

## REPORT TO THE REGIONAL PLANNING COMMISSION

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DATE ISSUED: July 25, 2024

HEARING DATE: August 7, 2024                      AGENDA ITEM:  
7

PROJECT NUMBER: 04-035-(1)

PERMIT NUMBER(S): Tentative Tract Map No. 060973  
Conditional Use Permit No. RCUP-200800169  
Oak Tree Permit No. RPPL2021002541  
Environmental Assessment No. RPPL2021002622

SUPERVISORIAL DISTRICT: 1

PROJECT LOCATION: 2342 Via Cielo, Hacienda Heights

OWNER: Arturo & Juanita Barrerra

APPLICANT: Arturo & Juanita Barrerra

PUBLIC MEETINGS HELD: 4 OF 5

INCLUSIONARY HOUSING ORDINANCE (“IHO”): The Project is not subject to the IHO because it was deemed complete prior to the effective date of the IHO.

CASE PLANNER: Alejandrina Baldwin, Principal Planner  
abaldwin@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 **APPROVAL** of Project Number 04-035-(1), Tentative Tract Map No. 060973, Conditional Use Permit No. RCUP-200800169, Oak Tree Permit No. RPPL2021002541 based on the Findings (Exhibit C – Findings) contained within this report and subject to the Draft Conditions of Approval (Exhibit D – Conditions of Approval).

Staff recommends the following motion:

#### CEQA:

**I MOVE THAT THE REGIONAL PLANNING COMMISSION CLOSE THE PUBLIC HEARING AND ADOPT THE MITIGATED NEGATIVE DECLARATION AND THE MITIGATION**

PROJECT NO. 04-035-(1)  
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August 7, 2024  
PAGE 2 OF 14

MONITORING AND REPORTING PROGRAM FOR THE PROJECT PURSUANT TO STATE AND LOCAL CEQA GUIDELINES.

**ENTITLEMENTS:**

I MOVE THAT THE REGIONAL PLANNING COMMISSION APPROVE TENTATIVE TRACT MAP NO. 060973, CONDITIONAL USE PERMIT NO. 200800169, AND OAK TREE PERMIT NO. RPPL2021002541 SUBJECT TO THE ATTACHED FINDINGS AND CONDITIONS.

**PROJECT DESCRIPTION**

**A. Entitlements Requested**

- Tentative Tract Map No. 060973 to create 10 residential lots on 12.35 gross (10.5 net) acres pursuant to County Code Section 21.40.010 (Tentative Maps), Section 21.52.010 (Modification or Waiver of Provisions in this Title Authorized When) and Section 21.52.010 (Modifications to Access and Frontage Requirements).
- Conditional Use Permit (“CUP”) for the development of eight new building pads within a non-urban hillside management area pursuant to the pre-2015 update of County’s Hillside Management Area ordinance [as of 2011 Section 22.56.215 (Hillside Management and Significant Ecological Areas-Additional Regulations); current reference and not applicable to project is County Code Chapter 22.104 (Hillside Management Areas)]; and to allow over-height retaining walls within required yards pursuant to County Code Section 22.110.070 (Fences and Walls) in the A-1 (Light Agricultural) zone.
- Oak Tree Permit (“OTP”) for the encroachment into the protected zone of nine non-heritage oak trees pursuant to County Code Chapter 22.174 (Oak Tree Permits).

**NOTE:** The Project was deemed complete on January 11, 2011 and therefore analyzed pursuant to the regulations in effect at that time. In addition to substantive County Code amendments which are described herein, the 2011 references to sections of Title 22 (Planning and Zoning) of the County Code, were revised under the 2019 Technical Update. When the language in effect in 2011 and today are the same, references to current County Code sections are used to minimize confusion. If the language from 2011 and today is different, the applicable County Code section reference is used.

**B. Project**

Tentative Tract No. 060973 and Exhibit “A” Map dated August 31, 2021, is a request to create 10 residential lots to accommodate eight new building pads on 12.35 gross acres (10.5 net acres). The two existing single-family residences (“SFRs”) and detached garages will remain on proposed Lot Nos. 6 and 10. The 10 proposed lots range in size from approximately one gross acre (43,889 gross square feet) to 2.1 gross acres (92,959 gross square feet). Each lot provides a buildable pad area that ranges in size from 7,746 to 13,841 square feet. All the buildable pads combined total approximately 2.46 acres

(106,932 square feet). All areas outside of the buildable pads on each lot are designated as protected open space, meeting the minimum 70% net area requirement for a non-urban hillside management project. The Project includes a total of eight acres (351,201 square feet) of protected open space (76.7% of the net Project area).

The Project includes 176.22 feet of public street frontage only for Lot No. 6 along Vallecito drive, a 60-foot-wide limited secondary highway on the County Master Plan of Highways. The Project includes a request to waive the street frontage requirement because only Lot No. 6 will have public street frontage. All other lots will front, and have ingress/egress from the internal 40-foot-wide paved private driveway and fire lane connected to Vallecito Drive.

This 40-foot-wide private driveway and fire lane includes a 20-foot-wide fire lane and fire truck turnaround at the west end of the Project. A 24-foot-wide emergency-only private driveway and fire lane connects the fire truck turnaround to Via Cielo, where there is a gate and Knox box for emergency access. No gate is proposed at the main east end of the private driveway and fire lane (between the Project and Vallecito Drive). The 40-foot-wide private driveway and fire lane has also been designed to accommodate parking on one side in certain areas, outside of the interior 20-foot-wide fire lane, as depicted on the tentative map. The 40-foot-wide private driveway and fire lane is supported by various retaining walls, which are proposed within the front yard setback areas that vary from one foot to 15 feet in height. Portions of the retaining wall that will be six or more feet in height will be screened with vegetation and trees along Lot Nos. 7, 8 and 10.

The Project Site has a total of 29 non-heritage oak trees located throughout the property and nine of them will be encroached upon by proposed grading, development of a building pads and development of the private driveway and fire lanes. There are no heritage oak trees on the Project Site and no oak tree removals are proposed.

Project grading includes a total of approximately 22,200 cubic yards (“cy”) of earthwork, including 11,100 cy of cut and 11,100 cy of fill to be balanced onsite.

### **C. Project Background**

The Project was previously before the Regional Planning Commission (“Commission”). The Project was before the Commission at a public hearing held on October 17, 2012. At this hearing, the applicant and five neighbors, who all spoke in opposition of the Project, provided public testimony. The Commission continued the public hearing to December 12, 2012, to allow staff, County Department of Public Works, and the applicant time to address outstanding issues regarding the proposed open space, grading and retaining walls, and respond to the Commission’s recommendations regarding the tentative map. The owner was present but did not make public comments.

On December 12, 2012, the Commission continued the matter to March 13, 2013, to allow the applicant sufficient time to submit the requested information and materials, as further described below. Staff was directed to provide a letter to the applicant including a comprehensive list of the items required for case review, including a revised open space map, details on grading amounts, and location and heights of retaining walls.

Staff sent a letter dated January 7, 2013, to the applicant at the time, Michael Maxwell, along with copies to the property owner, the property owner's son, the Hacienda Heights Improvement Association, and neighbors who testified at the October 17, 2012, public hearing. In addition, Staff mailed a letter with information regarding the availability of additional project exhibits and maps related to the subject property to those listed on the courtesy mailing list.

This January 7, 2013, letter stated that there were several issues that needed clarification. These included the depiction of the proposed open space, management and placement of spoil material, delineation of proposed building pads, description of additional/revised grading amounts, and clarification of the inconsistent oak tree protected zones between the aerial photos and the depictions on the maps. The letter also requested photo simulations showing the height and length of the proposed walls from different points.

At the March 13, 2013, continued public hearing, the Commission continued the Project off calendar due to inconsistent and lack of information from the applicant. Staff was unable to evaluate the feasibility of the Project with the application materials submitted at that time. The Commission requested the Project go back to the County Subdivision Committee with the additional requested information.

Since the March 13, 2013, public hearing, the owner and a new project team submitted five revisions of the Tentative Map and Exhibit "A" to the County Subdivision Committee. These maps depicted grading amounts, pad locations, and open space information. Various other materials have also been submitted, including wall exhibits, an oak tree report and exhibit, and burdens of proof.

The Project was deemed complete on January 11, 2011, and the updated Hacienda Heights Community Plan went into effect on June 21, 2011. As the Project was deemed complete prior to the effective date of the updated Hacienda Heights Community Plan ("2011 Community Plan") and subsequent East San Gabriel Valley Area Plan ("ESGVAP"), effective June 20, 2024, the Project is subject to the land use and policies outlined within the 1978 Hacienda Heights Community Plan ("1978 Community Plan") then in effect on January 11, 2011.

PROJECT NO. 04-035-(1)  
 TENTATIVE TRACT MAP NO. 060973  
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 ENVIRONMENTAL ASSESSMENT NO. RPPL2021002622

August 7, 2024  
 PAGE 5 OF 14

**SUBJECT PROPERTY AND SURROUNDINGS**

The following chart provides property data within a 500-foot radius:

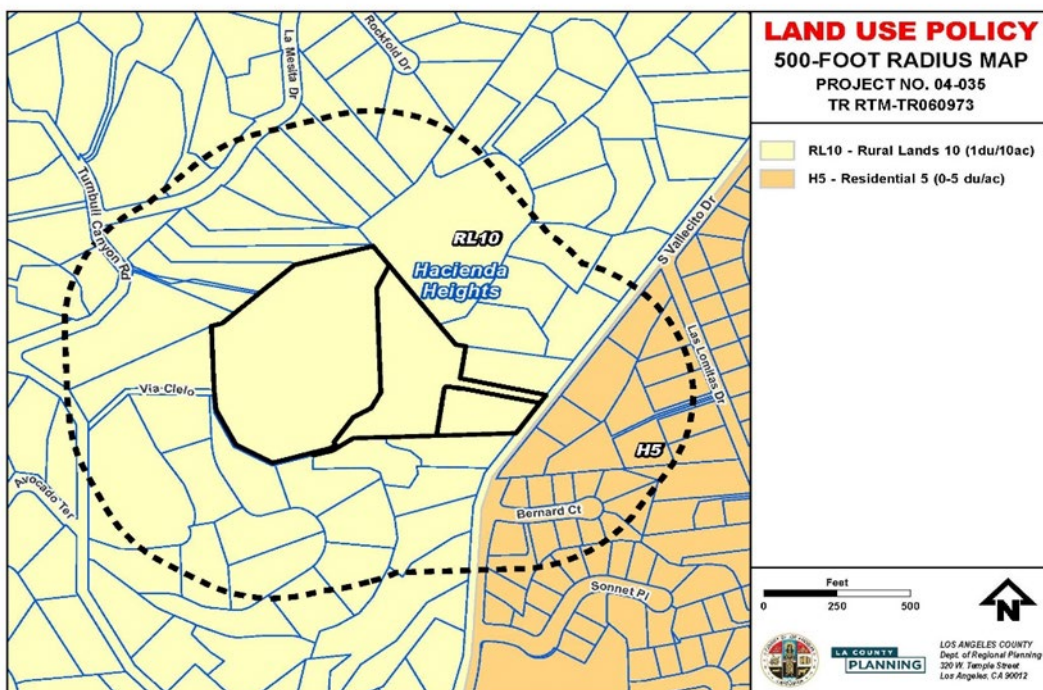
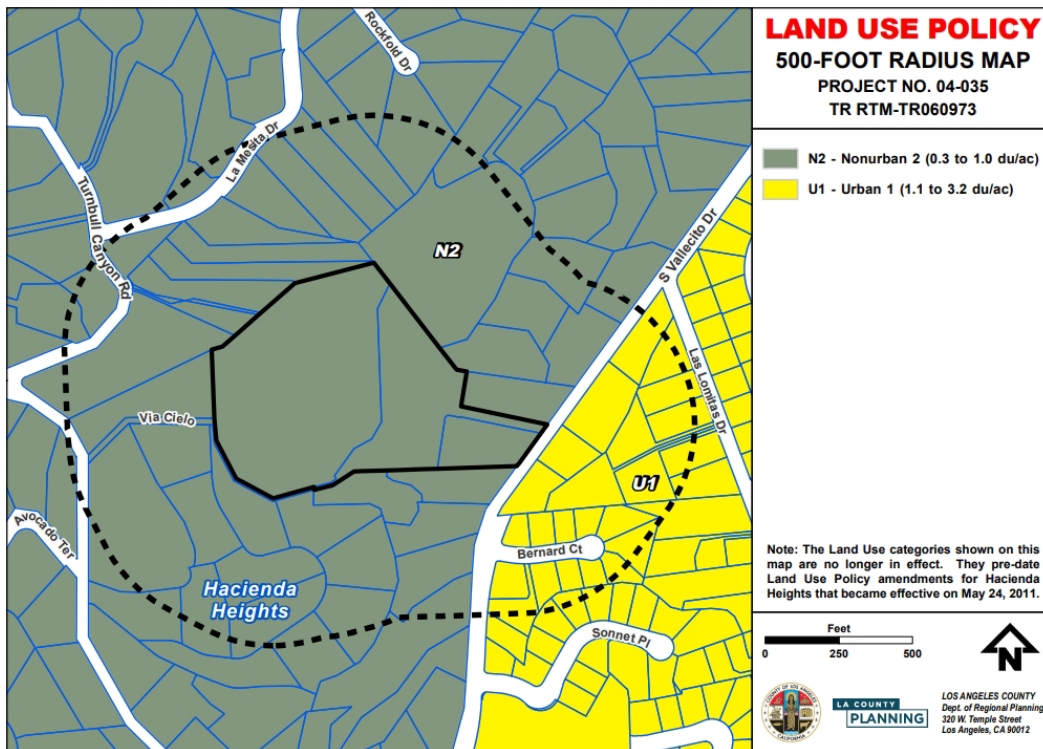
\* The Project is analyzed under the 1978 Community Plan. Surrounding land use policy are listed as currently in effect under the ESGVAP.

LOCATION	APPLICABLE LAND USE POLICY*	ZONING	EXISTING USES
SUBJECT PROPERTY	Applicable to Project: N2 (Non-Urban 2 – 0.3 to 1.0 Dwelling Units per Net Acre)  Currently: RL10 (Rural Lands 10 - Maximum One Dwelling Unit Per 10 Acres)	A-1-1 (Light Agricultural – One Acre Minimum Required Lot Area)	Two detached SFRs and detached garages
NORTH	RL10	A-1-1	SFRs
EAST	H5 (Residential 5 – 0 to 5 Dwelling Units Per Acre)	R-1-20,000 (Single-Family Residence - 20,000 Square Feet Minimum Required Lot Area)	SFRs
SOUTH	RL10	A-1-1	SFRs
WEST	RL10	A-1-1	SFRs



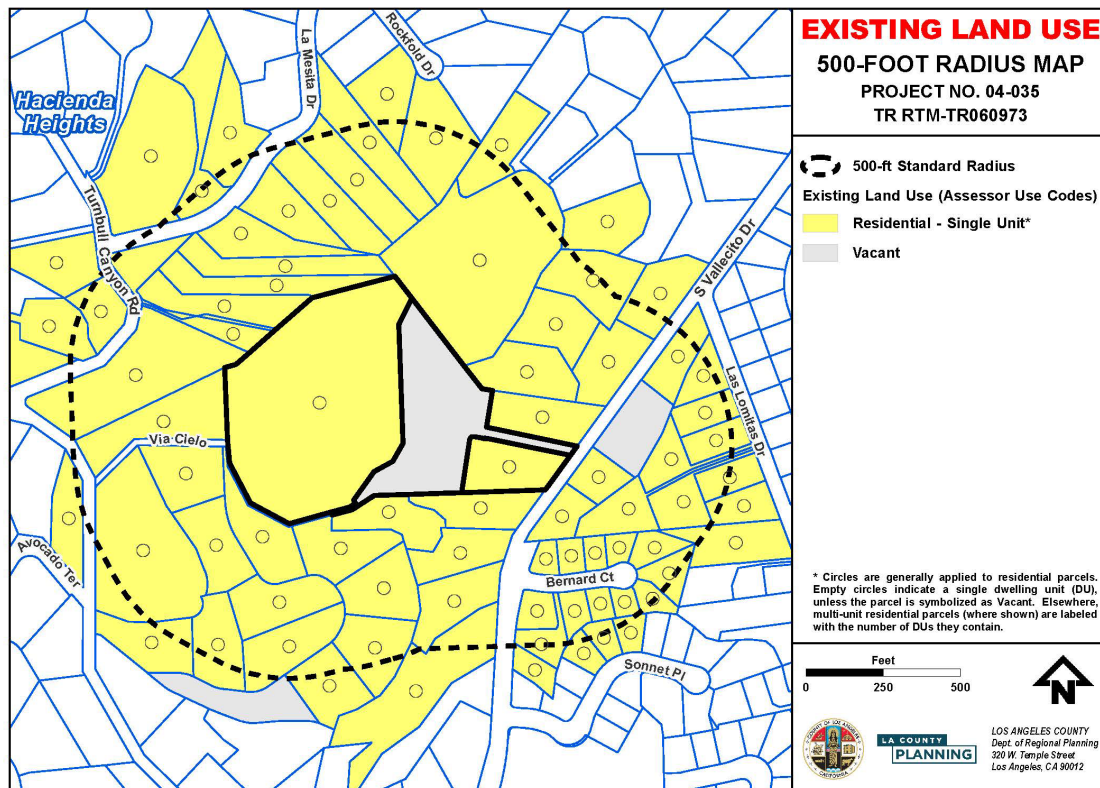
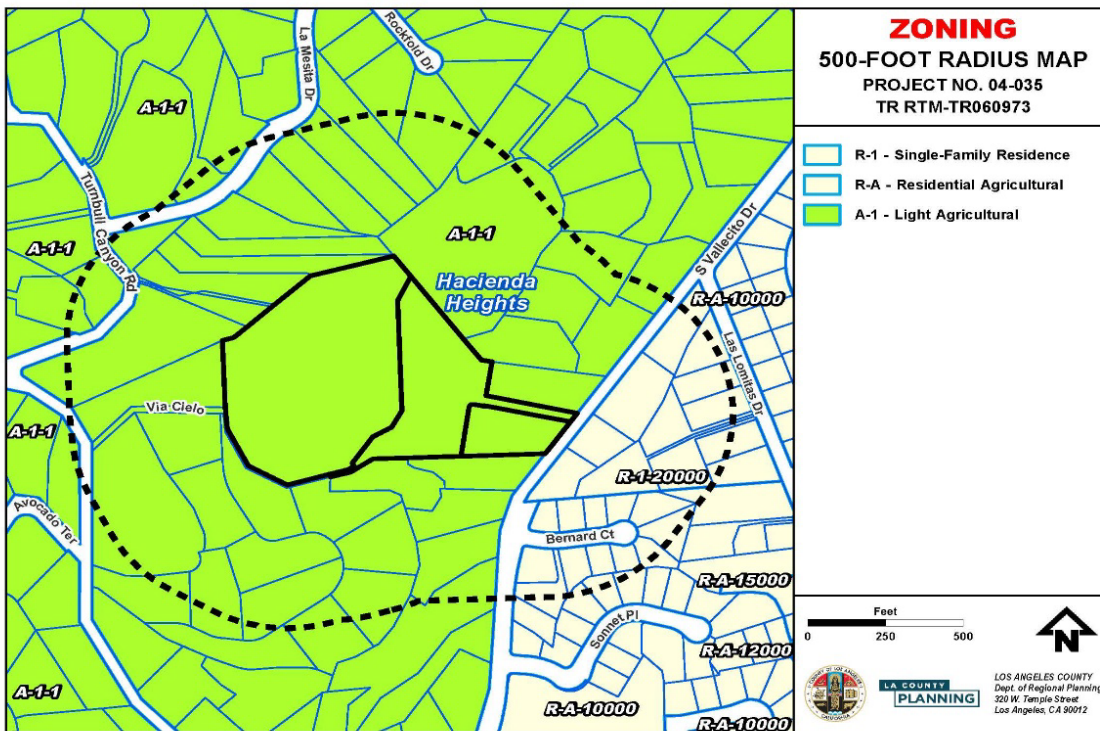
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 OAK TREE PERMIT NO. RPPL2021002541  
 ENVIRONMENTAL ASSESSMENT NO. RPPL2021002622

August 7, 2024  
 PAGE 6 OF 14



PROJECT NO. 04-035-(1)  
 TENTATIVE TRACT MAP NO. 060973  
 CONDITIONAL USE PERMIT NO. RCUP-200800169  
 OAK TREE PERMIT NO. RPPL2021002541  
 ENVIRONMENTAL ASSESSMENT NO. RPPL2021002622

August 7, 2024  
 PAGE 7 OF 14





PROJECT NO. 04-035-(1)  
 TENTATIVE TRACT MAP NO. 060973  
 CONDITIONAL USE PERMIT NO. RCUP-200800169  
 OAK TREE PERMIT NO. RPPL2021002541  
 ENVIRONMENTAL ASSESSMENT NO. RPPL2021002622

August 7, 2024  
 PAGE 8 OF 14

**PROPERTY HISTORY**

**A. Zoning History**

ORDINANCE NO.	ZONING	DATE OF ADOPTION
201000004z	A-1-1 Zoning	5/24/2011
10877	Creation of Hacienda Heights Zone District	4/09/1974

**B. Previous Cases**

CASE NO.	REQUEST	DATE OF ACTION
RPPL2021010715	Second floor addition to existing SFR on proposed Lot No. 6	Approved 10/18/2021
Project No. 89311 / Tentative Parcel Mpa No. 21084	To create four single-family lots on 4.21 acres, a CUP for hillside management, and Negative Declaration	Approved 12/11/1990 Amended 8/18/1992 Expired 12/12/1997
Project No. 87567 / Tentative Tract Map No. 46010	To create six single-family lots on 7.86 acres, a CUP for hillside management and a Mitigated Negative Declaration	Approved 11/13/1990 Expired 11/13/1995
Tentative Tract Map No. 2421 (Map Book 24, pages 15-18)	Adopted by Ordinance No. 5122 on 5/25/1948 and became effective 6/21/1948	

**C. Violations**

CASE NO.	VIOLATION	CLOSED/OPEN
None		

**ANALYSIS**

**A. Land Use Compatibility**

The Project was deemed complete on January 11, 2011, prior to the effective date of the updated 2011 Community Plan. The applicant chose to be subject to the 1978 Community Plan in effect at the time the Project was deemed complete, where the Project Site was in the land use category of N2 that provides a maximum density potential of 12 dwelling units on the Project site of 12.35 gross acres. The land use designation of the Project Site under the 2011



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CONDITIONAL USE PERMIT NO. RCUP-200800169  
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ENVIRONMENTAL ASSESSMENT NO. RPPL2021002622

August 7, 2024  
PAGE 9 OF 14

Community Plan and ESGVAP is RL 10 (Rural Lands 10 - Maximum One Dwelling Unit Per 10 Acres) with a maximum density of one dwelling unit on the Project Site.

The Project maximum density is reduced from 12 to 10 dwelling units pursuant to the applicable Hillside Management Ordinance ("HMO"). The Project Site includes slopes with a grade over 25% and therefore is subject to the regulations of the HMO. This Project is subject to the HMO in effect in 2011, prior to the 2015 update. Therefore the density maximum is further calculated using slope categories of 0 to 25%, 25 to 50%, and 50% plus. Based on the Project's slope density analysis, with different densities for the 0 to 25% (eight acres), 25 to 50% (four acres), and over 50% (0.30 acres) slope categories, the subject property yields a maximum of 10 dwelling units. The Project proposes 10 residential lots, which is consistent with the maximum density calculation per the HMO. The Project requires a CUP since the 10 residential lots proposed exceed the HMO low-density threshold of 1.81 dwelling units. As part of compatibility within non-urban hillside design criteria, the Project is required to provide a minimum of 70% open space per what was then County Code Section 22.52.215 (Hillside Management and Significant Ecological Areas). The Project includes eight acres (351,201 square feet) of permanent protected open space (76.7%) consisting of disturbed and undisturbed areas. All of the area outside of a delineated buildable pad within each lot is designated as protected open space. Future property owners of each lot will be required to maintain these areas as protected open space and the final map will indicate this area as a restricted use area.

The Project design of 10 single-family lots, with average lot sizes of one acre, and protected open space outside of the delineated buildable pads, is compatible with the surrounding developed neighborhood. The Project will also maintain the existing oak woodland by limiting encroachment into nine non-heritage oak trees and no removals.

## **B. Neighborhood Impact (Need/Convenience Assessment)**

The Project is designed with a development pattern that is similar to the existing surrounding neighborhood and community, which has detached SFRs and attached or detached garages. Existing residences within the Project are proposed on flat portions of the lots and near narrow public rights-of-way that curve around the neighborhood in varying slopes. The protection of open space within each lot, rather than a clustered development with separate large open space lots, will allow for a similar design development pattern to that of the existing neighborhood. Protected open space areas between structures will also allow for natural wildlife movement and preservation of the existing oak woodland. The oak trees on the Project Site will not be removed, further supporting the health and preservation of the existing oak woodlands on the Project Site. The over-height retaining walls proposed along the private driveway and fire lane will have tree plantings in front to visually soften their appearance. The adjacent developments have similar retaining walls along the public rights-of-way. The Project will be required to maintain vegetation in compliance with the fuel modification plan and requirements for areas within Very High Fire Hazard Severity Zones, and the new

PROJECT NO. 04-035-(1)  
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CONDITIONAL USE PERMIT NO. RCUP-200800169  
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ENVIRONMENTAL ASSESSMENT NO. RPPL2021002622

August 7, 2024  
PAGE 10 OF 14

emergency only private driveway and fire lane from the internal driveway system to Via Cielo will include a Knox box and gate to only be used for future fire fighting needs. The design, location of, and access to each lot of the Project and the Project as a whole is subject to regulations adopted by the State Board of Forestry and Fire Protection, pursuant to sections 4290 and 4291 of the Public Resources Code. Structural fire protection and fire suppression services will be available for the Project through the County Fire Department. The Internal private driveway and fire lane will include a Fire Truck turnaround and emergency access driveway to Via Cielo. County Fire Department will have access to the gated driveway and the end of Via Cielo emergency access driveway through a Knox Box.

### **C. Design Compatibility**

The 10 proposed residential lots range in size from approximately 0.92 net acres (40,005 square feet) to 1.75 net acres (76,262 net square feet). The proposed lot sizes are compatible with the surrounding community, which has similar lot sizes. Parcels with existing development to the north, west, and south of the Project Site average approximately one acre in size. Furthermore, lots to the east of the Project Site are comparable ranging from approximately 20,000 to approximately 40,000 square feet in size.

Conditions of approval for the CUP will limit the buildable area of each lot to the delineated buildable pads that range in size from 7,745 to 12,208 square feet (average of 10,693 square feet). The area outside of the buildable pads will be maintained as protected open space. The design of protected open space within each lot is compatible with the existing development in the neighborhood. The proposed grading will be balanced on site and no earthwork will be imported or exported. Development of SFRs will be restricted to the delineated buildable pads and will have to comply with current development standards. The private driveway and fire lane has also been designed to accommodate parking on one side in certain areas, as depicted on the tentative map.

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

The Project is consistent with applicable goals and policies of the 1978 Community Plan, a component of the General Plan. Consistency findings can be found in the attached Findings (Exhibit C – Findings).

### **HOUSING ACCOUNTABILITY (“HAA”) AND HOUSING CRISIS (“SB330”) ACTS**

The HAA applies to this Project. The HAA limits a local government’s ability to deny, downsize, or render infeasible housing development projects containing either affordable or market-rate units. For a project to qualify for the protections included in the HAA, it must meet the definition of a housing development project. This Project qualifies as a housing development project because it consists of more than one residential unit and is consistent with the General Plan, Zoning, and development standards.

PROJECT NO. 04-035-(1)  
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CONDITIONAL USE PERMIT NO. RCUP-200800169  
OAK TREE PERMIT NO. RPPL2021002541  
ENVIRONMENTAL ASSESSMENT NO. RPPL2021002622

August 7, 2024  
PAGE 11 OF 14

The HAA limits a local government's ability to deny, down-size, or render infeasible housing development projects, both affordable and market-rate units. According to the California Department of Housing and Community Development's, Housing Accountability Act Technical Assistance Advisory published on September 15, 2020, a local agency shall not deny, down-size, or render a housing development infeasible if it complies with applicable, objective general plan and zoning, and subdivision standards and criteria, including design review standards, in effect at the time the application was deemed complete, unless written findings supported by a preponderance of evidence (evidence for denying the Project outweighs the evidence for supporting it) on the record that both of the following conditions have been met:

- 1) The project will have a specific, adverse impact upon public health or safety unless the project is denied or approval conditioned to be developed at a lower in density (i.e., a significant, quantifiable, direct and unavoidable impact based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete).
- 2) There is no feasible method to satisfactorily mitigate or avoid the adverse impact. Feasible means capable of being accomplished in a successful manner within a reasonable time period, taking into account economic, environmental, social, and technological factors.

Violation of the HAA will subject the County to paying attorneys' fees and could result in substantial fines against the County in a successful court action. A court must award attorneys' fees to a party successfully challenging the County for violating the HAA. In addition, the court also must issue an order requiring compliance with the HAA. The County then must comply with that order within 60 days or be subject to, at a minimum, a penalty of \$10,000 per housing unit proposed by the Project. Therefore, it is imperative that the County comply with State law, specifically the HAA, when approving or disproving housing development projects.

Further, due to the severe lack of housing of both affordable and market-rate units, Governor Newsom signed the Housing Crisis Act (SB 330) into law to preserve the existing housing inventory, accelerate housing production by prohibiting the application of additional regulations once a project application is deemed complete, and limit the total number of public meetings to five. The law took effect on January 1, 2020, and under SB 8 (effective January 1, 2022), will extend to January 1, 2030. See Government Code sections 65905.5 and 65589.5.

Pursuant to SB 330, the number of publicly held meetings do not exceed the five-meeting limit. As of January 1, 2020, four meetings occurred on the following dates:

- Three Subdivision Committee Meetings were held on March 18, 2021, July 15, 2021, and October 7, 2021.

- Commission Hearing held on August 7, 2024.

### **ZONING ORDINANCE CONSISTENCY**

The Project complies with all applicable zoning requirements. The project was deemed complete on January 11, 2011, prior to the effective date of the IHO. 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 then Sections 22.56.215.F (Hillside Management and Significant Ecological Areas—Additional Regulations), current 22.158.050 (Findings and Conditions), and current Section 22.174.060 (Findings and Conditions) of the County Code as well as Government Code Sections 66474 and 66474.02. The Burden of Proof with applicant's responses is attached (Exhibit E – Applicant's Burden of Proof). Staff is of the opinion that the applicant has met the burden of proof.

### **ENVIRONMENTAL ANALYSIS**

Staff recommends that a Mitigated Negative Declaration is the appropriate environmental documentation under the California Environmental Quality Act (CEQA) and the County environmental guidelines. The Initial Study concluded that there are potentially significant environmental impacts associated with the project that can be reduced to less than significant with the implementation of the proposed mitigation measures in the areas of Biological Resources, Cultural Resources, Noise, and Tribal Cultural Resources. No other significant impacts were identified. Therefore, the project qualifies for a Mitigated Negative Declaration. The areas of environmental impact found to be less than significant with project mitigation incorporated include the following:

- **Biological Resources** mitigation includes pre-construction surveys and follow-up protective measures to reduce potential impacts to potentially occurring special status wildlife species to less than significant.
- **Cultural Resources** mitigation includes monitoring and protocols to follow if cultural resources are identified during grading activities.
- **Noise** mitigation includes the requirement to use adequate mufflers and noise barriers to reduce potential noise levels at sensitive uses from the Project's stationary construction equipment to below the County's noise standard.
- **Tribal Cultural Resources** mitigation includes the requirement for a Native American Monitor/Consultant prior to the commencement of Project-related ground disturbing activities and protocols to be followed if tribal cultural resources are identified during grading activities.

The draft Mitigation Monitoring and Reporting Program ("MMRP") is included as an attachment (Exhibit F – Environmental Determination) to this report.



## **COMMENTS RECEIVED**

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

The Subdivision Committee, consisting of the County Departments of Public Works, Fire, Parks and Recreation, and Public Health as well as LA County Planning, cleared the Tentative and Exhibit “A” map dated August 31, 2021.

### **B. Public Comments**

At the time of report preparation, staff has not received any public comments during the latest public comment period. Prior comments received include:

1. In a letter dated September 18, 2008, the Hacienda Heights Improvement Association (“HHIA”) stated that the applicant presented the Project to them on September 15, 2008 and in response had the following comment:
  - a. As presented, the plan did not cause problems for the Board of Directors.
2. In a letter dated February 7, 2018, the HHIA stated that the applicant presented the Project to them on January 22, 2018, and in response had the following comments:
  - a. The presentation was comprehensive and well received by the Board of Directors and neighbors in the audience,
  - b. On February 3, 2018, there was a follow up site visit in were easements for the Wildlife Corridor Conservation Authority were commended,
  - c. Access would be given through a locked gate on Via Cielo, and
  - d. The Project’s internal access would be a benefit for residents on Via Cielo,
3. In a letter dated April 13, 2021, the HHIA sent a letter stating that the Project had not changed from what was presented at previous meetings.
4. In a letter dated October 12, 2023, the HHIA stated the following comments:
  - a. That the Project has been shared with them over many years, including a recent open house on the Project site and that the Board of Directors had no concerns.
  - b. In September 2023, the HHIA President sought comments or concerns from the 12 board members, of which one objected to the Project, three shared no concerns, and the remaining did not reply or comment. The majority of the HHIA Board of Directors did not have a concern with the Project moving forward.


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ENVIRONMENTAL ASSESSMENT NO. RPPL2021002622

August 7, 2024  
PAGE 14 OF 14

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Report

Reviewed By:



Joshua Huntington, AICP, Supervising Regional Planner

Report

Approved By:



for Susan Tae

Susan Tae, AICP, Assistant Deputy Director

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LIST OF ATTACHED EXHIBITS	
EXHIBIT A	Tentative and Exhibit "A" Map dated 08/31/2021 (includes Open Space Map, Grading Plan, Slope Density Map, Ownership and Land Use Map, Fire Lane Plan, and Wall Exhibits)
EXHIBIT B	Project Summary Sheet
EXHIBIT C	Draft Findings
EXHIBIT D	Draft Conditions of Approval
EXHIBIT E	Applicant's Burden of Proof
EXHIBIT F	Environmental Determination and MMRP
EXHIBIT G	Informational Maps
EXHIBIT H	Photos
EXHIBIT I	Public Correspondence
EXHIBIT J	Oak Tree Report