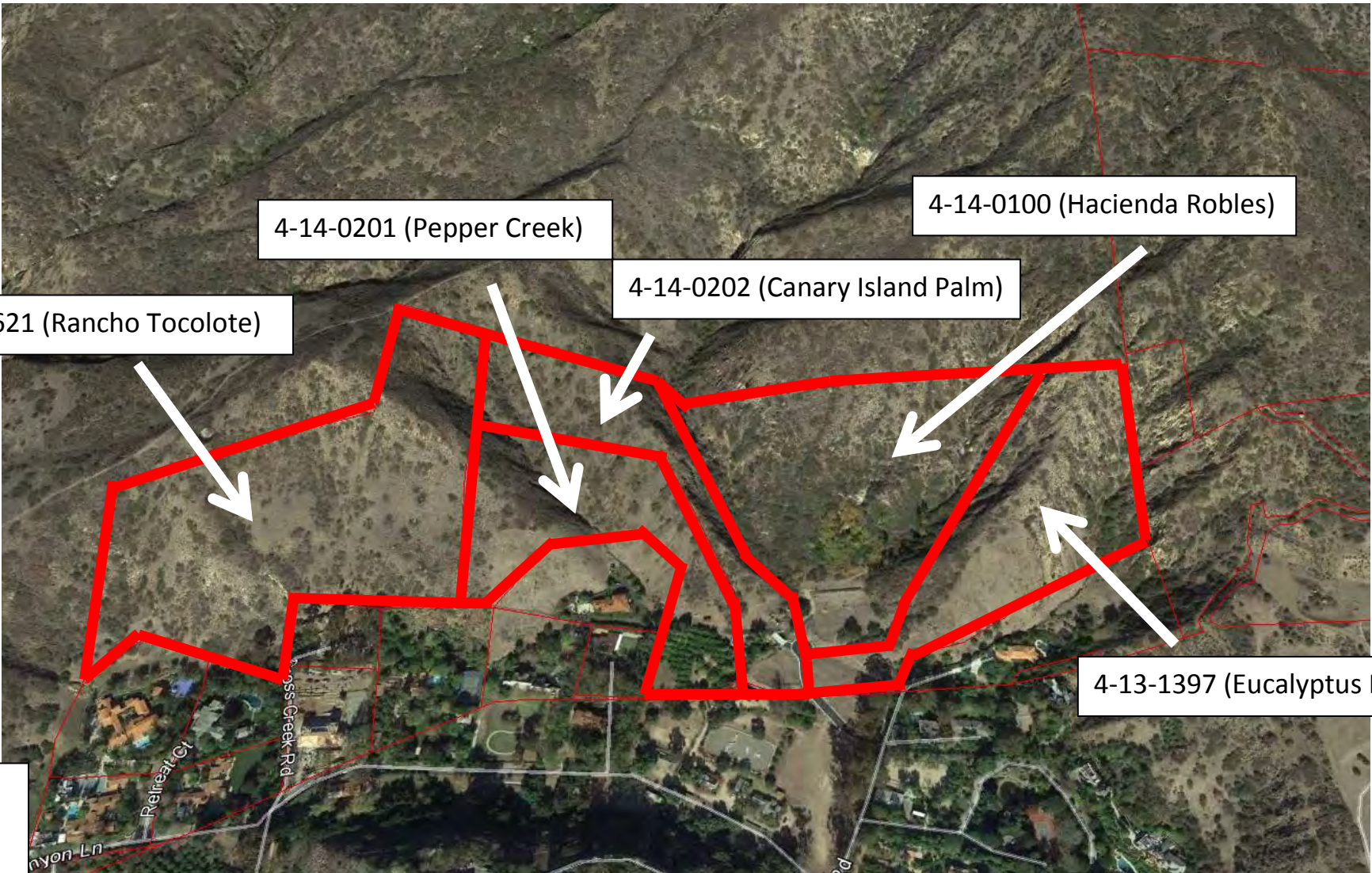
4-14-0201 (Pepper Creek)

4-14-0202 (Canary Island Palm)

4-14-0100 (Hacienda Robles)

4-13-1397 (Eucalyptus Ranch)

Exhibit 2  
4-13-1397, 4-14-0100, 4-14-0201, 4-14-0202, 4-14-0621  
Aerial Photograph



Retreat Ct  
Cass Creek Rd  
Lyon Ln

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2009



MAPPING AND GIS  
SERVICES  
SCALE 1" = 200'

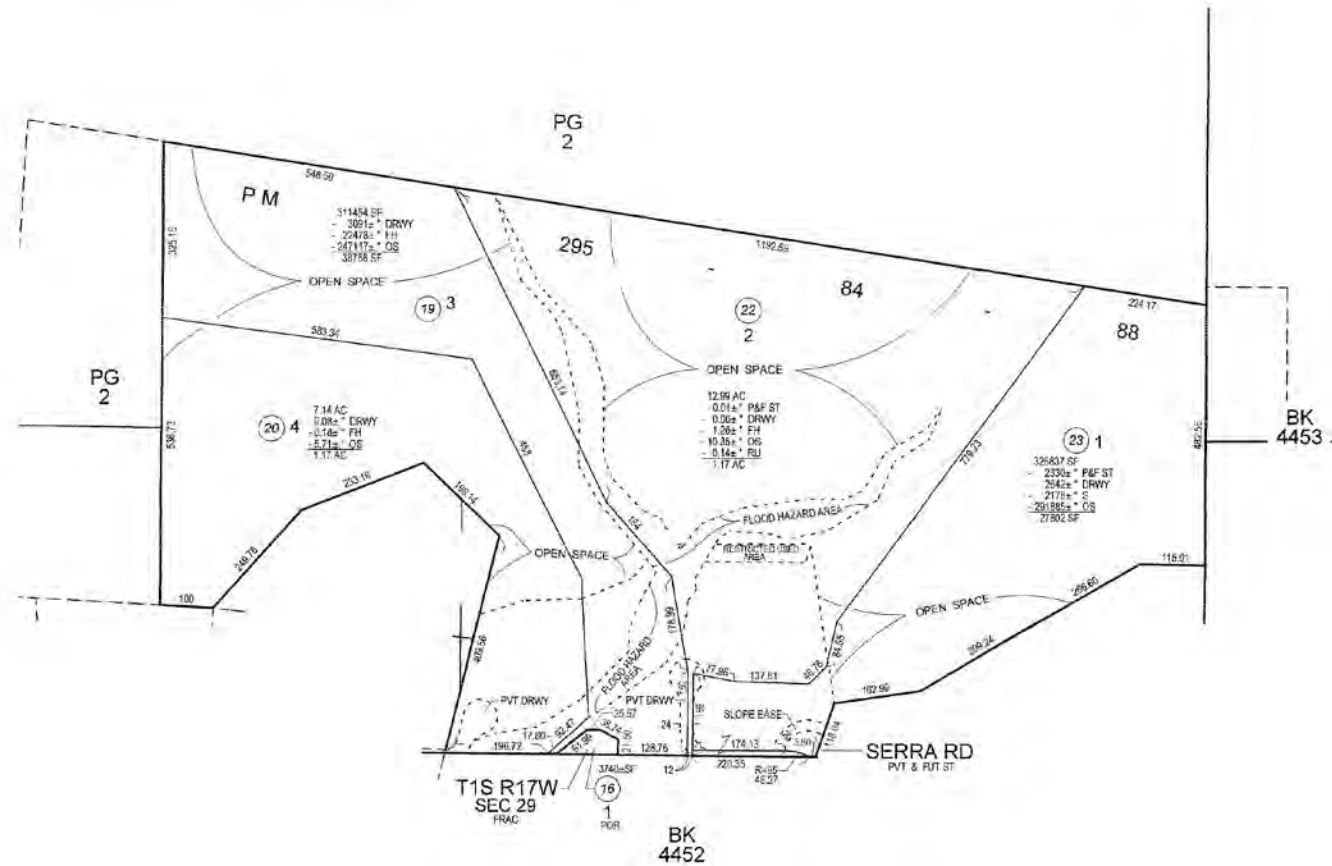


Exhibit 3a  
4-13-1397, 4-14-0100, 4-14-0201, 4-14-0202, 4-14-0621  
Parcel Map

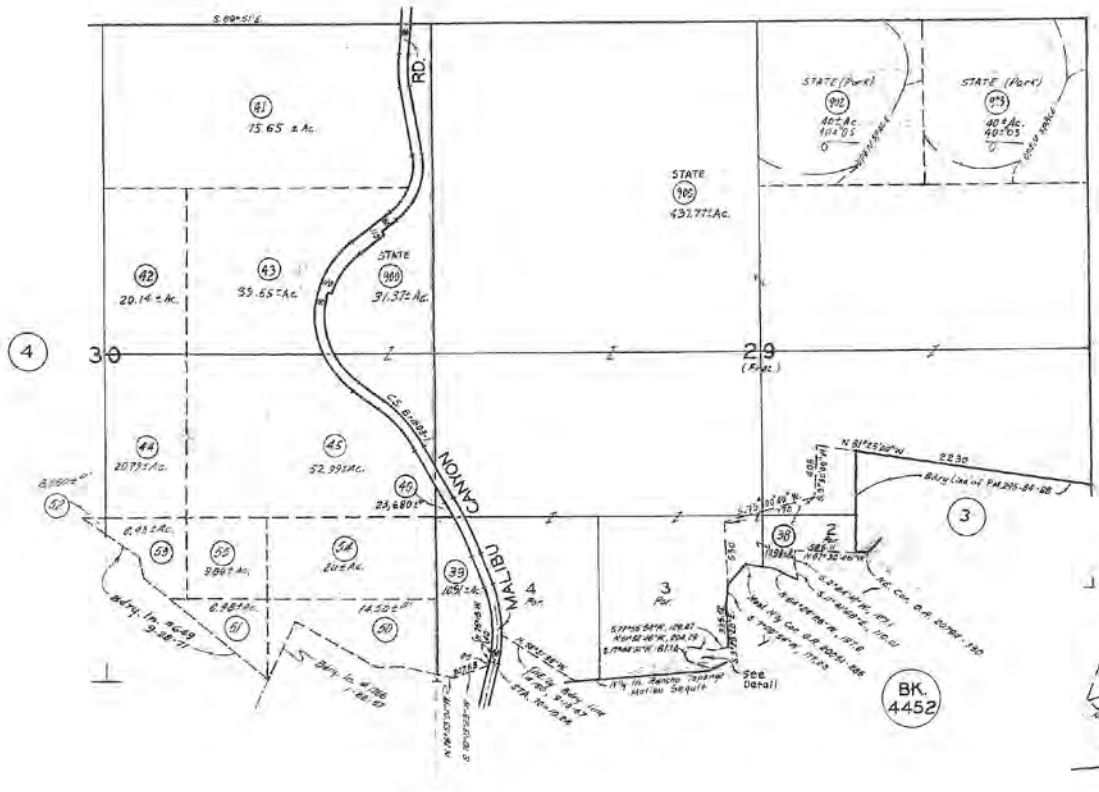


4457 2  
SCALE 1" = 800'

2013

8637 → 8657

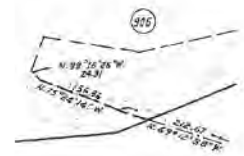
BK. 4456



BK. 4453

690211  
690220  
690402/2C  
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720218507  
720414E21  
730911201  
731209303  
760621601  
770433211  
811221607  
840703603  
840913-85  
90061914001602-07  
922d11  
95041312006003-07  
95041812006005-07  
95050505005001-07  
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200110606002001-07  
200110606002003-07  
2004071510005001-07  
20120817E-07

BK. 4452



DETAIL  
NO SCALE

ASSESSOR'S MAP  
COUNTY OF LOS ANGELES, CALIF.

CODE  
8637  
8657

BK. 4458

T. 1 S., R. 17 W.

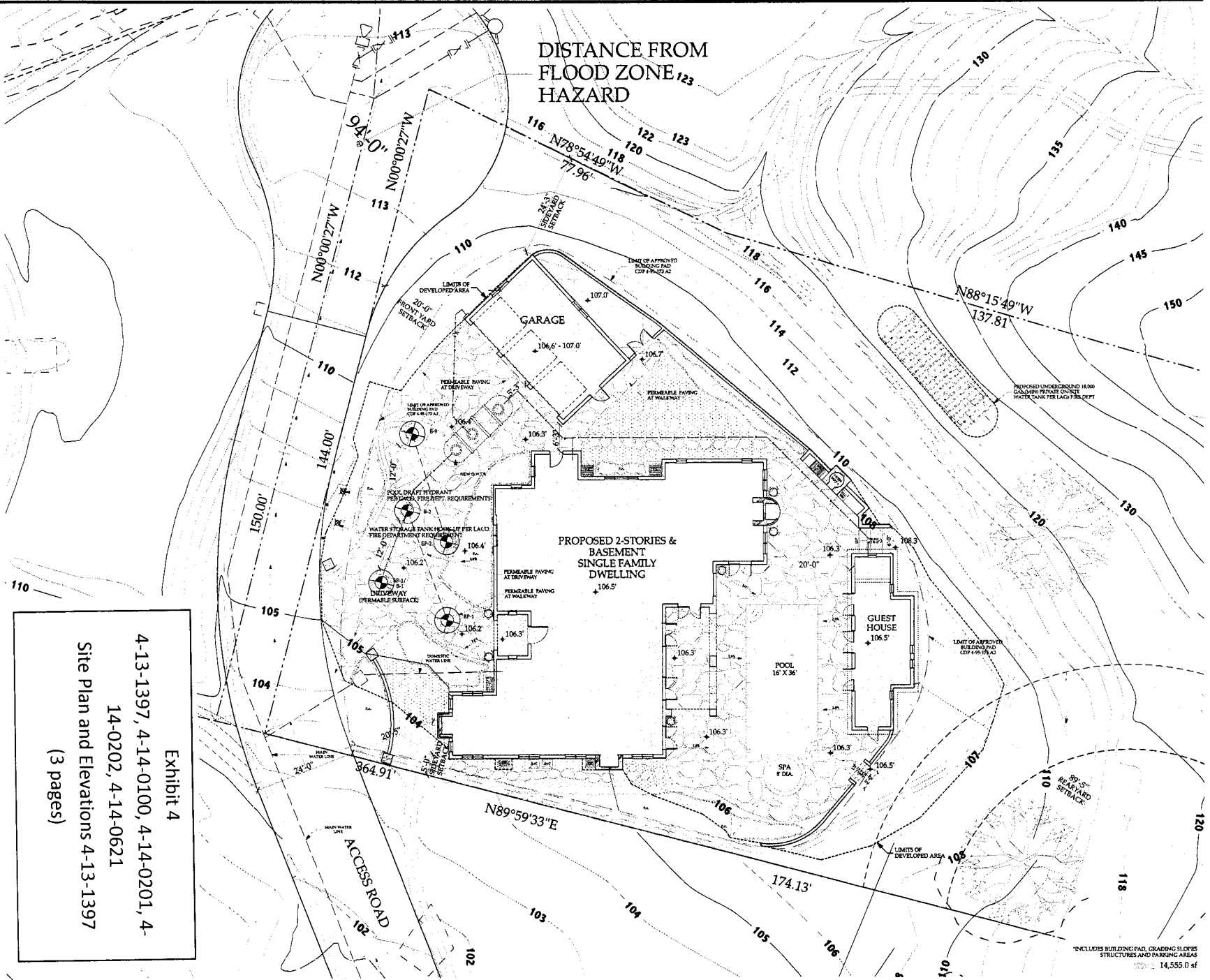
FOR PREV. ASSM'T SEE:  
462 58  
4457-3 & 4

Exhibit 3b  
4-13-1397, 4-14-0100, 4-14-0201, 4-14-0202, 4-14-0621  
Parcel Map

EUCALYPTUS RANCH RESIDENCE

LOT 1  
3215 SERRA RD.  
MALIBU, CA. 90265

DISTANCE FROM FLOOD ZONE HAZARD



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WRITTEN DIMENSIONS SHALL BE VERIFIED ON THE SITE BY THE CONTRACTOR. DIMENSIONS SHALL BE BROUGHT TO THE ATTENTION OF THE ARCHITECT PRIOR TO THE COMMENCEMENT OF ANY WORK.

NO.	DATE	ISSUE
01	11/16	PRELIMINARY SUBMITTAL
02	11/16	PRELIMINARY SUBMITTAL
03	11/16	PRELIMINARY SUBMITTAL
04	11/16	PRELIMINARY SUBMITTAL
05	11/16	PRELIMINARY SUBMITTAL
06	11/16	PRELIMINARY SUBMITTAL
07	11/16	PRELIMINARY SUBMITTAL
08	11/16	PRELIMINARY SUBMITTAL
09	11/16	PRELIMINARY SUBMITTAL
10	11/16	PRELIMINARY SUBMITTAL

**BURDGE & ASSOCIATES ARCHITECTS, INC.**  
MALIBU LOS CABOS

2210 PACIFIC COAST HWY. MALIBU, CA 90265  
TEL: 310-940-8212 FAX: 310-940-8214

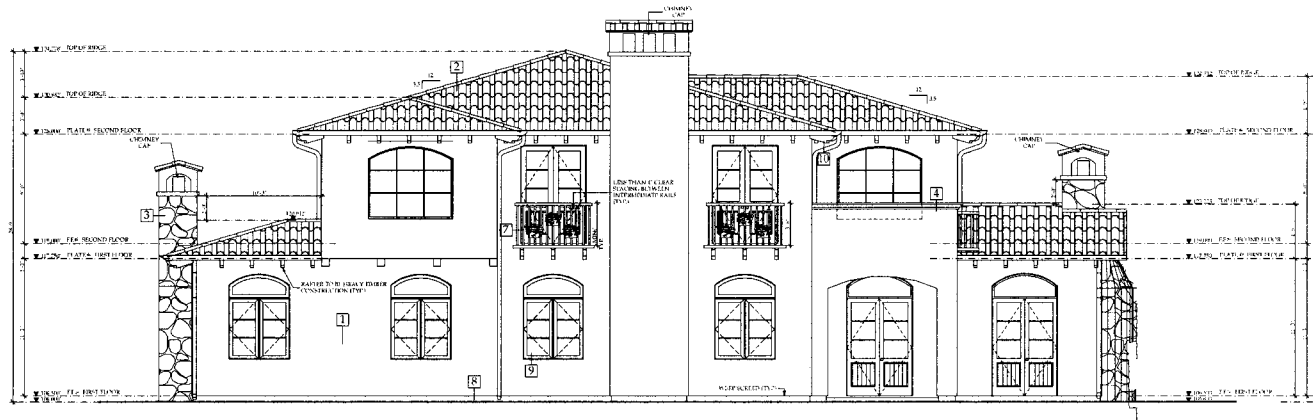
DESCRIPTION:  
**DEVELOPMENT AREA PLAN**

Exhibit 4  
4-13-1397, 4-14-0100, 4-14-0201, 4-14-0202, 4-14-0621  
Site Plan and Elevations 4-13-1397  
(3 pages)

PROJECT	EUCALYPTUS RANCH LOT 1	DRAWING NO.	A-04
DATE	11/16/16	SCALE	1/8"=1'-0"
SCALE	1/8"=1'-0"	DRAWN BY	IDWB DO
DRAWN BY	IDWB DO		07

**EUCALYPTUS  
RANCH  
RESIDENCE**

LOT 1  
3215 SERRA RD.  
MALIBU, CA. 90265



**SOUTH ELEVATION**  
SCALE: 1/4" = 1'-0"

**EUCALYPTUS RANCH RESIDENCE - LOT 1**

3215 SERRA ROAD, MALIBU, CA 90265

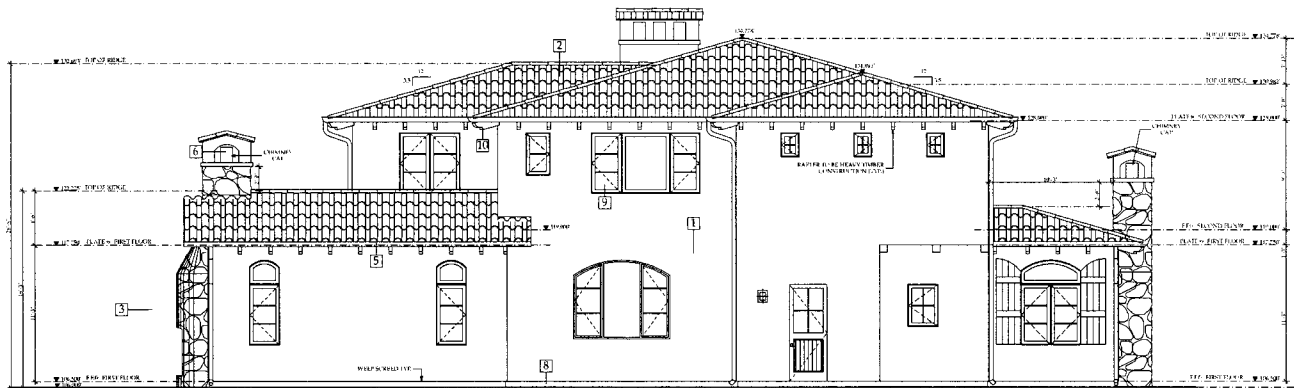
Architect: Burdige & Associates, Inc.

Contractor: [Blank]

Project No: [Blank]

Date: 02/28/20

Item #	Item Description	Manufacturer	Specification	Finish	Color
1	Stucco	La Habra	Base 200	Smooth Textured	White
2	Roofing Tiles	By Builder	Spanish Tile	Asph/Flt Shingles	Dark Grey
3	Stone Veneer	By Builder	Randomly mixed grey	Natural	Dark Blue
4	Camera Trim	Quality Resources	Mechanically finished	Natural	White
5	Copper Flashing	By Builder	1/2" Round	Copper	Natural
6	Stainless Steel	By Builder	304	Polished	White
7	Wood Trim	By Builder	White Oak	Paint with Benjamin Moore Paint	Match Light Trim
8	Wrought Iron	By Builder	1/2" Dia. Round	Copper	Natural
9	Wrought Iron	By Builder	1/2" Dia. Round	Copper	Natural
10	Wrought Iron	By Builder	1/2" Dia. Round	Copper	Natural
11	Lighting	By Builder	1/2" Dia. Round	Iron	Black



**NORTH ELEVATION**  
SCALE: 1/4" = 1'-0"

THE DRAWING IS A PART OF A SET OF ARCHITECTURAL DRAWINGS FOR THE PROJECT AND IS UNLESS OTHERWISE SPECIFIED, IT IS TO BE USED IN CONJUNCTION WITH THE OTHER DRAWINGS IN THE SET. THE DRAWING IS NOT TO BE USED FOR ANY OTHER PROJECT WITHOUT THE WRITTEN CONSENT OF BURDIGE & ASSOCIATES, ARCHITECTS, INC.

NO. DATE / ISSUE

1	02/28/20	ISSUE FOR PERMITS
2	03/15/20	ISSUE FOR PERMITS
3	03/15/20	ISSUE FOR PERMITS
4	03/15/20	ISSUE FOR PERMITS
5	03/15/20	ISSUE FOR PERMITS
6	03/15/20	ISSUE FOR PERMITS
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47	03/15/20	ISSUE FOR PERMITS
48	03/15/20	ISSUE FOR PERMITS
49	03/15/20	ISSUE FOR PERMITS
50	03/15/20	ISSUE FOR PERMITS

**BURDIGE  
& ASSOCIATES  
ARCHITECTS, INC.**

MALIBU  
SUN VALLEY LOS CABOS

22220 JUNE GARDEN DRIVE, SUITE 100 MALIBU, CA 90262  
TEL: 310-261-9600 FAX: 310-261-9600

DESCRIPTION

ELEVATIONS

PROJECT	3215 SERRA ROAD LOT 1	DRAWING NO.	A-2.2
DATE	02/28/20		
SCALE	AS NOTED		
DRAWN BY	CONRAD		

# EUCALYPTUS RANCH RESIDENCE

LOT 1  
3215 SERRA RD.  
MALIBU, CA. 90265



EAST ELEVATION

SCALE 1/4" = 1'-0"

EUCALYPTUS RANCH RESIDENCE - LOT 1

3215 SERRA ROAD, MALIBU, CA 90265

Material Schedule

Issue 10/22/20

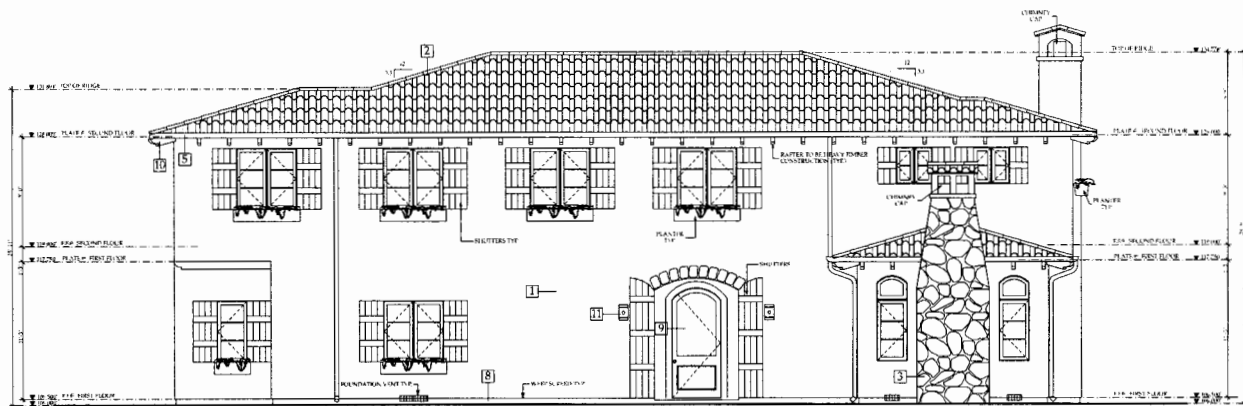
Item #	Item Description	Manufacturer	Specification	Finish	Color
1	Shims	Lo-Habit	None 20#	Smooth Treated	White Unpainted
2	Roofing - Clay Tile	Baldoni	Class A Fire Rated 30 Year Life 30% Water	3 Ply No-Metal	Dark Grey/Purple
3	Stone Veneer	By Builder	Permittee by stamped permit	Natural	Chalk Wall
4	Copper Trim	Quatre Seasons	Mechanically Fastened	Natural	Patina
5	Copper Gutters	By Builder	# 6 Round	Copper	Natural
6	Spack Arrestor	Grumpy of Los Angeles	2" above any and 18" away		
7	Wrought Iron	By Builder	Solid galvanized steel	Paint with Benjamin Moore Primer & 2 coats Valspar Series Epoxy paint	Match Light Finish
8	Wrought Iron	By Builder	To be installed in stone wall at 2" above base of stone	Copper	Natural
9	Wrought Iron	By Builder	To be installed in stone wall at 2" above base of stone	Copper	Natural
10	Wrought Iron	By Builder	To be installed in stone wall at 2" above base of stone	Copper	Natural
11	Lighting	Simon Handerson	Lo-Habit	Iron	Black or Rust

THIS DRAWING IS A PRELIMINARY DESIGN AND IS NOT TO BE USED FOR CONSTRUCTION OR ANY OTHER PURPOSE WITHOUT THE WRITTEN AGREEMENT WITH THE ARCHITECT.

THE ARCHITECT AND ASSOCIATES SHALL BE HELD RESPONSIBLE FOR THE DESIGN AND CONSTRUCTION OF THE PROJECT. ANY CHANGES TO THIS DRAWING SHALL BE MADE BY THE ARCHITECT AND ASSOCIATES.

NO DATE ISSUE

DESCRIPTION



WEST ELEVATION

SCALE 1/4" = 1'-0"

**BURIDGE & ASSOCIATES**  
ARCHITECTS, INC.

MALIBU  
SUN VALLEY LOS CABOS

TEL: 310.947.0001  
FAX: 310.947.0002  
TEL: 310.947.0003  
TEL: 310.947.0004

DESCRIPTION

ELEVATIONS

PROJECT: EUCALYPTUS RANCH RESIDENCE  
DATE: 10/22/20  
SCALE: AS NOTED  
DRAWN BY: J. BURIDGE  
DRAWING NO: A-2.1  
OF

HACIENDA ROBLES RESIDENCE

LOT 2  
3217 SERRA RD.  
MALIBU, CA. 90265

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NO.	DATE	ISSUE
01/15/14		PRELIMINARY PLANNING SUBMITTAL
02/10/14		PRELIMINARY PERMITS SUBMITTAL
02/11/14		FIRE DEPARTMENT ACCESS 1ST RE-SUBMITTAL
02/11/14		CA COASTAL COMMISSION 1ST RE-SUBMITTAL
02/20/14		CA COASTAL COMMISSION 2ND RE-SUBMITTAL

**BURDGE & ASSOCIATES**  
ARCHITECTS, INC.  
**MALIBU**  
SUNAVILLE LOS CABOS

2400 BURDGE COURT HWY 101  
MALIBU, CALIFORNIA 90265  
TEL: 310-441-1001

21 COMPTON DRIVE, SUITE C  
MALIBU, CA 90265  
TEL: 310-441-1023  
FAX: 310-441-1024

DESCRIPTION:

DEVELOPMENT AREA PLAN

PROJECT	HACIENDA ROBLES Lot 2	DRAWING NO.	A-0.4
DATE	12/10/14	SCALE	1/4" = 1'-0"
DRAWN BY	CDW/DP	OF	

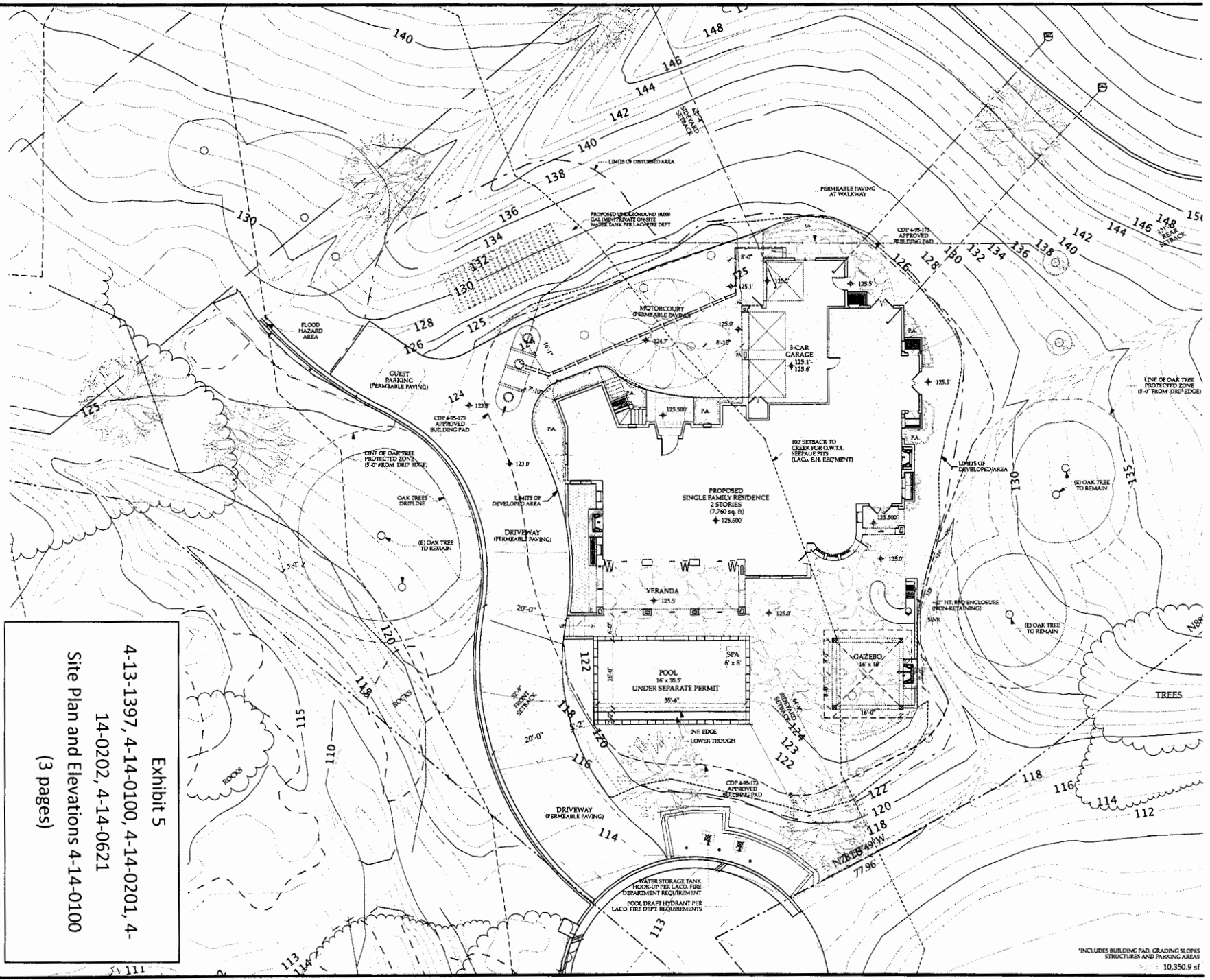
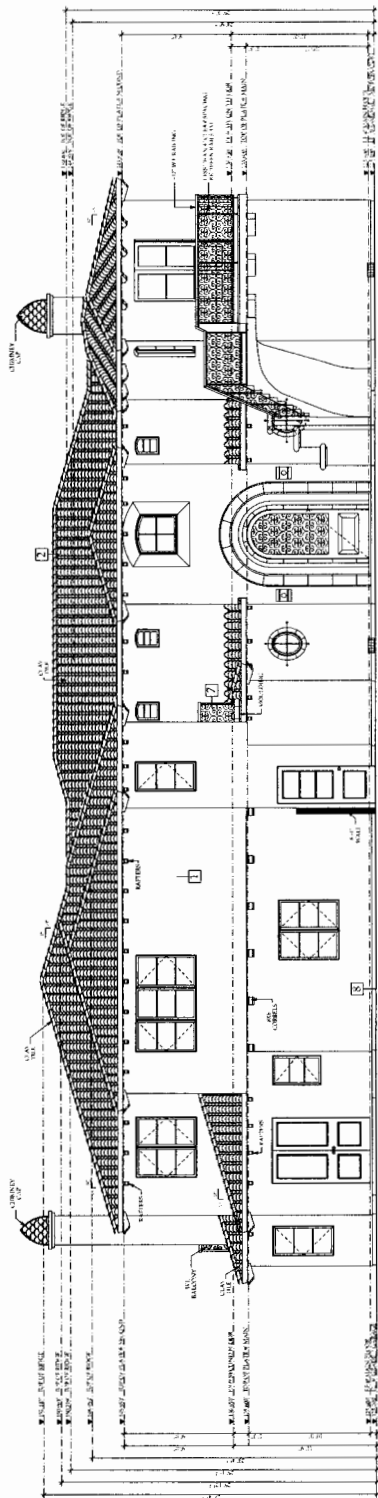


Exhibit 5  
4-13-1397, 4-14-0100, 4-14-0201, 4-14-0202, 4-14-0621  
Site Plan and Elevations 4-14-0100  
(3 pages)

\*INCLUDES BUILDING PAD, GRADING SLOPES  
STRUCTURES AND PARKING AREAS  
10,350.9 sf

HACIENDA  
ROBLES  
RESIDENCE

LOT 2  
3217 SERRA RD.  
MALIBU, CA. 90265



NORTH ELEVATION  
SCALE: 1/4" = 1'-0"

NO DATE ISSUE  
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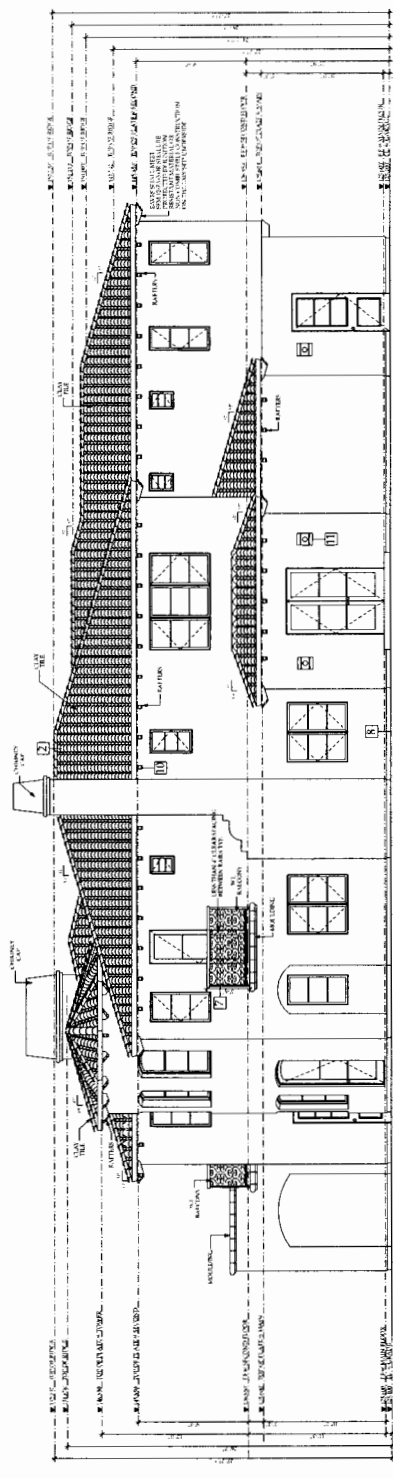
**BURDGE  
& ASSOCIATES**  
ARCHITECTS, INC.

MALIBU  
LOS CAROS

11111 BURBANK BLVD.  
SUITE 200  
BURBANK, CA 91502  
TEL: 818-250-1234  
FAX: 818-250-1235  
WWW.BURDGEARCHITECTS.COM

PROPOSED ELEVATIONS

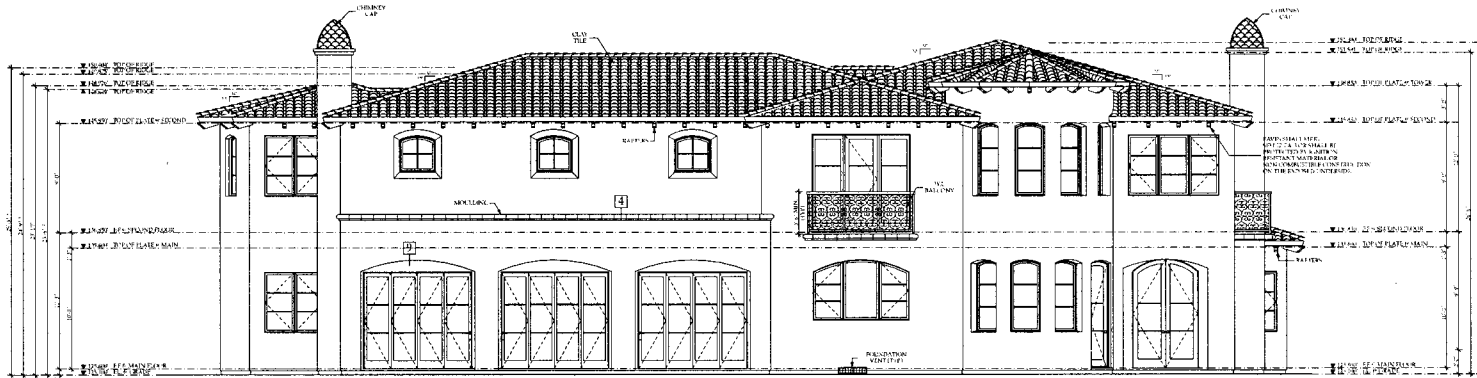
PROJECT	HACIENDA ROBLES	DRAWING NO.	A-2.1
DATE	10/20/2010	SCALE	AS SHOWN
DRAWN BY	J.M.A./D.P.	CHECKED BY	J.M.A./D.P.



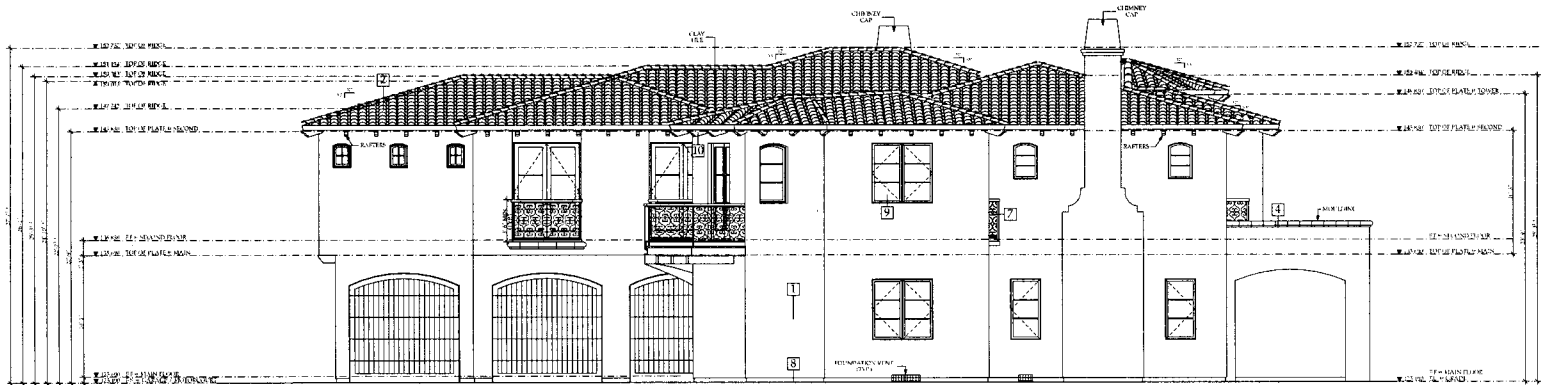
EAST ELEVATION  
SCALE: 1/4" = 1'-0"

HACIENDA  
ROBLES  
RESIDENCE

LOT 2  
3217 SERRA RD.  
MALIBU, CA. 90265



SOUTH ELEVATION  
SCALE 1/4" = 1'-0"



WEST ELEVATION  
SCALE 1/4" = 1'-0"

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NO.	DATE	ISSUE
1		PRELIMINARY DRAWING SUBMITTED
2		REVISIONS TO DRAWING SUBMITTED
3		REVISIONS TO DRAWING SUBMITTED
4		REVISIONS TO DRAWING SUBMITTED
5		REVISIONS TO DRAWING SUBMITTED
6		REVISIONS TO DRAWING SUBMITTED
7		REVISIONS TO DRAWING SUBMITTED
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17		REVISIONS TO DRAWING SUBMITTED
18		REVISIONS TO DRAWING SUBMITTED
19		REVISIONS TO DRAWING SUBMITTED
20		REVISIONS TO DRAWING SUBMITTED

**BURDGE & ASSOCIATES**  
ARCHITECTS, INC.

MALIBU  
SUN VALLEY LOS CAROS

10000 BURBANK BLVD., SUITE 1000, BURBANK, CA 91502  
TEL: 818-338-1000 FAX: 818-338-1001

DESCRIPTION:

PROPOSED ELEVATIONS

PROJECT	DRAWING NO.	DRAWING NO.
HACIENDA ROBLES LOT 2	A-2.2	
DATE: 12/11/11		
SCALE: AS NOTED		
DRAWN BY: DWB, DD		09

**PEPPER CREEK  
RESIDENCE**

LOT 4  
3221 SERRA RD.  
MALIBU, CA. 90265

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NO.	DATE	ISSUE
03-13-14		NATIONAL PLANNING DEPT SUBMITTAL
03-31-14		FIRE DEPARTMENT SUBMITTAL
04-15-14		FIRE DEPARTMENT ACCESS LIFT SUBMITTAL
05-28-14		CA COASTAL COMMISSION PRE-RE SUBMITTAL
09-26-14		CA COASTAL COMMISSION PRE-RE SUBMITTAL

**BURDGE & ASSOCIATES**  
ARCHITECTS, INC.

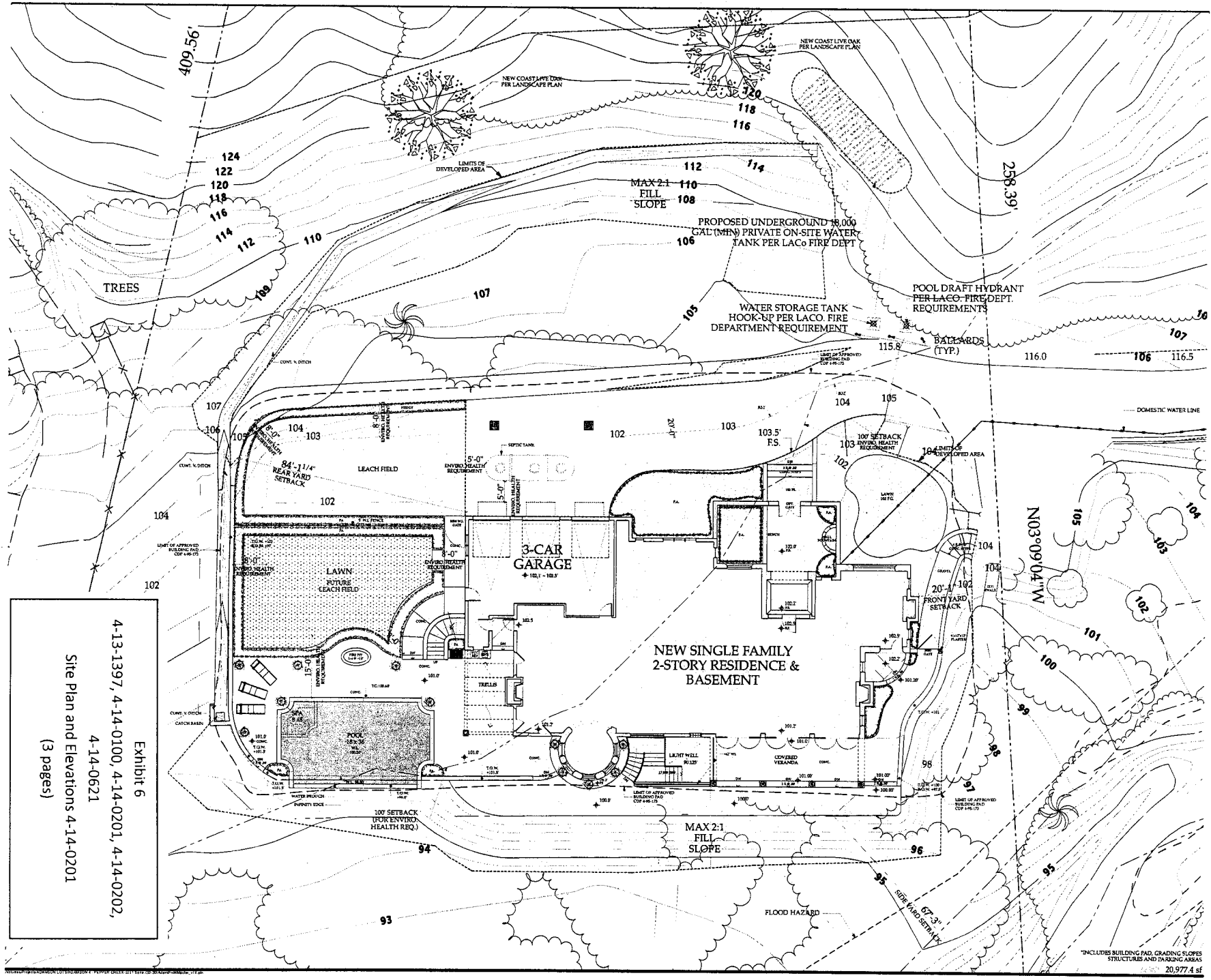
MALIBU  
SUNAVALL  
LOS CABOS

1115 PACIFIC COAST HWY. MALIBU, CA 90262 TEL: 310-895-9001  
21 COMET LAKE UNIT C, MALIBU, CA 90262 TEL: 310-895-9001 FAX: 310-895-9001

DESCRIPTION:  
DEVELOPMENT AREA PLAN

PROJECT: Pepper Creek Residence Lot 4  
DATE: Plot Date: 12/10/14  
SCALE: 1/8" = 1'-0"  
DRAWN BY: LDW, GD

DRAWING NO.:  
A-04  
of



4-13-1397, 4-14-0100, 4-14-0201, 4-14-0202,  
4-14-0621  
Site Plan and Elevations 4-14-0201  
(3 pages)

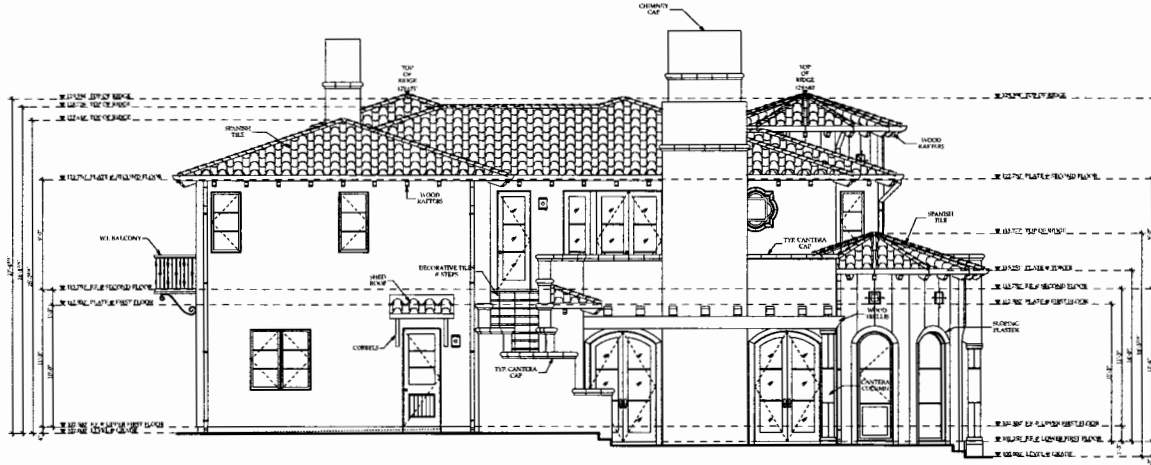
Exhibit 6

\*INCLUDES BUILDING PAD, GRADING SLOPES, STRUCTURES AND PARKING AREAS  
20,977.4 sf



PEPPER CREEK  
RESIDENCE

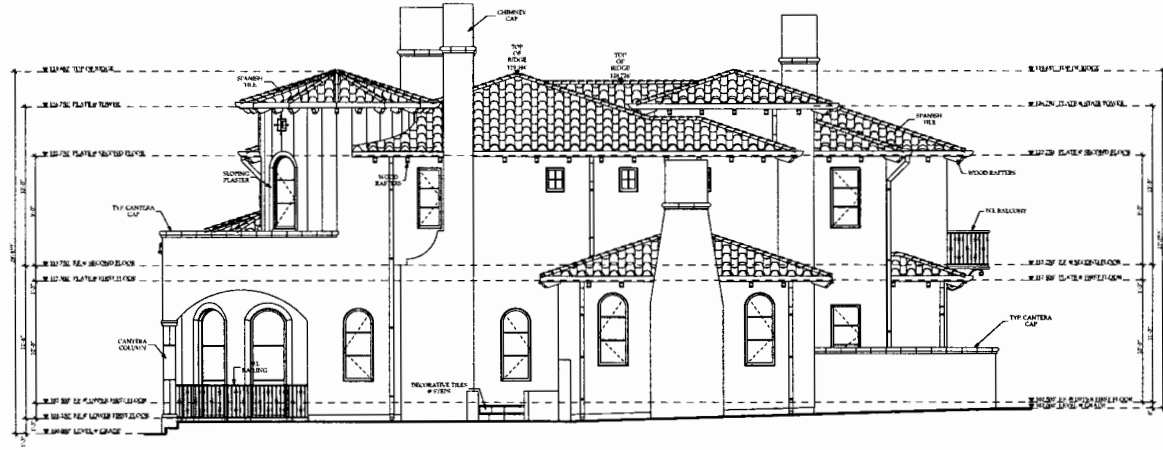
LOT 4  
3221 SERRA RD.  
MALIBU, CA. 90265



WEST ELEVATION	1
	1/4" = 1'-0"

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NO.	DATE	ISSUE
01-13-16	08/20/16	CONCEPT PLAN, PERMITS, PERMITS
02-11-16	08/20/16	FIRE DEPARTMENT PERMITS
03-15-16	08/20/16	FIRE DEPARTMENT APPROVED PERMITS
05-20-16	08/20/16	CALIFORNIA CONSTRUCTION PERMITS



EAST ELEVATION	2
	1/4" = 1'-0"

**BURDGE & ASSOCIATES**  
ARCHITECTS, INC.

MALIBU  
SUN VALLEY      LOS CABOS

11555 PACIFIC COAST HWY. SUITE 100  
MALIBU, CA 90265  
TEL: 310-455-1000  
FAX: 310-455-0800

24 COUNTY AVENUE, SUITE C  
LOS CABOS, B.C. 90501  
TEL: 604-855-1000  
FAX: 604-855-0800

DESCRIPTION:  
PROPOSED ELEVATIONS

PROJECT	Pepper Creek Residence Lot 4	DRAWING NO.	A-2.1
DATE	Per Date: 5/19/16	SCALE	AS NOTED
DRAWN BY	DDW, DD		

PEPPER CREEK  
RESIDENCE

LOT 4  
3221 SERRA RD.  
MALIBU, CA. 90265

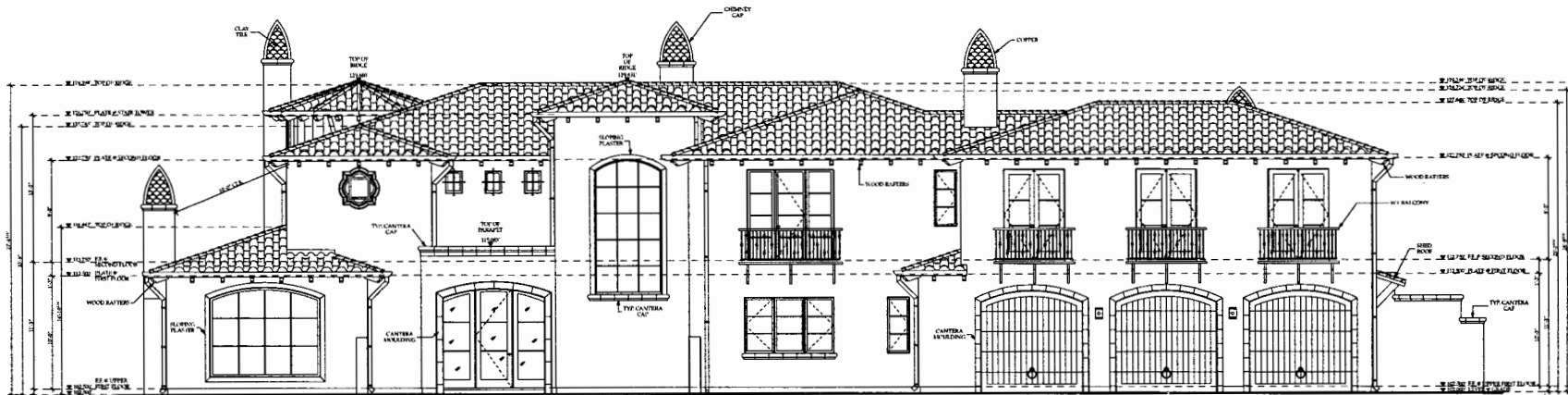


SOUTH ELEVATION 1  
1/4" = 1'-0"

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NO.	DATE	ISSUE
02-13-14		PRELIMINARY PLANNING; CITY SUBMITTAL
03-31-14		CITY DEPARTMENT SUBMITTAL
04-24-14		CITY DEPARTMENT ALLIANCE REVIEW SUBMITTAL
07-24-14		CA COASTAL COMMISSION REVIEW SUBMITTAL



NORTH ELEVATION 2  
1/4" = 1'-0"

**BURDGE & ASSOCIATES**  
ARCHITECTS, INC.

MALIBU  
SUN VALLEY LOS CABOS

1225 PACIFIC COAST HWY. SUITE 100, MALIBU, CA 90265  
TEL: 310-464-7800 FAX: 310-464-7801

DESCRIPTION:  
PROPOSED ELEVATIONS

PROJECT: Pepper Creek Residence-Lot 4  
DATE: Plot Date: 5/19/14  
SCALE: AS NOTED  
DRAWN BY: DWH, DD

DRAWING NO.  
A-2.2



# CANARY ISLAND PALM RESIDENCE

LOT 3  
3219 SERRA RD.  
MALIBU, CA. 90265



WEST ELEVATION

SCALE: 1/4" = 1'-0"



SOUTHWEST ELEVATION

SCALE: 1/4" = 1'-0"



SOUTH ELEVATION

SCALE: 1/4" = 1'-0"

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WRITTEN DIMENSIONS SHALL BE VERIFIED ON THE SITE. UNLESS OTHERWISE SPECIFIED, ALL DIMENSIONS SHALL BE TO THE FINISHED SURFACE UNLESS OTHERWISE NOTED.

NO. DATE / ISSUE

1. 05/14/2014 REVISED PER COMMENTS FROM CLIENT

2. 06/10/2014 REVISED PER COMMENTS FROM CLIENT

3. 06/10/2014 REVISED PER COMMENTS FROM CLIENT

4. 06/10/2014 REVISED PER COMMENTS FROM CLIENT

5. 06/10/2014 REVISED PER COMMENTS FROM CLIENT

6. 06/10/2014 REVISED PER COMMENTS FROM CLIENT

7. 06/10/2014 REVISED PER COMMENTS FROM CLIENT

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20. 06/10/2014 REVISED PER COMMENTS FROM CLIENT

**BURDGE & ASSOCIATES**  
ARCHITECTS, INC.

MALIBU  
SUN VALLEY LOS CABOS

10000 W. GRAND PKWY. SUITE 100 MALIBU, CA 90265  
TEL: 310.316.1111 FAX: 310.316.1112

DESCRIPTION:

PROPOSED ELEVATIONS

PROJECT: CANARY ISLAND PALM RESIDENCE  
DATE: 05/14/2014  
SCALE: 1/4" = 1'-0"  
DRAWN BY: TSW/DTJ

DRAWING NO.  
A-2.1

OR



# RANCHO TECOLOTE

(LOT 5)  
3240 CROSS CREEK RD.  
MALIBU, CA. 90265

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WRITTEN CONSENTS SHALL BE VERIFIED ON THE JOB SITE. DISCREPANCIES SHALL BE RESOLVED TO THE ATTENTION OF THE ARCHITECT PRIOR TO THE COMMENCEMENT OF ANY WORK.

NO. DATE ISSUED

24-21	11 LA CO Regional Planning Re-submittal
01-27-14	LA CO Regional Planning 2nd Re-submittal
03-25-14	CA Coastal Commission Submittal
05-06-14	Fire Department Submittal
05-29-14	CA Coastal Commission 3rd Re-submittal
09-26-14	CA Coastal Commission 2nd Re-submittal

## BURDGE & Associates ARCHITECTS

MALIBU WWW.  
SUN VALLEY BUAIACOM

218 PACIFIC COAST HWY. #1001 LEVEL 1001  
MALIBU, CA 90265 TEL: 310-466-1997 FAX: 310-995-9943

DESCRIPTION:  
DEVELOPMENT AREA  
PLAN

PROJECT: ARABIAN LOT 5 DRAWING NO:  
DATE: 10/1/14 A-0.3  
SCALE: 1/8"=1'-0" OF  
DRAWN BY: DWR, MA, DR, SO

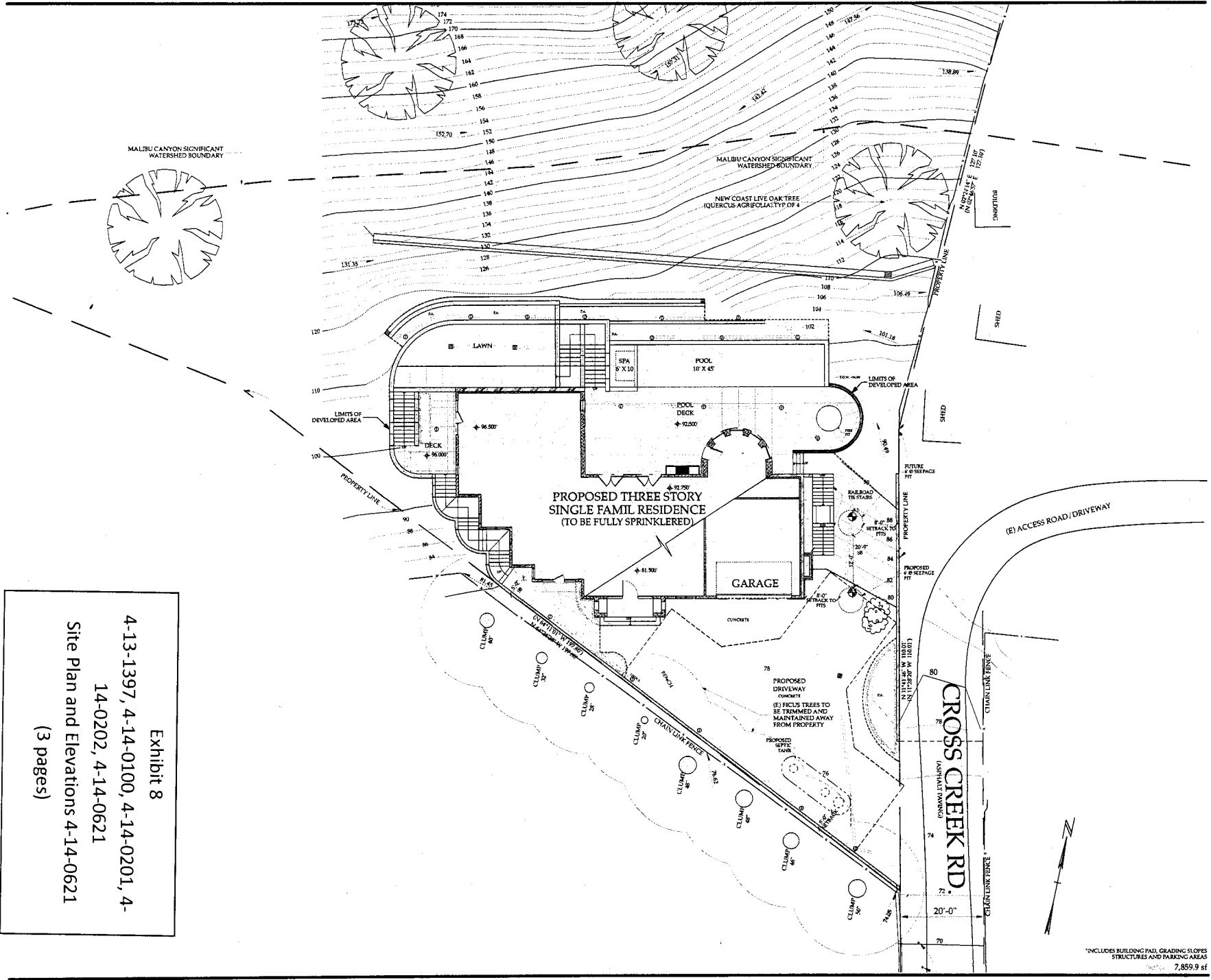
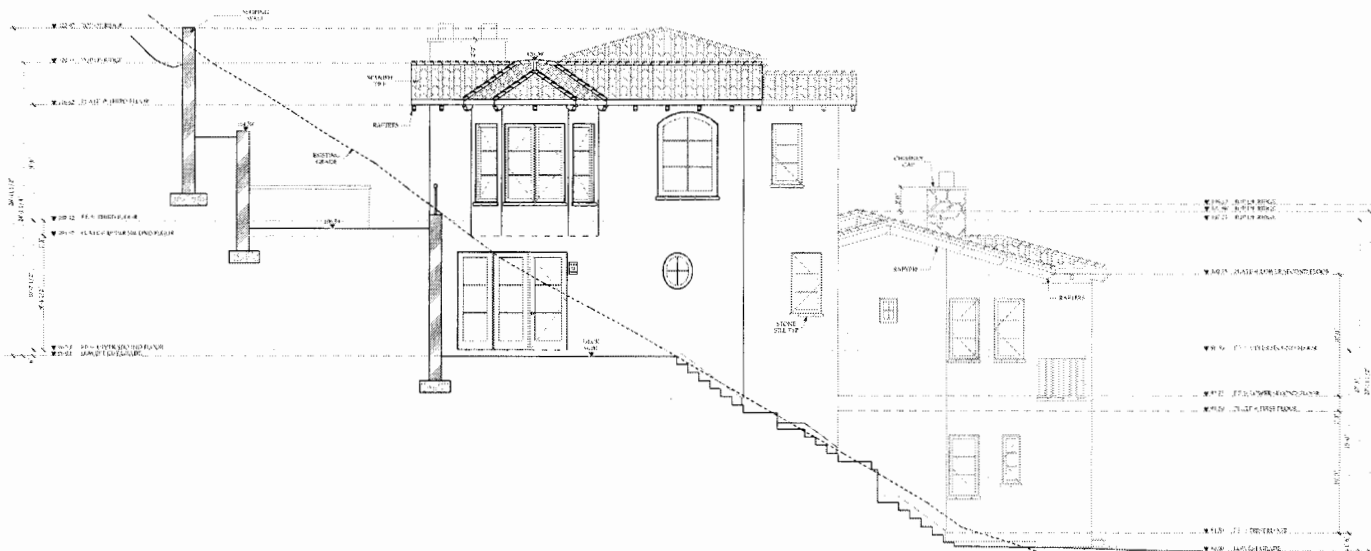
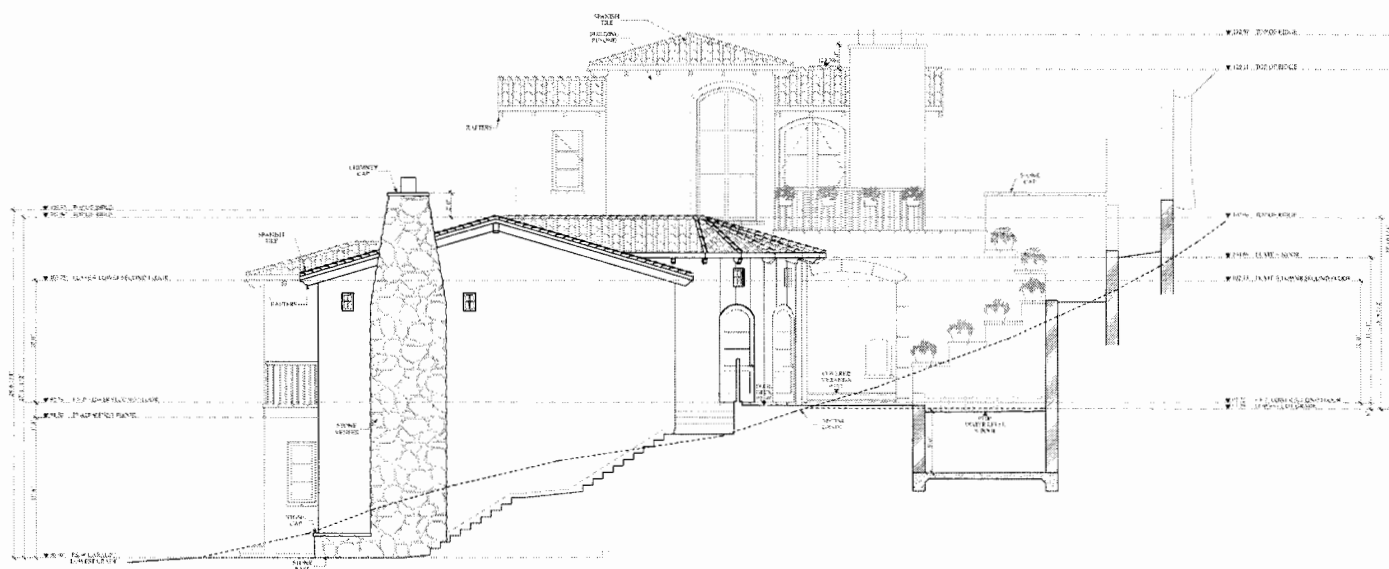


Exhibit 8  
4-13-1397, 4-14-0100, 4-14-0201, 4-14-0202, 4-14-0621  
Site Plan and Elevations 4-14-0621  
(3 pages)

\*INCLUDES BUILDING PAD, GRADING SLOPES  
STRUCTURES AND PARKING AREAS.  
7,859.9 sf



WEST ELEVATION  
SCALE 1/4" = 1'-0"



EAST ELEVATION  
SCALE 1/4" = 1'-0"

# RANCHO TECOLOTE

3240 CROSS CREEK RD.  
MALIBU, CA. 90265

(PARCEL 5)

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RESPONSIBLE FOR THE ACCURACY OF ALL  
DIMENSIONS AND THE CONFORMANCE  
THEREWITH.

NO.	DATE	ISSUE
01	08/13/01	C.O.T.A. Planning Dept. review
02	11/14/01	Final Department Comments
03	11/14/01	Final Department Re-submittal
04	02/14/02	A.C.D. Regional Planning Department
05	02/14/02	A.C.D. Regional Planning 2 <sup>nd</sup> Re-submittal

**BURDGE  
& Associates**  
ARCHITECTS

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GUN VALLEY

WWW.  
BUAIA.COM

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TEL: 310.316.4666 FAX: 310.316.4666

2555 WILSON AVENUE, SUITE 200, MALIBU, CA 90265  
TEL: 310.316.4666 FAX: 310.316.4666

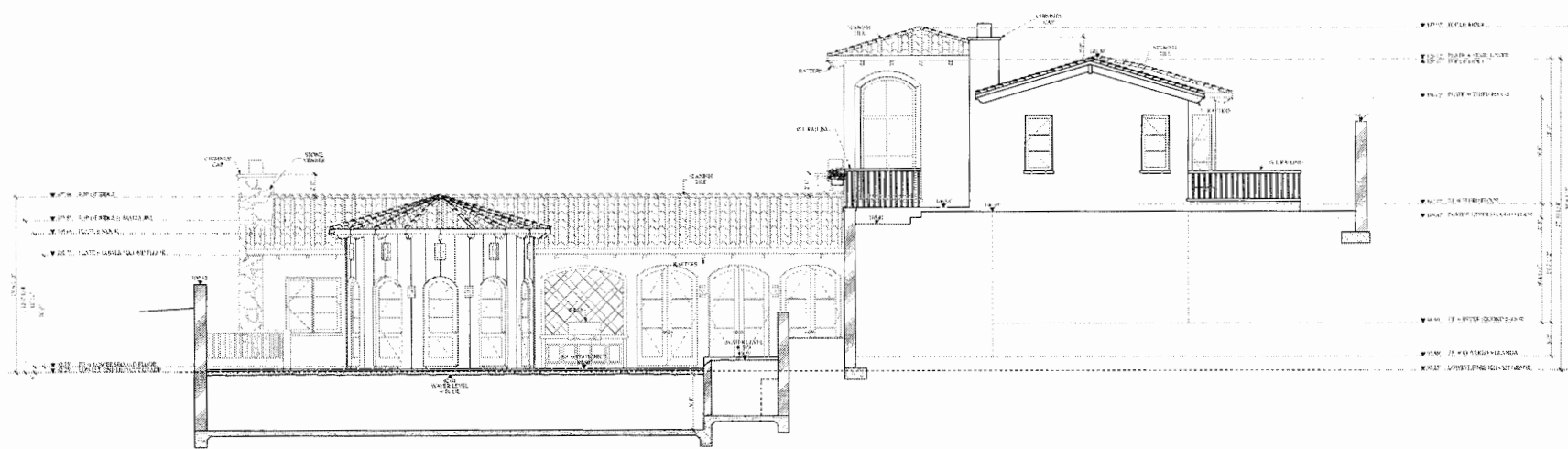
DESCRIPTION

PROPOSED ELEVATIONS

PROJECT	DATE	SCALE	DRAWN BY	DRAWING NO.
RANCHO TECOLOTE	10/20/01	AS SHOWN	JANIS HILL	A-2.1
				OF



**SOUTH ELEVATION**  
SCALE 1/4" = 1'-0"



**NORTH ELEVATION**  
SCALE 1/4" = 1'-0"

# RANCHO TECOLOTE

3240 CROSS CREEK RD.  
MALIBU, CA. 90265

(PARCEL 5)

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NO.	DATE	ISSUE
01	03/09/09	C.G.A. Planning Dept review
02	03/22/09	City of Malibu Planning Department
03	04/22/09	City of Malibu Planning Department
04	06/02/09	L.A.C.D. Regional Planning Commission
05	08/27/10	L.A.C.D. Regional Planning Commission

## BURDGE & Associates ARCHITECTS

MALIBU  
SUN VALLEY

WWW.  
BUAIA.COM

3220 FAIRVIEW AVENUE  
MALIBU, CALIFORNIA 90265  
TEL: 310.440.1000

21001 LAKEVIEW DRIVE  
SUN VALLEY, CALIFORNIA 91350  
TEL: 818.261.1000

**DESCRIPTION:**

PROPOSED ELEVATIONS

PROJECT	DATE	SCALE	DRAWN BY	DRAWING NO.
ATARIUM TOWER	12/11/08	AS NOTED	J.P.	A-2.2





Exhibit 9  
4-13-1397, 4-14-0100, 4-14-  
0201, 4-14-0202, 4-14-0621  
Open Space Easement Area for  
CDP 4-14-0621

# Potential Impacts to Coast Live Oak Stands Following Defensible Space at 3300 Kanan Dume Road

Prepared by:  
Christopher A. Dicus, PhD  
California Registered Professional Forester  
Certified Senior Fire Ecologist

9-January-2017

This report is in reference to the proposed development at 3300 Kanan Dume Road near Malibu, California. At issue is potential impairment of biological resources in the small, isolated coast live oak (*Quercus agrifolia*) stands on the property following implementation of defensible space, which is required for fire protection by the Los Angeles County Fire Department for any developed areas per Los Angeles County Code 4908.1.

Per the Santa Monica Mountains Local Coastal Program, these small oak stands are designated as H1 Habitat, which is described in the 2014 Santa Monica Mountains Land Use Plan (County of Los Angeles Department of Regional Planning, 2014) as the following:

*“H1 habitat consists of areas of highest biological significance, rarity, and sensitivity. H1 habitats include: alluvial scrub; coastal bluff scrub; dune; native grassland and scrub with a strong component of native grasses or forbs; riparian; **native oak, sycamore, walnut and bay woodlands**; and rock outcrop habitat types. Wetlands, including creeks, streams, marshes, seeps and springs, are also H1 habitat. H1 habitat also includes populations of plant and animal species (1) listed by the State or Federal government as rare, threatened or endangered, listed by NatureServe as State or Global ranked 1, 2, or 3, and identified as California Species of Special Concern, and/or (2) CNPS-listed 1B and 2 plant species, normally associated with H1 habitats, where they are found within H2 or H3 habitat areas.” (pg. 22)*

The presence of H1 habitat on the property invokes certain restrictions for development so as to minimize impacts to the sensitive habitat.

However, for wildland fire protection, LA County Fire Department requires 200 feet of vegetative fuel management around structures on the property (County of Los Angeles Fire Department, 2011). This required fuel management is to occur in successive zones from the structure, including 20' (Zone A: Setback Zone), 20'-100' (Zone B: Irrigation/Transition Zone), and 100'-200' (Zone C: Native Brush Thinning Zone), with the degree of vegetative modification decreasing in zones farther away from the structure. The oak stands on the property, an H1 habitat, falls within the farthest, least invasive zone.

Commonly, wildfires in coast live oak stands burn as a low-intensity surface fire (Figure 1) due to lack of surface fuels in the oak understory and lack of understory vegetation climbing into the oak canopy (commonly referred to as “ladder fuels”). These stand characteristics are commonly caused by shade from the dense oak canopy precluding many plant species from establishing underneath the oak stands. However, fires in coast live oak can burn as a high-intensity crown fire (Figure 2), especially if adjacent to volatile chaparral or if many small fires simultaneously come together, which in both instances can cause enough heat to initiate combustion of the oak canopy.



*Figure 1. Surface fire burning under coast live oak stand. The fire was unable to transition into a crown fire due to lack of surface fuels and vertical continuity of understory vegetation into the oak canopy. Photo: C.A. Dicus*



*Figure 2. High-intensity crown fire burning in coast live oak. The fire transitioned into a crown fire following numerous smaller surface fires converging, which generated enough heat to transition into the oak canopy. Crown fires in coast live oak can also be initiated by heat from burning of adjacent, volatile chaparral. Photo: C.A. Dicus*

Coast live oak has developed a relatively rare adaptation for persistence on a site following a high-intensity crown fire via its ability to recover by epicormic sprouting on the main trunk or branches following consumption of the oak canopy (Figure 3) (Plumb & McDonald, 1981) (Dagit, 2002). Even if completely top-killed during a high-intensity fire, the species can recover via sprouting from the roots (Plumb T. R., 1980). This ability to sprout is predicated on the species' relatively thick bark, which protects both underlying latent buds and stores of carbohydrates in the root system (Cooper, 1922); larger coast live oak trees have greater potential for survival following fire because bark is thicker than in younger trees, providing more thermal protection for the buds underneath (Plumb & Gomez, 1983), thereby causing more basal sprouting. In general, mature oak trees fully recover from fire damage in approximately 10 years (Plumb & McDonald, 1981) (Dagit, 2002). However, repeated fires in intervals shorter than normal recovery times can hinder the sprouting recovery. Given the shortened interval between fires in many areas of the Santa Monica Mountains due to human ignitions, fuel could potentially help to preserve coast live oak stands there.



Figure 3. Epicormic sprouting on stem of coast live oak following crown fire. Photo: W.B. Armstrong

LA County Fire requires fuel modification, even in sensitive coast live oak stands, because of the potential for wildfires to burn with high intensity and subsequently threaten lives and property. However, fuel treatments do *NOT* equate to complete denudation of the vegetation, especially

in coast live oak stands, which regularly have low surface fuel loads and low vertical continuity of understory vegetation into the oak canopy.

For example, the community of Rancho Santa Fe in San Diego County implemented fuel treatments to lower risk of adjacent high-value homes there, which were implemented with strong initial resistance from community members and regulatory agencies (Dicus & Scott, 2006). However, the fuels modification resulted in negligible impacts to the living oaks because they implemented a “shaded fuel break”, which removed dead vegetation but did not touch the living oak canopy (Figures 4 and 5). I have also experienced a similar case in the community of Cambria in San Luis Obispo County, where there was again strong initial resistance for fuel treatments in coast live oak and Monterey pine stands by community members and regulatory agencies (Figure 6).



*Figure 4. Stands of native vegetation following a shaded fuel break in Rancho Santa Fe, California, illustrating minimal impact to the residual canopy. Photo: C.A. Dicus*



Figure 5. Underneath trees of shaded fuel break in Rancho Santa Fe, California, illustrating significant reduction of wildland fire hazard while protecting the existing tree canopy. Photo: C.A. Dicus



Figure 6. Shaded fuel break in coast live oak/Monterey pine forest in Cambria, California. Photo: C.A. Dicus

In both cases, the judicious management of vegetative fuels were seen to actually *improve* the natural resources in the sensitive habitats, largely because the treatments increased the amount of finite water and nutrients to the residual stand, which were greatly limiting to growth of the sensitive species. Thus, fuel treatments that do not impact coast live oak (such as a shaded fuel break), but instead targets competing species and dead woody debris, can simultaneously reduce fire risk and improve natural resource values.

This is especially of importance given the water needs of coast live oak, which is more susceptible to drought than other California oak (Callaway, 1990). Coast live oak grows best on mesic sites where water availability is high (Vila & Sardans, 1999), the requirement of which is most pronounced in the southern portion of its range such as the Santa Monica Mountains where water supply is more limited (Minnich R. A., 1987). Any treatments to the site, including fuel treatments, that remove competing vegetation will increase water supply to the coast live oaks, thus likely having a positive net effect to the residual stand.

This is particularly relevant given the drought California has experienced since 2012. This drought is most pronounced in an area that include the Santa Monica Mountains, which currently is in an “exceptional drought”, the most severe classification of drought per the US Drought Monitor (Figure 7) (U.S. Drought Monitor, 2017). The drought is expected to remain through the remainder of the traditional rainy season in southern California (Figure 8) (National Weather Service Climate Prediction Center, 2017)). Further, current climate change projections indicate a continued drying of California through the end of the century (Diffenbaugh, Swain, & Touma, 2015), which will significantly tax water-sensitive plant species such as coast live oak.

Given the recent mass tree mortality in the Sierra Nevada Mountains, which has killed over 100 million trees since the drought began, it should cause concern for water-sensitive tree species in the Santa Monica Mountains, including coast live oak.



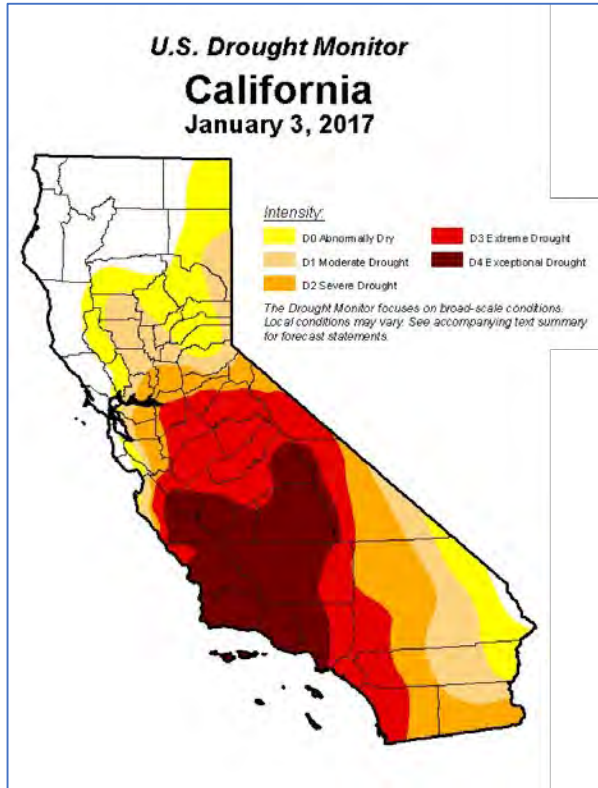


Figure 7. Drought in California as of January 2017. The Santa Monica Mountains remain in "Exceptional Drought", which is the most severe classification. Source: U.S. Drought Monitor

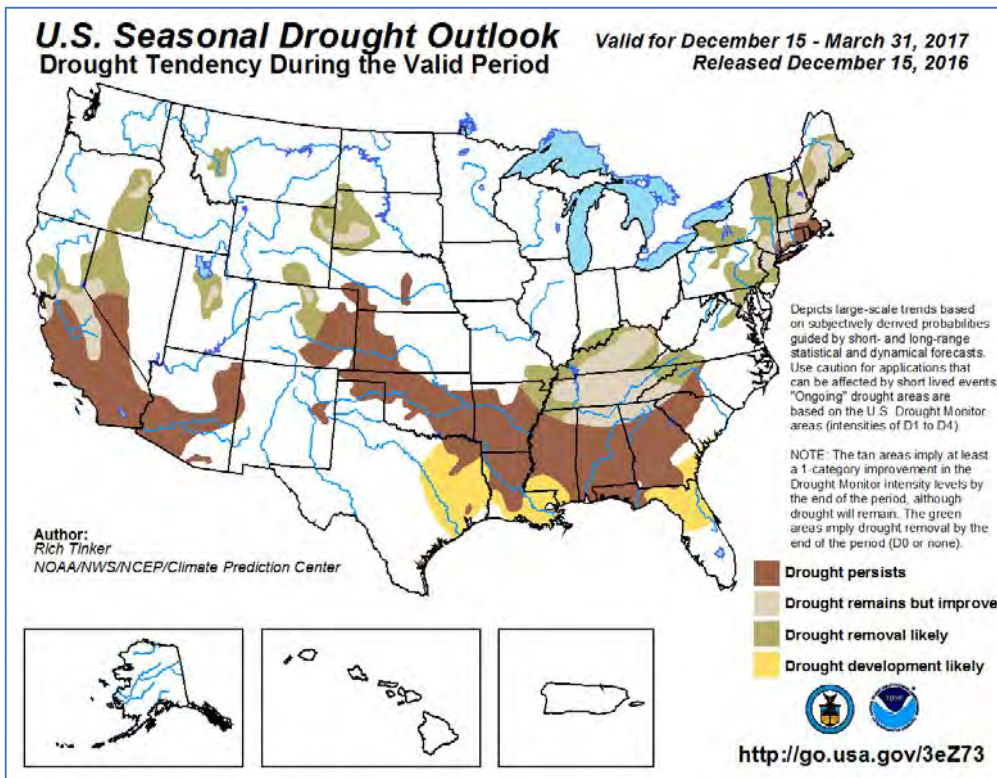


Figure 8. Current seasonal drought outlook, which illustrates drought in the Santa Monica Mountains to persistent. Source: National Weather Service Climate Prediction Center.

Given the above information, I visited the property at 3300 Kanan Dume Road on 9-December-2016, the site of the proposed homesite. I found that there will indeed be great need for implementing defensible space, especially in the chaparral located upslope of the proposed homesite (Figure 9) due to the high volatility of the shrub species and location in relation to Santa Ana winds, which commonly propel fires down canyon. That said, there would be minimal need for work in most of the coast live oak stands (an H1 habitat) due to deep shade that has precluded much of the competing vegetation and subsequent vertical fuel continuity into the canopy of the oak trees (Figure 10); this is especially true given that the location of the stands in relation to the proposed homesite would be in the farthest defensible space zone, which is the least invasive in terms of vegetative modification required by the Los Angeles County Fire Department.



*Figure 9. Volatile chaparral immediately upslope from proposed homesite. Photo: C.A. Dicus.*



*Figure 10. Coast live oak stand on the property, which is within the farthest and least invasive zone of defensible space required by LA County Fire. Note lack of understory vegetation, which is caused by deep shade under the oaks. Photo: C.A. Dicus*

Certainly, there will be need to modify some understory vegetation and downed woody debris, especially where isolated oaks or small oak groupings exist (Figure 11), but most of the material there is already dead and will have little impact to the coast live oaks. Further, the vegetation under these stands are not sensitive and their removal could actually help provide greater water availability to the oaks, which is especially pertinent if climate change forecasts prove true.



Figure 11. Isolated grouping of coast live oak, the lack of shade of which has facilitated understory vegetation in need of modification, which will simultaneously reduce fire risk and provide greater water availability to the oaks. Photo: C.A. Dicus

Goal CO-2 under Biological Resources Goals and Policies of the Santa Monica Mountains Land Use Plan (County of Los Angeles Department of Regional Planning, 2014), states that:

*“Sensitive Environmental Resource Areas shall be protected against any significant disruption of habitat values. Development in areas adjacent to Sensitive Environmental Resource Areas shall be sited and designed to prevent impacts which would significantly degrade these areas and shall be compatible with the continuance of the habitat.” (pg. 24)*

In my professional judgment, implementation of defensible space in the H1 habitat coast live oaks, which will be required by LA County Fire, will have negligible deleterious impacts to the coast live oak stands on the property at 3300 Kanan Dume Road, and if completed judiciously may actually improve habitat values for the oaks due to current and forecast drought, thereby meeting the aspirations of Goal CO-2 above.

## Works Cited

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Plumb, T. R., & McDonald, P. M. (1981). *Oak management in California. Gen. Tech. Rep. PSW-54*. Berkeley, CA: U.S. Department of Agriculture, Forest Service, Pacific Southwest Forest and Range Experiment Station.

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# Los Angeles County Department of Regional Planning

*Planning for the Challenges Ahead*



**Amy J. Bodek, AICP**  
Director

**Dennis Slavin**  
Chief Deputy Director

October 16, 2018

TO: David W. Louie, Chair  
Elvin W. Moon, Vice Chair  
Doug Smith, Commissioner  
Laura Shell, Commissioner  
Pat Modugno, Commissioner

FROM: Joshua Huntington, AICP  
Coastal Permits Section

ASH

**Project No. R2014-00461-(3) – Major Coastal Development Permit No. RCDP-201500099 Variance No. RCDP-201500100 - RPC Meeting: October 17, 2018 - Agenda Item: 8**

The above-mentioned item is a request to authorize the construction of a 8,724-sq. ft., 40-foot-tall single-family residence with an attached 1,290-sq. ft., five-car garage, and associated infrastructure including a 1,550-foot-long driveway, a motor court, landscaping, hardscaping, retaining walls, a private septic system, two water wells, two water tanks, 6,300 cubic yards of grading, a 9,000-sq. ft. building site area, and native tree impacts. Staff recommends denial.

Please find, enclosed, correspondence from Lisa Weinberg, attorney of an owner of a nearby property. This correspondence for the above referenced item was received on October 16, 2018, after the hearing package was submitted to the Regional Planning Commission.

If you need further information, please contact Joshua Huntington, AICP, at (213) 974 - 1522 or [jhuntington@planning.lacounty.gov](mailto:jhuntington@planning.lacounty.gov). Department office hours are Monday through Thursday from 7:00 a.m. to 6:00 p.m. The Department is closed on Fridays.

RG:JH

Enclosure(s): Correspondence from Lisa Weinberg, neighbor's attorney

FRED GAINES  
SHERMAN L. STACEY  
LISA A. WEINBERG\*  
REBECCA A. THOMPSON  
NANCI SESSIONS-STACEY  
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INTERNET: WWW.GAINESLAW.COM

\* a professional corporation

October 16, 2018

**Sent Via Email: [zoningldcc@planning.lacounty.gov](mailto:zoningldcc@planning.lacounty.gov)**

Los Angeles County Regional Planning Commission  
c/o Department of Regional Planning  
320 West Temple Street, 13th Floor  
Los Angeles, California 90012

Re: Los Angeles County Regional Planning Commission Hearing October 17, 2018  
Agenda Item No. 8  
Project No. R2014-00461-(3)  
3300 Kanan Road (APN 4465-002-023)

Dear Commissioners:

This law firm represents Deborah Scapara and Willowby Properties Trust. Enclosed is an exhibit which shows three neighboring lots, APN Nos. 4465-002-023 ("Parcel 23") (the parcel seeking approvals), 4465-002-028 ("Parcel 28"), and 4465-002-027 ("Parcel 27"), the latter of which is my clients' undeveloped parcel. Highlighted in yellow is an existing driveway/access road that pre-dates the construction of Kanan Road, and that historically has been used by the owners of these three lots to access their properties.

We have learned that the County on October 17, 2018 is considering approvals for a single-family home to the owner of nearby Parcel 23. One of the reasons for the staff recommending denial appears to be that Parcel 23 is accessed by an easement over this existing driveway/access road on Parcel 28 which exceeds 300 feet in length.

Even though the County's Santa Monica Mountains Local Coastal Program Local Implementation Program provides at §22.44.1920(C)(1)(c) that, under circumstances that exist here, the County may approve a variance to this standard, the County has, to date, refused to do so.

My clients are extremely concerned about this aspect of the County's decision. Like Parcel 23, our clients' lot is accessed from the same existing driveway easement over Parcel 28. As is evident from the attached exhibit, my clients' lot has *no other access to a public street*. Without the use of the easement over Parcel 28, my clients' lot, Parcel 27, is *landlocked*. The easement over Parcel 28 is



a way of necessity for Parcel 27. If the County denies the use of this easement to Parcel 23 and Parcel 27, this will constitute a taking of all economic use of Parcel 27 and my clients will be entitled to significant compensation.

When I received a copy of the Staff Report for this matter, I called Don Schmitz, who is listed as the project applicant. Mr. Schmitz told me that he had spoken to Josh Huntington at the Department of Regional Planning about this access issue as it affects Parcel 27, and that Mr. Huntington had said that the County would deal with the issue “down the road.” It is critical that the Planning Commission address this issue now as a refusal to allow use of the driveway/access road to Parcel 23 directly implicates the access to my clients’ lot, Parcel 27. My clients’ Parcel 27 will have no access and will be totally landlocked should the Planning Commission determine that the driveway/access road cannot be used, even with a variance, to support the development of the adjacent properties. The Staff Report should have included this information and dealt with the repercussions to all adjacent properties.

We ask that the County reject the Staff’s position regarding a variance for the use of the easement over Parcel 28 and grant approval to the owner of Parcel 23. Please do not hesitate to contact me at any time with any questions or comments you may have.

Sincerely,

GAINES & STACEY LLP

By   
LISA A. WEINBERG





# Los Angeles County Department of Regional Planning

*Planning for the Challenges Ahead*



**Amy J. Bodek, AICP**  
Director

**Dennis Slavin**  
Chief Deputy Director

October 16, 2018

TO: David W. Louie, Chair  
Elvin W. Moon, Vice Chair  
Doug Smith, Commissioner  
Laura Shell, Commissioner  
Pat Modugno, Commissioner

FROM: Joshua Huntington, AICP  
Coastal Permits Section

*JSH*

**Project No. R2014-00461-(3) – Major Coastal Development Permit No. RCDP-201500099 Variance No. RCDP-201500100 - RPC Meeting: October 17, 2018 - Agenda Item: 8**

The above-mentioned item is a request to authorize the construction of a 8,724-sq. ft., 40-foot-tall single-family residence with an attached 1,290-sq. ft., five-car garage, and associated infrastructure including a 1,550-foot-long driveway, a motor court, landscaping, hardscaping, retaining walls, a private septic system, two water wells, two water tanks, 6,300 cubic yards of grading, a 9,000-sq. ft. building site area, and native tree impacts. Staff recommends denial.

Please find, enclosed, correspondence from Wesley Horn, California Coastal Commission staff. This correspondence for the above referenced item was received on October 16, 2018, after the hearing package was submitted to the Regional Planning Commission.

If you need further information, please contact Joshua Huntington, AICP, at (213) 974 - 1522 or [jhuntington@planning.lacounty.gov](mailto:jhuntington@planning.lacounty.gov). Department office hours are Monday through Thursday from 7:00 a.m. to 6:00 p.m. The Department is closed on Fridays.

RG:JH

Enclosure(s): Correspondence from Wesley Horn, California Coastal Commission staff

## CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA  
89 SOUTH CALIFORNIA ST., SUITE 200  
VENTURA, CA 93001  
(805) 585-1800



October 16, 2018

Joshua Huntington  
Principal Planner  
Los Angeles County Department of Regional Planning  
320 W. Temple Street  
Los Angeles, CA 90012

Dear Mr. Huntington:

We have reviewed the hearing materials for the Coastal Development Permit (CDP) and variance that will be considered by the Los Angeles County (County) Regional Planning Commission on October 17, 2018 for proposed development at 3300 Kanan Dume Road. We would like to offer the following comments regarding CDP Application No. RCDP-201500099 and Variance No. RCDP-201500100.

The subject permit application proposes a three story, 8,724 sq. ft., 40 ft. tall single-family residence with an attached 1,209 sq. ft., 20 ft. tall, five-car garage, and associated infrastructure including a 1,550 ft. driveway, a motor court, landscaping, hardscaping, retaining walls, a private septic system, two water wells, two water tanks, 6,300 cubic yards of grading, and the removal and/or encroachment of native trees. The variance is requested because: the proposed 1,550 ft. long driveway exceeds the 300 ft. limitation of the certified Local Coastal Program (LCP); the proposed structure height of 40 ft. exceeds the 18 ft. height limitation for new development within Scenic Resources Areas (SRAs); and the location of the proposed private septic system is within the protected zone of an oak tree.

The proposed development is inconsistent with a number of policies and provisions of the certified LCP related to the protection of biological resources, scenic resources, and landform alteration. In addition, the variance findings cannot be made and there appear to be feasible siting and design alternatives available that would be consistent with the policies and provisions of the LCP. We concur with County staff's recommendation of denial of the project. Thank you for your consideration of our comments. Please feel free to contact me if you have questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Wesley Horn'.

Wesley Horn  
Coastal Program Analyst



# Los Angeles County Department of Regional Planning

*Planning for the Challenges Ahead*



**Amy J. Bodek, AICP**  
Director

**Dennis Slavin**  
Chief Deputy Director

October 16, 2018

TO: David W. Louie, Chair  
Elvin W. Moon, Vice Chair  
Doug Smith, Commissioner  
Laura Shell, Commissioner  
Pat Modugno, Commissioner

FROM: Joshua Huntington, AICP  
Coastal Permits Section

**Project No. R2014-00461-(3) – Major Coastal Development Permit No. RCDP-201500099 Variance No. RCDP-201500100 - RPC Meeting: October 17, 2018 - Agenda Item: 8**

The above-mentioned item is a request to authorize the construction of a 8,724-sq. ft., 40-foot-tall single-family residence with an attached 1,290-sq. ft., five-car garage, and associated infrastructure including a 1,550-foot-long driveway, a motor court, landscaping, hardscaping, retaining walls, a private septic system, two water wells, two water tanks, 6,300 cubic yards of grading, a 9,000-sq. ft. building site area, and native tree impacts. Staff recommends denial.

Please find, enclosed, correspondence from Stanley Lamport, attorney for the owner of the subject property. This correspondence for the above referenced item was received on October 16, 2018, after the hearing package was submitted to the Regional Planning Commission.

If you need further information, please contact Joshua Huntington, AICP, at (213) 974 - 1522 or [jhuntington@planning.lacounty.gov](mailto:jhuntington@planning.lacounty.gov). Department office hours are Monday through Thursday from 7:00 a.m. to 6:00 p.m. The Department is closed on Fridays.

RG:JH

Enclosure(s): Correspondence from Stanley Lamport, owner's attorney



Cox, Castle & Nicholson LLP  
2029 Century Park East, Suite 2100  
Los Angeles, California 90067-3284  
P: 310.284.2200 F: 310.284.2100  
Stanley W. Lamport  
310.284.2275  
slamport@coxcastle.com

File No. 78759

October 16, 2018

**VIA EMAIL DELIVERY**

Joshua Huntington, AICP  
Principal Regional Planner  
County of Los Angeles  
Department of Regional Planning  
320 West Temple Street  
Los Angeles, CA 90012

**Re: Project No: R2014-00461-(3) - October 17, 2018 Agenda**  
**3300 S. Kanan Road**

Dear Mr. Huntington:

We represent Gregory and Susan Kay (the "Kays"), owners of property located at 3300 S. Kanan Dume Road in Malibu, California (the "Kay Property") in connection with project referenced above

In reviewing the staff analysis, we note that there is a claim that the Kays have the ability to locate their project on a portion of the Kay Property, which does not have any vehicular access. In particular, we note that the discussion of Policy CO-99 consistency states, "There are other areas of the subject property less populated with native trees that could be explored for access and development opportunities that would reduce impacts to native trees relative to the existing proposed project." With respect to Policy CO-128, the staff analysis states that impacts could be significantly reduced by "clustering the building site area with the development on property to the north."

The only way to access a building site on Kay Property that is to the north of the proposed building site would be through the property at 2900 Kanan Dume Road, which is immediately north of the Kay Property. Fred Segal and the Fred Segal Trust own the property at 2900 Kanan Dume Road ("Segal Property"). The Kays do not have any easement rights over the Segal Property.

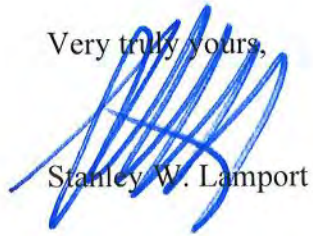
We have made numerous efforts to reach the owners of Segal Property over many months. In June 2018, I finally spoke to Michael Segal, who oversees the Segal family's interests in the Segal Property. I asked Mr. Segal if the owners would grant an easement over the Segal Property to the Kays in order to allow the Kays to seek Los Angeles County approval to construct a new single family residence in portion of their property that can only be accessed

Joshua Huntington, AICP  
October 16, 2018  
Page 2

from the Segal Property. Mr. Segal informed me that the owners will not grant an easement and have no interest in doing so.

Mr. Segal referred me to the Segal Property owners' lawyer, who reaffirmed their refusal to grant an easement for the benefit of the Kay Property. Attached is a copy of my letter to the Segal Property owners' counsel confirming their position. I reviewed the letter with the Segal Property owners' counsel before I sent it to him.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Stanley W. Lamport", is written over the typed name.

Stanley W. Lamport

SWL/rsl  
Enclosure  
078759\10142879v1



**Cox, Castle & Nicholson LLP**  
2029 Century Park East, Suite 2100  
Los Angeles, California 90067-3284  
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310.284.2275  
slamport@coxcastle.com

File No. 078759

October 16, 2018

**VIA E-MAIL AND U.S. MAIL**

Edgar Khalatian, Esq.  
Mayer Brown  
350 South Grand Avenue  
25th Floor  
Los Angeles, CA 90071-1503

Re: 2900 Kanan Dume Road - Request for Easement

Dear Mr. Khalatian:

Thank you for speaking to me about this matter. This firm represents Gregory and Susan Kay, who own the property located at 3300 Kanan Dume Road. We understand that your clients, Fred Segal and the Fred Segal Trust, own the property located at 2900 Kanan Dume Road ("Segal Property"), which is immediately north of the Kays' property.

Earlier this year, I spoke with Michael Segal, who we understand oversees the Segal family's interests in the Segal Property. I asked if your clients would grant an easement to the Kays in order to allow the Kays to seek Los Angeles County approval to construct a new single family residence in a location on their property that can only be accessed through the Segal Property. Mr. Segal informed me that your clients will not grant an easement and have no interest in doing so. As of the date of this letter, it is our understanding that this remains your clients' position.

Mr. Segal has since informed me that you represent the family's interests with respect to the Segal Property. As required by the California Rules of Professional Conduct, I am addressing this letter to you.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Stanley W. Lamport".

Stanley W. Lamport

SWL

078759\10139557v2

cc: Mr. Donald W. Schmitz II  
Monica R. Briseno, Esq.





# Los Angeles County Department of Regional Planning

*Planning for the Challenges Ahead*



**Amy J. Bodek, AICP**  
Director

**Dennis Slavin**  
Chief Deputy Director

October 4, 2018

TO: David W. Louie, Chair  
Elvin W. Moon, Vice Chair  
Doug Smith, Commissioner  
Laura Shell, Commissioner  
Pat Modugno, Commissioner

FROM: Joshua Huntington, AICP  
Coastal Permits Section

*JSH*

**Project No. R2014-00461-(3) - Coastal Development Permit No. RCDP-201500099 -  
Variance No. RCDP-201500100 - RPC Meeting: October 17, 2018 - Agenda Item: 8**

The above-mentioned item is a recommendation to deny a request to construct a 8,724 sq. ft., 40-foot tall single-family residence with an attached 1,290 sq. ft., five-car garage, and associated infrastructure including a 1,550 ft. driveway, a motor court, landscaping, hardscaping, retaining walls, a private septic system, two water wells, two water tanks, 6,300 cubic yards of grading, and native tree impacts including the removal of one oak, one black walnut, and one toyon, as well as encroachments into the protected zones of 122 oaks, one bigpod ceanothus, one big-leaf maple trees, and one toyon.

A staff report is not available at this time due to the complexity of the case and the need for additional internal review. The staff report will be forwarded to your Commission next week.

If you need further information, please contact Joshua Huntington at (213) 974-1522 or [jhuntington@planning.lacounty.gov](mailto:jhuntington@planning.lacounty.gov).

RG:JH

Enclosure(s): Project Summary



Department of Regional Planning  
 320 West Temple Street  
 Los Angeles, California 90012

**PROJECT NUMBER**

R2014-00461-(3)

**HEARING DATE**

October 17, 2018

**REQUESTED ENTITLEMENTS**

Coastal Development Permit No. RCDP-201500099,  
 Variance No. RCDP-201500100

**PROJECT SUMMARY**

**OWNER / APPLICANT**

Gregory and Susan Kay / Don Schmitz

**MAP/EXHIBIT DATE**

August 15, 2017

**PROJECT OVERVIEW**

Recommendation to deny a request to construct a 8,724 sq. ft., 40-foot tall single-family residence with an attached 1,290 sq. ft., five-car garage, and associated infrastructure including a 1,550 ft. driveway, a motor court, landscaping, hardscaping, retaining walls, a private septic system, two water wells, two water tanks, 6,300 cubic yards of grading, and native tree impacts including the removal of one oak, one black walnut, and one toyon, as well as encroachments into the protected zones of 122 oaks, one bigpod ceanothus, one big-leaf maple trees, and one toyon.

**LOCATION**

3300 Kanan Dume Road, within the Santa Monica Mountains Coastal Zone

**ACCESS**

Kanan Dume Road, via a private easement across APN 4465-002-028

**ASSESSORS PARCEL NUMBER(S)**

4465-002-023

**SITE AREA**

6.61 gross acres / 3.45 net acres

**LOCAL PLAN**

Santa Monica Mountains LCP Land Use Plan

**ZONED DISTRICT**

The Malibu

**LAND USE DESIGNATION**

RL20 (Rural Lands 20 – Maximum density of one dwelling unit per 20 acres)

**ZONE**

R-C-20 (Rural-Coastal – 20 Acre Minimum Required Lot Area)

**PROPOSED UNITS**

1

**MAX DENSITY/UNITS**

1

**SUPPLEMENTAL DISTRICT**

Santa Monica Mountains Local Implementation Program

**ENVIRONMENTAL DETERMINATION (CEQA)**

No CEQA determination required for a denial.

**KEY ISSUES**

- Consistency with the Santa Monica Mountains LCP Land Use Plan
- Satisfaction of the requirements of following Section(s) of Title 22 of the Los Angeles County Code:
  - 22.44.600 et seq. (Santa Monica Mountains Local Implementation Program)

**CASE PLANNER:**

Joshua Huntington, AICP

**PHONE NUMBER:**

(213) 974-1522

**E-MAIL ADDRESS:**

[jhuntington@planning.lacounty.gov](mailto:jhuntington@planning.lacounty.gov)