

April 27, 2023

California Pacific Homes
ATTN: Bill McKibbin
16530 Bake Pkwy., Unit 200
Irvine, CA 92618

PROJECT NO. 2019-000686-(3)
MINOR COASTAL DEVELOPMENT PERMIT NOS. RPPL2019002073, RPPL2019002474, RPPL2019002479,
RPPL2019002885, RPPL2019002887, RPPL2019001222, RPPL2019003431, RPPL2019003435,
RPPL2019003852, RPPL2019003854, RPPL2019004230, RPPL2019004232, RPPL2019004674,
RPPL2019004677, RPPL2019004678
VARIANCE NOS. RPPL2019002074, RPPL2019002475, RPPL2019002480, RPPL2019002886,
RPPL2019002888, RPPL2019001224, RPPL2019003432, RPPL2019003436, RPPL2019003853,
RPPL2019003855, RPPL2019004231, RPPL2019004675
25600 AND 25700 BLOCKS OF PIUMA ROAD, MONTE NIDO

Dear Mr. McKibbin:

The Regional Planning Commission (“Commission”), by its action of **April 26, 2023**, has denied the above-referenced project. Enclosed are the Commission’s Findings.

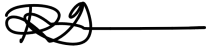
Appeals: The applicant or any other interested persons may appeal the Commission’s decision. The appeal period for this project will end at 5:00 p.m. on **May 10, 2023**. Appeals must be submitted to appeal@planning.lacounty.gov before the end of the appeal period.

For questions or for additional information, please contact Tyler Montgomery of Coastal Development Services at (213) 974-0051, or tmontgomery@planning.lacounty.gov.

California Pacific Homes
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Sincerely,

AMY J. BODEK, AICP
Director of Regional Planning

A handwritten signature in black ink, appearing to be 'R. Glaser', followed by a horizontal line.

Robert Glaser, Supervising Regional Planner
Coastal Development Services Section

Enclosure: Findings (15 sets)

c: Board of Supervisors
DPW (Building and Safety)
Coastal Commission (Ventura Office)

**LOS ANGELES COUNTY
DEPARTMENT OF REGIONAL PLANNING
FINDINGS OF THE REGIONAL PLANNING COMMISSION
AND ORDER
PROJECT NO. 2019-000686-(3)
MINOR COASTAL DEVELOPMENT PERMIT NO. RPPL2019002073
VARIANCE NO. RPPL2019002074**

RECITALS

1. **HEARING DATE(S).** The Los Angeles County (“County”) Regional Planning Commission (“Commission”) conducted a duly noticed appeal hearing on April 26, 2023 in the matter of Project No. 2019-000686-(3), Minor Coastal Development Permit No. RPPL2019002073 (“CDP”), and Variance No. RPPL2019002074 (“Variance”).
2. **ENTITLEMENT(S) REQUESTED.** The applicant, California Pacific Homes, requests the CDP and Variance to authorize the construction of a 5,182-square-foot single-family residence, a 386-square-foot guest house, and an onsite wastewater treatment system (“OWTS”) (“Project”) on a 0.92-acre property located the northwest corner of Woodbluff and Pioma Roads (Assessor’s Parcel Number 4456-038-001) in the Monte Nido Rural Village of the Santa Monica Mountains Coastal Zone (“Project Site”). The guest house would be located within an H1 Quiet Zone and share the OWTS with the main residence. A total of 944 cubic yards of earth (944 cubic yards cut, all exported) would be graded. The Project would result in fuel modification or brush clearance within the protected zones of four oak trees.
3. **ENTITLEMENT(S) REQUIRED.** A CDP is required to construct a single-family residence and an OWTS in the R-C-1 (Rural Coastal—One-Acre Minimum Required Lot Area) Zone pursuant to Los Angeles County Code (“County Code”) Section 22.44.810, and a Minor CDP is required for any project that requires Environmental Review Board (“ERB”) review (County Code Sections 22.44.860 and 22.44.940). The residence would result in development less than 200 feet from H1 Habitat and thus requires ERB review. A Minor CDP is also required for any project that results in the encroachment into the protected zone of any oak tree (County Code Section 22.44.950). As currently proposed, fuel modification or brush clearance would occur within the protected zones of four oak trees. As a result, a Minor CDP is required for the Project.

A variance is required for construction of habitable accessory structures within the H1 Habitat Buffer or H1 Quiet Zone, per County Code Section 22.44.1370 D.10. A variance is also required to permit a habitable accessory structure that shares an OWTS with the primary residence (County Code Section 22.44.1370 D.8). Finally, County Code Section 22.44.1910 I restricts building site area for new residential development to 10,000 square feet. Because the guest house is proposed within an H1 Quiet Zone and would share an OWTS with the single-family residence, and the proposed building site area is 11,900 square feet, the Project requires a variance for all deviations from the development standards of the Santa Monica Mountains Local Implementation Program (“LIP”).

4. **LAND USE DESIGNATION.** The Project Site is located within the Rural Village land use designation of the Santa Monica Mountains Local Coastal Program Land Use Policy Map, a component of the General Plan.
5. **ZONING.** The Project Site is located in The Malibu Zoned District and is zoned R-C-1. Pursuant to County Code Section 22.44.1750, a single-family residence is a principal permitted use within the R-C Zone. However, County Code Sections 22.44.860, 22.44.940, and 22.44.950 require a Minor CDP for any development that needs ERB review or encroaches into the protected zone of oak trees, as does the Project. A variance is also required to develop a habitable accessory structure within an H1 Habitat Buffer or H1 Quiet Zone or for a habitable accessory structure to share an OWTS with a single-family residence (County Code Section 22.44.1370). County Code Section 22.44.1910 I also restricts building site area for new residential development to 10,000 square feet. Because the guest house is proposed within an H1 Quiet Zone and would share an OWTS with the single-family residence, and the proposed building site area would exceed 10,000 square feet, the Project requires a variance.
6. **PROJECT AND SITE PLAN DESCRIPTION.**

A. Existing Site Conditions

The Project Site is 0.92 gross acres in size and consists of one legal lot, which is irregular in shape and consists of mostly level terrain. An existing graded pad of approximately 12,000 square feet and drainage structures are located on the northern portion of the lot. These were legally developed with CDP No. 5-83-004, which was approved with the underlying tract map in 1987 (Tract Map No. 38931). While the Project Site is mapped as H3 Habitat in the Santa Monica Mountains Local Coastal Program Land Use Plan ("LUP"), the southern and eastern portions of the Project Site are within 200 feet of H1 Habitat, which places it within the H1 Habitat Buffer (0-100 feet away) or H1 Quiet Zone (100-200 feet away). Other than the oaks, the Project Site contains mostly native and non-native grasses.

B. Site Access

The Project Site would be accessed from Woodbluff Road, a 60-foot-wide public road immediately to the west. Piuma Road, a 65-foot-wide public road and designated scenic route, is located immediately to the south of the Project Site.

C. Site Plan

The applicant proposes the construction of a 5,182-square-foot single-family residence, a 544-square-foot attached garage, and a 386-square-foot guest house on the northern portion of the 0.92-acre Project Site. The residence would have a maximum height of 16 feet, eight inches above grade and would include a 1,236-square-foot basement. A total of 944 cubic yards of earth (all cut and export) would be graded. The Project would also include one OWTS, retaining walls, and other appurtenant facilities on a total building site of 11,900 square feet within the existing graded pad. The building would be accessed by a 50-foot-long paved driveway, which would access Woodbluff Road to the west. Development from brush clearance and fuel modification would also encroach into the protected zones of

four coast live oaks. While the entirety of the Project Site is mapped as H3 Habitat within the LUP, its southern and eastern portions are within 200 feet of H1 Habitat, which places it within the H1 Habitat Buffer (0-100 feet away) or H1 Quiet Zone (100-200 feet away). The residence is proposed for a location on the northern portion of the Project Site, partially within the H1 Quiet Zone. The guest house would be completely within the H1 Quiet Zone and would share an OWTS with the main residence. The Project Site has a linear street frontage of 402 feet and a linear development frontage of 160 feet.

7. **PUBLIC COMMENTS.** Four phone calls and nine letters of opposition have been received over the course of the hearing process for this Project. Issues raised include destruction of sensitive habitat, light pollution, traffic, construction noise, fire hazard, proximity to wildlife, and interference of scenic views from the Backbone Trail.
8. **AGENCY RECOMMENDATIONS.**
 - A. County Department of Parks and Recreation: Recommended clearance to public hearing with no conditions through the County's electronic consultation system (EPIC-LA) on September 29, 2020.
 - B. County Fire Department: Recommended clearance to public hearing with no conditions through EPIC-LA on September 30, 2020.
 - C. County Department of Public Works: Recommended denial of the Project due to lack of documentation regarding road boundaries, road improvements, lines of sight, and earthmoving details in a letter dated December 27, 2021.
 - D. County Department of Public Health: Recommended denial of the Project due to the sharing of an OWTS between a single-family residence and habitable accessory structure in a letter dated May 3, 2022.
 - E. County Environmental Review Board: Chose to take no action regarding the Project at a meeting held on August 16, 2021. Recommended that it return with a more comprehensive plan and biological assessment, as well as a redesign to be consistent with the LIP.
9. **CEQA DETERMINATION.** No determination has been made regarding the applicability of the California Environmental Quality Act (Public Resources Code section 21000, et seq.) ("CEQA") to this project. Per State CEQA Guidelines and the Environmental Document Reporting Procedures and Guidelines for the County, a CEQA determination is not required when a project is denied.
10. **PREVIOUS HEARING PROCEEDINGS.** A duly noticed public hearing was held before the Hearing Officer on October 4, 2022, which was continued to November 1, 2022 to allow the Hearing Officer to do a site visit and thoroughly review all documents. At the November 1, 2022 continued public hearing, Regional Planning Staff recommended denial of the Project. The applicant's representative spoke in favor of the Project. The Hearing Officer indicated her intent to deny the Project and continued

the hearing to February 7, 2023 to allow additions and edits to the required denial findings. At the continued hearing on February 7, 2023, the Hearing Officer closed the public hearing and denied the Project. The applicant appealed this denial to the Commission on February 13, 2023 per the provisions of Los Angeles County Code Section 22.44.970.

GENERAL PLAN CONSISTENCY FINDINGS

- 11. LAND USE POLICY.** The Commission finds that the Project is not consistent with the LUP. The Rural Village land use designation is intended for single-family residential uses on relatively small lots. Although a single-family residence is specifically listed as a principal permitted use under this designation, the Project is not consistent with the policies of the LUP, as described below.
- 12. GOALS AND POLICIES.** The Commission finds that the Project would not be consistent with the following policies of the LUP:

Conservation and Open Space Element

Policy CO-41:

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

Policy CO-51:

Where new development is permitted in H2 habitat pursuant to this LCP, the maximum allowable building site area on parcels shall be 10,000 square feet, or 25 percent of the parcel size, whichever is less. Where new residential development is permitted in H3 habitat, the maximum allowable residential building site area shall be 10,000 square feet, or 25 percent of the parcel size, whichever is less. The restriction of the building site area to less than the maximum may be required if the native tree protection policies require a smaller area or if it is determined that a smaller building site area would serve to avoid impacts to H1 habitat areas, substantially minimize grading associated with the project, reduce the need for manufactured slopes, or reduce the need for retaining features visible from scenic

areas, public trails, and public lands. The allowable building site area may be increased for projects that qualify for participation in the incentive program of Policy LU-29 or for projects that comprise two adjoining legal lots, if the existing lots are merged into one lot and one consolidated building site is provided with one access road or driveway. The allowable building site area shall not exceed the total of the building site areas allowed for each individual parcel. Adverse impacts to H2 habitat that cannot be avoided through the implementation of siting and design alternatives shall be accommodated through the Resource Conservation Program pursuant to Policy CO-86a.

Policy CO-57:

New non-resource-dependent development shall also provide an additional 100-foot "Quiet Zone" from H1 habitat where feasible (measured from the outer edge of the 100-foot H1 habitat buffer required above). New development is not permitted in the H1 habitat Quiet Zone except resource-dependent uses, non-irrigated fuel modification required by the Fire Department for lawfully-established structures, and the following other uses in very limited circumstances: (1) public works projects required to protect existing public roads when there is no feasible alternative, as long as impacts to H1 habitat and the H1 buffer are avoided to the maximum extent feasible, and unavoidable impacts are minimized and mitigated; (2) an access road to a lawfully-permitted use when there is no other feasible alternative to provide access to public recreation areas or development on a legal parcel, as long as impacts to H1 habitat and H1 buffer are avoided to the maximum extent feasible, and unavoidable impacts are minimized and mitigated; (3) a development on a lawfully-created parcel that is the minimum development necessary to provide a reasonable economic use of the property and where there is no feasible alternative, as long as impacts to H1 habitat and H1 buffer are avoided to the maximum Santa Monica Mountains Local Coastal Program 31 February 2018 Land Use Plan extent feasible, and unavoidable impacts are minimized and mitigated; (4) equestrian pasture outside of the fuel modification zone, consistent with the requirements of the LCP, where the development is sited and designed to ensure that no required fuel modification extends into H1 habitat or H1 buffer, it will not significantly degrade H1 habitat, and will not adversely affect wildlife usage, including movement patterns, of the local area or region. Additionally, if existing fuel modification for the principal use is located within the Quiet Zone, confined animal facilities may be established within the Quiet Zone on slopes of 3:1 or less only if the facilities will not require fuel modification to extend into H1 habitat or the H1 habitat buffer, and subject to ERB review. Furthermore, public recreational facilities may also be located within this quiet zone, if it is developed and/or disturbed by historic use (e.g., recreational).

Policy CO-66

Protection of H1 and H2 habitat and public access shall take priority over other development standards, and where there is any conflict between general/other development standards and the biological resource and/or public access protection provisions, the standards that are most protective of H1 and H2 habitat and public access shall have precedence.

Policy CO-109:

Site and design new development to protect natural features, and minimize removal of natural vegetation.

Policy CO-124:

The Santa Monica Mountains contain scenic resources of regional and national importance. The scenic and visual qualities of these resources shall be protected and, where feasible, enhanced.

Policy CO-125:

Protect public views within Scenic Areas and throughout the Coastal Zone. Places on, along, within, or visible from Scenic Routes, public parklands, public trails, beaches, and state waters that offer scenic vistas of the mountains, canyons, coastline, beaches, and other unique natural features are considered Scenic Resource Areas. Scenic Resource Areas do not include areas that are largely developed such as existing, predominantly built-out residential subdivisions. Scenic Resource Areas also include the scenic resources identified on Map 3 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.

Policy 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*

Policy CO-128:

New development shall be subordinate to the character of its setting.

Policy CO-131:

Site and design new development to minimize adverse impacts on scenic resources to the maximum extent feasible. If there is no feasible building site location on the proposed project site where development would not be visible, then

the development shall be sited and designed to minimize impacts on scenic areas through measures that may include, but not be limited to, siting development in the least visible portion of the site, breaking up the mass of new structures, designing structures to blend into the natural hillside setting, restricting the building maximum size, reducing maximum height, clustering development, minimizing grading, incorporating landscape and building material screening elements, and where appropriate, berming.

Policy CO-133:

New development shall be sited and designed to minimize alteration of natural landforms by:

- a. Conforming to the natural topography.*
- b. Preventing substantial grading or reconfiguration of the project site.*
- c. Eliminating flat building pads on slopes. Building pads on sloping sites shall utilize split-level or stepped-pad designs.*
- d. Requiring that manufactured contours mimic the natural contours.*
- e. Ensuring that graded slopes blend with the existing terrain of the site and surrounding area.*
- f. Minimizing grading permitted outside of the building footprint.*
- g. Clustering structures to minimize site disturbance and to minimize development area.*
- h. Minimizing height and length of cut and fill slopes.*
- i. Minimizing the height and length of retaining walls.*
- j. Cut and fill operations may be balanced on site, where the grading does not substantially alter the existing topography and blends with the surrounding area. Export of cut material may be required to preserve the natural topography.*

Policy CO-147:

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

Land Use Element

Policy LU-33:

Require that new development be compatible with the rural character of the area and the surrounding natural environment.

The Project's large square footage and footprint would result in development, including a habitable accessory structure, that would extend into the H1 Quiet Zone, as well as fuel modification and brush clearance that would extend into H1 Habitat (oak woodland) and the H1 Habitat Buffer. The Project's large footprint and square footage, as well as a habitable accessory structure, result in a design that is not protective of surrounding landforms by failing to preserve H1 Habitat areas in a more natural state.

This would also not be consistent with policies regarding the protection of Scenic Resource Areas. The Project's design, which includes a building site area of 11,900 square feet, when paired with its proximity to Piuma Road, a designated scenic route, would result in unnecessary visual impacts to the surrounding area.

ZONING CODE CONSISTENCY FINDINGS

13. HABITAT CATEGORIES. The Commission finds that the Project is not consistent with the standard identified in County Code Section 22.44.1890. The Project Site is designated as H3 Habitat by the LUP. While all development would occur within H3 Habitat, impacts from the development would be located within the H1 Quiet Zone and H1 Habitat Buffer. The Project would also result in brush clearance within H1 Habitat.

Per the requirements of the LIP, no development, except for access driveways and resource-dependent uses, is permitted in H1 Habitat (County Code Section 22.44.1890 C). Because habitable structures are proposed less than 200 feet from H1 Habitat (oak woodland) to the east, off-site brush clearance will be required within this area by the County Agricultural Commissioner. Therefore, the Project design is not compatible with surrounding environmental resources, as it would result in development of H1 Habitat.

Additionally, development is proposed within the H1 Habitat Buffer and H1 Quiet Zone. Per the requirements of the LIP, residential development may only be permitted within an H1 Quiet Zone or H1 Habitat Buffer when all of the following apply:

- a. The Project Site is on a lawfully created parcel;
- b. The development is the minimum necessary to provide the landowner a reasonable economic use of the property, and in no case shall it exceed the maximum standards provided in County Code Sections 22.44.1910 and 22.44.1920;
- c. There is no other feasible alternative building site location that can avoid the H1 Habitat Buffer or H1 Quiet Zone;
- d. The maximum feasible buffer width is provided between the development and the H1 Habitat area;
- e. The development is sited and designed to prevent impacts that would significantly degrade H1 Habitat; and
- f. All feasible mitigation measures have been provided to minimize adverse environmental effects.

The Project proposes a 5,182-square-foot single-family residence and a habitable accessory structure (guest house). Removing the guest house and reducing the square footage of the proposed residence would provide a greater buffer between development and the H1 Habitat area. Thus, the development is not the minimum necessary development for the Project Site, as required within an H1 Quiet Zone or H1 Habitat Buffer by the LIP. Therefore, the findings in County Code Sections 22.44.1890 D.8.b and 22.44.1890 E.12.b cannot be met.

14. **HABITABLE ACCESSORY STRUCTURES.** The Commission finds that the LIP specifically prohibits habitable accessory structures within H1 Habitat Buffers and H1 Quiet Zones, as development within these zones is only allowed when it is required to provide the landowner a minimum reasonable economic use of the property (County Code Sections 22.44.1370 D.10 and 22.44.1890 D and E). Habitable accessory structures are also required to have an OWTS separate from the primary residence (County Code Section 22.44.1370 D.8). The Department of Public Health's Environmental Health Division, which is responsible for the review of OWTS, has not approved any arrangements for the sharing of an OWTS by both structures. It has also not been demonstrated that the placement of two separate OWTS on the Project Site is infeasible, nor would it be necessary to allow reasonable economic use of the property. As stated above, because a single-family residence alone would provide a reasonable economic use, it cannot be demonstrated that a variance is necessary to preserve a substantial property right (see "Variance Findings" below).
15. **BUILDING SITE AREA.** The Commission finds that a variance is required for a building site area greater than 10,000 square feet, per County Code Section 22.44.1910 I. The Project proposes a building site area of 11,900 square feet. There are no special characteristics of the Project Site requiring this, and the building site area could be reduced in size to comply with these sections of the LIP. Thus, it has not been demonstrated that this variance is necessary due to special characteristics of the lots or to preserve a substantial property right (see "Variance Findings" below).

COASTAL DEVELOPMENT PERMIT FINDINGS

16. **The Commission finds that the proposed development is not in conformity with the certified local coastal program.** As proposed, the Project would not comply with all applicable development standards for residences in the Santa Monica Mountains Local Coastal Program, which includes the LUP and LIP, specifically those standards related to habitat categories, building site area, Scenic Resource Areas, and habitable accessory structures.
17. **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 Project Site is not located between the ocean and the nearest public road, so coastal access requirements would not be applicable.

VARIANCE FINDINGS

18. **The Commission finds that there are no special circumstances or exceptional characteristics applicable to the property involved, such as size, shape, topography, location, or surroundings, which are not generally applicable to other properties in the same vicinity and under identical zoning classification.** The proposed habitable accessory structure is not necessary to allow for a reasonable economic use of the property. The design of the residence could be modified to reduce the building site area. It has also not been demonstrated that this structure cannot be

proposed in a location outside of the H1 Quiet Zone or designed to utilize a separate OWTS.

19. **The Commission finds that such variance is unnecessary for the preservation of a substantial property right of the applicant such as that possessed by owners of other property in the same vicinity and zone.** The proposed habitable accessory structure is not necessary to allow for a reasonable economic use of the property. The design of the residence could be modified to reduce the building site area. It has also not been demonstrated that this structure cannot be proposed in a location outside of the H1 Quiet Zone or designed to utilize a separate OWTS.
20. **The Commission finds that the granting of the variance will be materially detrimental to the public welfare or be injurious to other property or improvements in the same vicinity and zone.** The proposed large building site area and habitable accessory structure result in greater development within the H1 Quiet Zone, the H1 Habitat Buffer, and H1 Habitat, which would detrimentally affect the public welfare and other properties by degrading scenic and biological resources.
21. **The Commission finds that the granting of the variance will be materially detrimental to coastal resources.** The proposed large building site area and habitable accessory structure result in greater development within the H1 Quiet Zone, the H1 Habitat Buffer, H1 Habitat, and adjoining a designated scenic route, which would detrimentally affect coastal resources by degrading scenic and biological resources.

ADMINISTRATIVE FINDINGS

22. **HEARING PROCEEDINGS.** A duly noticed appeal hearing was held before the Commission on April 26, 2023. Regional Planning Staff recommended denial of the Project. Testimony was taken both for and against the Project. After a brief discussion, the Commission subsequently closed the public hearing and denied the Project.
23. **LEGAL NOTIFICATION.** The Commission finds that pursuant to Section 22.44.990 of the County Code, 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 the County Department of Regional Planning's ("LA County Planning") website. On March 23, 2023, a total of 115 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 20 notices to those on the courtesy mailing list for The Malibu Zoned District and additional interested parties.
24. **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 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 COMMISSION CONCLUDES THAT:

Regarding the Minor CDP:

- A. The proposed development is not in conformity with the certified local coastal program.
- B. 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.

Regarding the Variance:

- A. There are no special circumstances or exceptional characteristics applicable to the property involved, such as size, shape, topography, location, or surroundings, which are not generally applicable to other properties in the same vicinity and under identical zoning classification.
- B. Such variance is unnecessary for the preservation of a substantial property right of the applicant such as that possessed by owners of other property in the same vicinity and zone.
- C. 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.
- D. The granting of the variance will be materially detrimental to coastal resources.

THEREFORE, THE COMMISSION:

- 1. Denies **MINOR COASTAL DEVELOPMENT PERMIT NO. RPPL2019002073.**
- 2. Denies **VARIANCE NO. RPPL2019002074.**

ACTION DATE: April 26, 2023

VOTE: 5-0

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

Dissenting: None

Abstaining: None

Absent: None

MG:RG:TM

4/26/23

c: Zoning Enforcement, Building and Safety

**LOS ANGELES COUNTY
DEPARTMENT OF REGIONAL PLANNING
FINDINGS OF THE REGIONAL PLANNING COMMISSION
AND ORDER
PROJECT NO. 2019-000686-(3)
MINOR COASTAL DEVELOPMENT PERMIT NO. RPPL2019002474
VARIANCE NO. RPPL2019002475**

RECITALS

1. **HEARING DATE(S).** The Los Angeles County (“County”) Regional Planning Commission (“Commission”) conducted a duly noticed public hearing on April 26, 2023 in the matter of Project No. 2019-000686-(3), Minor Coastal Development Permit No. RPPL2019002474 (“CDP”), and Variance No. RPPL2019002475 (“Variance”).
2. **ENTITLEMENT(S) REQUESTED.** The applicant, California Pacific Homes, requests the CDP and variance to authorize the construction of a 5,050-square-foot single-family residence, a 730-square-foot guest house, and an onsite wastewater treatment system (“OWTS”) (“Project”) on a 1.05-acre property located on the north side of Piuma Road (Assessor’s Parcel Number 4456-038-002) in the Monte Nido Rural Village of the Santa Monica Mountains Coastal Zone (“Project Site”). The guest house would be located within an H1 Habitat Buffer, share the OWTS with the main residence, and an OWTS seepage pit would be located less than 50 feet from an oak tree. A total of 605 cubic yards of earth (405 cubic yards cut, 200 cubic yards fill, 205 cubic yards export) would be graded. The Project would result in fuel modification or brush clearance within the protected zones of 18 oak trees.
3. **ENTITLEMENT(S) REQUIRED.** A CDP is required to construct a single-family residence and an OWTS in the R-C-1 (Rural Coastal—One-Acre Minimum Required Lot Area) Zone pursuant to Los Angeles County Code (“County Code”) Section 22.44.810, and a minor CDP is required for any project that requires Environmental Review Board (“ERB”) review (County Code Sections 22.44.860 and 22.44.940). The residence would result in development less than 200 feet from H1 Habitat and thus requires ERB review. A Minor CDP is also required for any project that results in the encroachment into the protected zone of any oak tree (County Code Section 22.44.950). As currently proposed, fuel modification or brush clearance would occur within the protected zones of 18 oak trees. As a result, a minor CDP is required for the Project.

A variance is required for construction of habitable accessory structures within the H1 Habitat Buffer or H1 Quiet Zone, per County Code Section 22.44.1370 D.10. A variance is also required to permit a habitable accessory structure that shares an OWTS with the primary residence (County Code Section 22.44.1370 D.8) as well as for construction of an OWTS seepage pit or leach field within 50 feet of an oak tree, per County Code Section 22.44.1340 B.3.c. Because the guest house is proposed within an H1 Habitat Buffer and would share an OWTS with the single-family residence, and an OWTS seepage pit is proposed less than 50 feet from an oak tree, the Project requires a variance.

4. **LAND USE DESIGNATION.** The Project Site is located within the Rural Village land use designation of the Santa Monica Mountains Local Coastal Program Land Use Policy Map.
5. **ZONING.** The Project Site is located in The Malibu Zoned District and is zoned R-C-1. Pursuant to County Code Section 22.44.1750, a single-family residence is a principal permitted use within the R-C Zone. However, County Code Sections 22.44.860, 22.44.940, and 22.44.950 require a Minor CDP for any development that needs ERB review or encroaches into the protected zone of oak trees, as does the Project. A variance is also required to develop a habitable accessory structure within an H1 Habitat Buffer or H1 Quiet Zone or for a habitable accessory structure to share an OWTS with a single-family residence (County Code Section 22.44.1370) as well as for construction of an OWTS seepage pit or leach field within 50 feet of an oak tree, per County Code Section 22.44.1340 B.3.c. Because the guest house is proposed within an H1 Habitat Buffer and would share an OWTS with the single-family residence, and an OWTS seepage pit is proposed less than 50 feet from an oak tree, the Project requires a variance for deviating from the development standards of the Santa Monica Mountains Local Implementation Program (“LIP”).

6. PROJECT AND SITE PLAN DESCRIPTION.

A. Existing Site Conditions

The Project Site is 1.05 gross acres in size and consists of one legal lot, which is irregular in shape and consists of mostly level terrain, with a steep downward slope on the northernmost portion. An existing graded pad of approximately 12,000 square feet and drainage structures are located on the north-central portion of the of the lot. These were legally developed with CDP No. 5-83-004, which was approved with the underlying tract map in 1987 (Tract Map No. 38931). The southern portion of the Project Site is mapped as H1 Habitat, with the remainder mapped as H3 Habitat in the Santa Monica Mountains Local Coastal Program Land Use Plan (“LUP”). The majority of the Project Site is within 200 feet of H1 Habitat, which places it within the H1 Habitat Buffer (0-100 feet away) or H1 Quiet Zone (100-200 feet away). Other than the oaks, the Project Site contains mostly native and non-native grasses.

B. Site Access

The Project Site would be accessed from Piuma Road, a 65-foot-wide public road and designated scenic route, immediately to the south of the Project Site.

C. Site Plan

The applicant proposes the construction of a 5,050-square-foot single-family residence, a 519-square-foot attached garage, and a 730-square-foot guest house on the north-central portion of the 1.05-acre Project Site. The residence would have a maximum height of 18 feet above grade. A total of 605 cubic yards of earth (405 cubic yards cut, 200 cubic yards fill, 205 cubic yards export) would be graded. The Project would also include one OWTS, retaining walls, and other appurtenant facilities on a total building site of 8,230 square feet within the existing graded pad. The building would be accessed by a 200-foot-long paved driveway, which would

access Piuma Road to the south. Development from brush clearance and fuel modification would also encroach into the protected zones of 18 coast live oaks. While the majority of the Project Site is mapped as H3 Habitat within the LUP, its southernmost portion is H1 Habitat, which places almost the entirety of the site within the H1 Habitat Buffer (0-100 feet away) or H1 Quiet Zone (100-200 feet away). The residence is proposed for a location on the north-central portion of the Project Site, within the H1 Habitat Buffer and H1 Quiet Zone. The guest house would be completely within the H1 Habitat Buffer and would share an OWTS with the main residence. An OWTS seepage pit would be located less than 50 feet from an oak tree. The Project Site has a linear street frontage of 104 feet and a linear development frontage of 47 feet.

7. **PUBLIC COMMENTS.** Four phone calls and nine letters of opposition have been received over the course of the hearing process for this Project. Issues raised include destruction of sensitive habitat, light pollution, traffic, construction noise, fire hazard, proximity to wildlife, and interference of scenic views from the Backbone Trail.
8. **AGENCY RECOMMENDATIONS.**
 - A. County Department of Parks and Recreation: Recommended clearance to public hearing with no conditions through the County's electronic consultation system (EPIC-LA) on September 29, 2020.
 - B. County Fire Department: Recommended clearance to public hearing with no conditions through EPIC-LA on September 30, 2020.
 - C. County Department of Public Works: Recommended denial of the Project due to lack of documentation regarding road boundaries, road improvements, lines of sight, and earthmoving details in a letter dated March 8, 2021.
 - D. County Department of Public Health: Recommended denial of the Project due to the sharing of an OWTS between a single-family residence and habitable accessory structure in a letter dated October 28, 2020.
 - E. County Environmental Review Board: Chose to take no action regarding the Project at a meeting held on August 16, 2021. Recommended that it return with a more comprehensive plan and biological assessment, as well as a redesign to be consistent with the LIP.
9. **CEQA DETERMINATION.** No determination has been made regarding the applicability of the California Environmental Quality Act (Public Resources Code section 21000, et seq.) ("CEQA") to this project. Per State CEQA Guidelines and the Environmental Document Reporting Procedures and Guidelines for the County, a CEQA determination is not required when a project is denied.
10. **PREVIOUS HEARING PROCEEDINGS.** A duly noticed public hearing was held before the Hearing Officer on October 4, 2022, which was continued to November 1, 2022 to allow the Hearing Officer to do a site visit and thoroughly review all documents.

At the November 1, 2022 continued public hearing, Regional Planning Staff recommended denial of the Project. The applicant's representative spoke in favor of the Project. The Hearing Officer indicated her intent to deny the Project and continued the hearing to February 7, 2023 to allow additions and edits to the required denial findings. At the continued hearing on February 7, 2023, the Hearing Officer closed the public hearing and denied the Project. The applicant appealed this denial to the Commission on February 13, 2023 per the provisions of Los Angeles County Code Section 22.44.970.

GENERAL PLAN CONSISTENCY FINDINGS

11. **LAND USE POLICY.** The Commission finds that the Project is not consistent with the LUP. The Rural Village land use designation is intended for single-family residential uses, as well as other resource-dependent uses, on relatively small lots. Although a single-family residence is specifically listed as a principal permitted use under this designation, the Project is not consistent with the policies of the LUP, as described below.
12. **GOALS AND POLICIES.** The Commission finds that the Project would not be consistent with the following policies of the LUP:

Conservation and Open Space Element

Policy CO-41:

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

Policy CO-57:

New non-resource-dependent development shall also provide an additional 100-foot "Quiet Zone" from H1 habitat where feasible (measured from the outer edge of the 100-foot H1 habitat buffer required above). New development is not permitted in the H1 habitat Quiet Zone except resource-dependent uses, non-irrigated fuel modification required by the Fire Department for lawfully-established structures, and the following other uses in very limited circumstances: (1) public works projects

required to protect existing public roads when there is no feasible alternative, as long as impacts to H1 habitat and the H1 buffer are avoided to the maximum extent feasible, and unavoidable impacts are minimized and mitigated; (2) an access road to a lawfully-permitted use when there is no other feasible alternative to provide access to public recreation areas or development on a legal parcel, as long as impacts to H1 habitat and H1 buffer are avoided to the maximum extent feasible, and unavoidable impacts are minimized and mitigated; (3) a development on a lawfully-created parcel that is the minimum development necessary to provide a reasonable economic use of the property and where there is no feasible alternative, as long as impacts to H1 habitat and H1 buffer are avoided to the maximum Santa Monica Mountains Local Coastal Program 31 February 2018 Land Use Plan extent feasible, and unavoidable impacts are minimized and mitigated; (4) equestrian pasture outside of the fuel modification zone, consistent with the requirements of the LCP, where the development is sited and designed to ensure that no required fuel modification extends into H1 habitat or H1 buffer, it will not significantly degrade H1 habitat, and will not adversely affect wildlife usage, including movement patterns, of the local area or region. Additionally, if existing fuel modification for the principal use is located within the Quiet Zone, confined animal facilities may be established within the Quiet Zone on slopes of 3:1 or less only if the facilities will not require fuel modification to extend into H1 habitat or the H1 habitat buffer, and subject to ERB review. Furthermore, public recreational facilities may also be located within this quiet zone, if it is developed and/or disturbed by historic use (e.g., recreational).

Policy CO-66

Protection of H1 and H2 habitat and public access shall take priority over other development standards, and where there is any conflict between general/other development standards and the biological resource and/or public access protection provisions, the standards that are most protective of H1 and H2 habitat and public access shall have precedence.

Policy CO-109:

Site and design new development to protect natural features, and minimize removal of natural vegetation.

Policy CO-124:

The Santa Monica Mountains contain scenic resources of regional and national importance. The scenic and visual qualities of these resources shall be protected and, where feasible, enhanced.

Policy CO-125:

Protect public views within Scenic Areas and throughout the Coastal Zone. Places on, along, within, or visible from Scenic Routes, public parklands, public trails, beaches, and state waters that offer scenic vistas of the mountains, canyons, coastline, beaches, and other unique natural features are considered Scenic Resource Areas. Scenic Resource Areas do not include areas that are largely developed such as existing, predominantly built-out residential subdivisions. Scenic Resource Areas also include the scenic resources identified on Map 3 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.

Policy 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*

Policy CO-128:

New development shall be subordinate to the character of its setting.

Policy CO-131:

Site and design new development to minimize adverse impacts on scenic resources to the maximum extent feasible. If there is no feasible building site location on the proposed project site where development would not be visible, then the development shall be sited and designed to minimize impacts on scenic areas through measures that may include, but not be limited to, siting development in the least visible portion of the site, breaking up the mass of new structures, designing structures to blend into the natural hillside setting, restricting the building maximum size, reducing maximum height, clustering development, minimizing grading, incorporating landscape and building material screening elements, and where appropriate, berming.

Policy CO-133:

New development shall be sited and designed to minimize alteration of natural landforms by:

- a. Conforming to the natural topography.*
- b. Preventing substantial grading or reconfiguration of the project site.*
- c. Eliminating flat building pads on slopes. Building pads on sloping sites shall utilize split-level or stepped-pad designs.*
- d. Requiring that manufactured contours mimic the natural contours.*

- e. Ensuring that graded slopes blend with the existing terrain of the site and surrounding area.*
- f. Minimizing grading permitted outside of the building footprint.*
- g. Clustering structures to minimize site disturbance and to minimize development area.*
- h. Minimizing height and length of cut and fill slopes.*
- i. Minimizing the height and length of retaining walls.*
- j. Cut and fill operations may be balanced on site, where the grading does not substantially alter the existing topography and blends with the surrounding area. Export of cut material may be required to preserve the natural topography.*

Policy CO-147:

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

Land Use Element

Policy LU-33:

Require that new development be compatible with the rural character of the area and the surrounding natural environment.

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

ZONING CODE CONSISTENCY FINDINGS

13. HABITAT CATEGORIES. The Commission finds that the Project is not consistent with the standard identified in County Code Section 22.44.1890. The Project Site is designated as H1 Habitat and H3 Habitat by the LUP. While all development would occur within H3 Habitat, impacts from the development would be located within the H1 Quiet Zone and H1 Habitat Buffer. The Project would also result in required brush clearance within H1 Habitat.

Per the requirements of the LIP, no development, except for access driveways and resource-dependent uses, is permitted in H1 Habitat (County Code Section

22.44.1890 C). Because habitable structures are proposed less than 200 feet from H1 Habitat (oak woodland) to the south, fuel modification is required within this area by the approved fuel modification plan. Therefore, the Project design is not compatible with surrounding environmental resources, as it would result in development of H1 Habitat.

Additionally, development is proposed within the H1 Habitat Buffer and H1 Quiet Zone. Per the requirements of the LIP, residential development may only be permitted within an H1 Quiet Zone or H1 Habitat Buffer when all of the following apply:

- a. The Project Site is on a lawfully created parcel;
- b. The development is the minimum necessary to provide the landowner a reasonable economic use of the property, and in no case shall it exceed the maximum standards provided in County Code Sections 22.44.1910 and 22.44.1920;
- c. There is no other feasible alternative building site location that can avoid the H1 Habitat Buffer or H1 Quiet Zone;
- d. The maximum feasible buffer width is provided between the development and the H1 Habitat area;
- e. The development is sited and designed to prevent impacts that would significantly degrade H1 Habitat; and
- f. All feasible mitigation measures have been provided to minimize adverse environmental effects.

The Project proposes a 5,050-square-foot single-family residence and a habitable accessory structure (guest house). Removing the guest house and reducing the square footage of the proposed residence would provide a greater buffer between development and the H1 Habitat area. Thus, the development is not the minimum necessary development for the site, as required within an H1 Quiet Zone or H1 Habitat Buffer by the LIP. Therefore, the findings in County Code Sections 22.44 1890 D.8.b and 22.44.1890 E.12.b cannot be met.

- 14. HABITABLE ACCESSORY STRUCTURES.** The Commission finds that the LIP specifically prohibits habitable accessory structures within H1 Habitat Buffers and H1 Quiet Zones, as development within these zones is only allowed when it is required to provide the landowner a minimum reasonable economic use of the property (County Code Sections 22.44.1370 D.10 and 22.44.1890 D and E). Habitable accessory structures are also required to have an OWTS separate from the main residence (County Code Section 22.44.1370 D.8). The Department of Public Health's Environmental Health Division, which is responsible for the review of OWTS, has not approved any arrangements for the sharing of an OWTS by both structures. It has also not been demonstrated that the placement of two separate OWTS on the Project Site is infeasible, nor would it be necessary to allow reasonable economic use of the property. As stated above, because a single-family residence alone would provide a reasonable economic use, it cannot be demonstrated that a variance is necessary to preserve a substantial property right (see "Variance Findings" below).

15. **OWTS STANDARDS.** The Commission finds that the LIP specifically prohibits OWTS seepage pits or leach fields to be placed within 50 feet of the dripline of an oak tree (County Code Section 22.44.1340 B.3.c). There are several locations on the Project Site located more than 50 feet from oaks or other native trees, and the applicant has not provided documentation that these alternative locations are unsuitable for OWTS seepage pits. Thus, it has not been demonstrated that this variance is necessary due to special characteristics of the lot or to preserve a substantial property right (see “Variance Findings” below).

COASTAL DEVELOPMENT PERMIT FINDINGS

16. **The Commission finds that the proposed development is not in conformity with the certified local coastal program.** As proposed, the Project would not comply with all applicable development standards for residences in the Santa Monica Mountains Local Coastal Program, which includes the LUP and LIP, specifically those standards related to habitat categories and habitable accessory structures.
17. **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 Project Site is not located between the ocean and the nearest public road, so coastal access requirements would not be applicable.

VARIANCE FINDINGS

18. **The Commission finds that there are no special circumstances or exceptional characteristics applicable to the property involved, such as size, shape, topography, location, or surroundings, which are not generally applicable to other properties in the same vicinity and under identical zoning classification.** The proposed habitable accessory structure is not necessary to allow for a reasonable economic use of the property. It has also not been demonstrated that this structure cannot be proposed in a location outside of the H1 Habitat Buffer or H1 Quiet Zone or designed to utilize a separate OWTS, or that an OWTS cannot be located more than 50 feet from an oak tree.
19. **The Commission finds that such variance is unnecessary for the preservation of a substantial property right of the applicant such as that possessed by owners of other property in the same vicinity and zone.** The proposed habitable accessory structure is not necessary to allow for a reasonable economic use of the property. It has also not been demonstrated that OWTS seepage pits cannot be placed in a location more than 50 feet from the dripline of an oak tree.
20. **The Commission finds that the granting of the variance will be materially detrimental to the public welfare or be injurious to other property or improvements in the same vicinity and zone.** The proposed habitable accessory structure results in greater development within the H1 Quiet Zone, H1 Habitat Buffer,

and H1 Habitat, which would detrimentally affect the public welfare and other properties by degrading scenic and biological resources.

- 21. The Commission finds that the granting of the variance will be materially detrimental to coastal resources.** The proposed habitable accessory structure results in greater development within the H1 Quiet Zone, H1 Habitat Buffer, and H1 Habitat, which would detrimentally affect coastal resources by degrading scenic and biological resources.

ADMINISTRATIVE FINDINGS

- 22. HEARING PROCEEDINGS.** A duly noticed appeal hearing was held before the Commission on April 26, 2023. Regional Planning Staff recommended denial of the Project. Testimony was taken both for and against the Project. After a brief discussion, the Commission subsequently closed the public hearing and denied the Project.

- 23. LEGAL NOTIFICATION.** The Commission finds that pursuant to Section 22.44.990 of the County Code, 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 the County Department of Regional Planning's ("LA County Planning") website. On March 23, 2023, a total of 115 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 20 notices to those on the courtesy mailing list for The Malibu Zoned District and additional interested parties.

- 24. 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 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 COMMISSION CONCLUDES THAT:

Regarding the Minor CDP:

- A. The proposed development is not in conformity with the certified local coastal program.
- B. 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.

Regarding the Variance:

- A. There are no special circumstances or exceptional characteristics applicable to the property involved, such as size, shape, topography, location, or surroundings, which are not generally applicable to other properties in the same vicinity and under identical zoning classification.
- B. Such variance is unnecessary for the preservation of a substantial property right of the applicant such as that possessed by owners of other property in the same vicinity and zone.
- C. 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.
- D. The granting of the variance will be materially detrimental to coastal resources.

THEREFORE, THE COMMISSION:

- 1. Denies **MINOR COASTAL DEVELOPMENT PERMIT NO. RPPL2019002474.**
- 2. Denies **VARIANCE NO. RPPL2019002475.**

ACTION DATE: April 26, 2023

VOTE: 5-0

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

Dissenting: None

Abstaining: None

Absent: None

MG:RG:TM

4/26/23

c: Zoning Enforcement, Building and Safety

**LOS ANGELES COUNTY
DEPARTMENT OF REGIONAL PLANNING
FINDINGS OF THE REGIONAL PLANNING COMMISSION
AND ORDER
PROJECT NO. 2019-000686-(3)
MINOR COASTAL DEVELOPMENT PERMIT NO. RPPL2019002479
VARIANCE NO. RPPL2019002480**

RECITALS

1. **HEARING DATE(S).** The Los Angeles County (“County”) Regional Planning Commission (“Commission”) conducted a duly noticed public hearing on October 4, 2022, November 1, 2022, and February 7, 2023 in the matter of Project No. 2019-000686-(3), Minor Coastal Development Permit No. RPPL2019002479 (“CDP”), and Variance No. RPPL2019002480 (“Variance”).
2. **ENTITLEMENT(S) REQUESTED.** The applicant, California Pacific Homes, requests the CDP and Variance to authorize the construction of a 4,823-square-foot single-family residence and an onsite wastewater treatment system (“OWTS”) (“Project”) on a 0.92-acre property located on the north side of Piuma Road (Assessor’s Parcel Number 4456-038-003) in the Monte Nido Rural Village of the Santa Monica Mountains Coastal Zone (“Project Site”). An OWTS seepage pit would be located less than 50 feet from an oak tree. The residence would also occupy more than 50 percent of the linear frontage of Piuma Road—a designated scenic route. A total of 537 cubic yards of earth (482 cubic yards cut, 55 cubic yards fill, 427 cubic yards export) would be graded. The Project would result in fuel modification or brush clearance within the protected zones of 16 oak trees.
3. **ENTITLEMENT(S) REQUIRED.** A CDP is required to construct a single-family residence and an OWTS in the R-C-1 (Rural Coastal—One-Acre Minimum Required Lot Area) Zone pursuant to Los Angeles County Code (“County Code”) Section 22.44.810, and a Minor CDP is required for any project that requires Environmental Review Board (“ERB”) review (County Code Sections 22.44.860 and 22.44.940). The residence would result in development less than 200 feet from H1 Habitat and thus requires ERB review. A Minor CDP is also required for any project that results in the encroachment into the protected zone of any oak tree (County Code Section 22.44.950). As currently proposed, fuel modification or brush clearance would occur within the protected zones of 16 oak trees. As a result, a Minor CDP is required for the Project.

A variance is required for construction of an OWTS seepage pit or leach field within 50 feet of an oak tree, per County Code Section 22.44.1340 B.3.c. A variance is also required for structures that occupy more than 50 percent of the linear frontage of a parcel fronting a scenic route (County Code Section 22.44.2040 C.1). Because an OWTS seepage pit is proposed less than 50 feet from an oak tree and the residence would occupy more than 50 percent of the parcel frontage, a variance is required for both deviations from the development standards of the Santa Monica Mountains Local Implementation Program (“LIP”).

4. **LAND USE DESIGNATION.** The Project Site is located within the Rural Village land use designation of the Santa Monica Mountains Local Coastal Program Land Use Policy Map, a component of the General Plan.
5. **ZONING.** The Project Site is located in The Malibu Zoned District and is zoned R-C-1. Pursuant to County Code Section 22.44.1750, a single-family residence is a principal permitted use within the R-C Zone. However, County Code Sections 22.44.860, 22.44.940, and 22.44.950 require a Minor CDP for any development that needs ERB review or encroaches into the protected zones of oak trees, as does the Project. A variance is required for construction of an OWTS seepage pit or leach field within 50 feet of an oak tree, per County Code Section 22.44.1340 B.3.c. A variance is also required for structures that occupy more than 50 percent of the linear frontage of a parcel fronting a scenic route (County Code Section 22.44.2040 C.1). Because an OWTS seepage pit is proposed less than 50 feet from an oak tree and the residence would occupy more than 50 percent of the parcel frontage, a variance is required for both deviations from the development standards of the LIP.
6. **PROJECT AND SITE PLAN DESCRIPTION.**

A. Existing Site Conditions

The Project Site is 0.92 gross acres in size and consists of one legal lot, which is irregular in shape with level terrain on its southern portion and steep downward slopes on its central and northern portions. An existing graded pad of approximately 12,000 square feet and drainage structures are located on the southern portion of the of the lot. These were legally developed with CDP No. 5-83-004, which was approved with the underlying tract map in 1987 (Tract Map No. 38931). A small part of the southwestern portion of the Project Site is mapped as H1 Habitat, with the remainder mapped as H3 Habitat in the Santa Monica Mountains Local Coastal Program Land Use Plan ("LUP"). The majority of the Project Site is within 200 feet of H1 Habitat, which places it within the H1 Habitat Buffer (0-100 feet away) or H1 Quiet Zone (100-200 feet away). Other than the oaks, the Project Site contains mostly native and non-native grasses.

B. Site Access

The Project Site would be accessed from Piuma Road, a 65-foot-wide public road and designated scenic route, immediately to the south of the Project Site.

C. Site Plan

The applicant proposes the construction of a 4,823-square-foot single-family residence, including a 1,314-square-foot basement, and a 485-square-foot attached garage on the southern portion of the 0.92-acre Project Site. The residence would have a maximum height of 16 feet, seven inches above grade. A total of 537 cubic yards of earth (482 cubic yards cut, 55 cubic yards fill, 427 cubic yards export) would be graded. The Project would also include one OWTS, retaining walls, and other appurtenant facilities on a total building site of 8,680 square feet within the existing graded pad. The building would be accessed by a 100-foot-long paved driveway, which would access Piuma Road to the south.

Development from brush clearance and fuel modification would also encroach into the protected zones of 16 coast live oaks. While the majority of the Project Site is mapped as H3 Habitat within the LUP, a small part of its southwestern portion is H1 Habitat, which places the entirety of the site within the H1 Habitat Buffer (0-100 feet away) or H1 Quiet Zone (100-200 feet away). The residence is proposed for a location on the southern portion of the Project Site, within the H1 Habitat Buffer and H1 Quiet Zone. An OWTS seepage pit is also proposed north of the residence in a location less than 50 feet from the dripline of an oak tree. The Project Site has a linear street frontage of 108 feet and a linear development frontage of 90 feet.

7. **PUBLIC COMMENTS.** Four phone calls and nine letters of opposition have been received over the course of the hearing process for this Project. Issues raised include destruction of sensitive habitat, light pollution, traffic, construction noise, fire hazard, proximity to wildlife, and interference of scenic views from the Backbone Trail.
8. **AGENCY RECOMMENDATIONS.**
 - A. County Department of Parks and Recreation: Recommended clearance to public hearing with no conditions through the County's electronic consultation system (EPIC-LA) on September 29, 2020.
 - B. County Fire Department: Recommended clearance to public hearing with no conditions through EPIC-LA on September 30, 2020.
 - C. County Department of Public Works: Recommended denial of the Project due to lack of documentation regarding road boundaries, road improvements, lines of sight, and earthmoving details in a letter dated February 2, 2021.
 - D. County Department of Public Health: Recommended denial of the Project due to incomplete documentation regarding the OWTS and water service in a letter dated October 27, 2020.
 - E. County Environmental Review Board: Chose to take no action regarding the Project at a meeting held on August 16, 2021. Recommended that it return with a more comprehensive plan and biological assessment, as well as a redesign to be consistent with the LIP.
9. **CEQA DETERMINATION.** No determination has been made regarding the applicability of the California Environmental Quality Act (Public Resources Code section 21000, et seq.) ("CEQA") to this project. Per State CEQA Guidelines and the Environmental Document Reporting Procedures and Guidelines for the County, a CEQA determination is not required when a project is denied.
10. **PREVIOUS HEARING PROCEEDINGS.** A duly noticed public hearing was held before the Hearing Officer on October 4, 2022, which was continued to November 1, 2022 to allow the Hearing Officer to do a site visit and thoroughly review all documents. At the November 1, 2022 continued public hearing, Regional Planning Staff recommended denial of the Project. The applicant's representative spoke in favor of

the Project. The Hearing Officer indicated her intent to deny the Project and continued the hearing to February 7, 2023 to allow additions and edits to the required denial findings. At the continued hearing on February 7, 2023, the Hearing Officer closed the public hearing and denied the Project. The applicant appealed this denial to the Commission on February 13, 2023 per the provisions of Los Angeles County Code Section 22.44.970.

GENERAL PLAN CONSISTENCY FINDINGS

11. **LAND USE POLICY.** The Commission finds that the Project is not consistent with the LUP. The Rural Village land use designation is intended for single-family residential uses on relatively small lots. Although a single-family residence is specifically listed as a principal permitted use under this designation, the Project is not consistent with the policies of the LUP, as described below.
12. **GOALS AND POLICIES.** The Commission finds that the Project would not be consistent with the following policies of the LUP:

Conservation and Open Space Element

Policy CO-41:

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

Policy CO-57:

New non-resource-dependent development shall also provide an additional 100-foot "Quiet Zone" from H1 habitat where feasible (measured from the outer edge of the 100-foot H1 habitat buffer required above). New development is not permitted in the H1 habitat Quiet Zone except resource-dependent uses, non-irrigated fuel modification required by the Fire Department for lawfully-established structures, and the following other uses in very limited circumstances: (1) public works projects required to protect existing public roads when there is no feasible alternative, as long as impacts to H1 habitat and the H1 buffer are avoided to the maximum extent feasible, and unavoidable impacts are minimized and mitigated; (2) an access road

to a lawfully-permitted use when there is no other feasible alternative to provide access to public recreation areas or development on a legal parcel, as long as impacts to H1 habitat and H1 buffer are avoided to the maximum extent feasible, and unavoidable impacts are minimized and mitigated; (3) a development on a lawfully-created parcel that is the minimum development necessary to provide a reasonable economic use of the property and where there is no feasible alternative, as long as impacts to H1 habitat and H1 buffer are avoided to the maximum Santa Monica Mountains Local Coastal Program 31 February 2018 Land Use Plan extent feasible, and unavoidable impacts are minimized and mitigated; (4) equestrian pasture outside of the fuel modification zone, consistent with the requirements of the LCP, where the development is sited and designed to ensure that no required fuel modification extends into H1 habitat or H1 buffer, it will not significantly degrade H1 habitat, and will not adversely affect wildlife usage, including movement patterns, of the local area or region. Additionally, if existing fuel modification for the principal use is located within the Quiet Zone, confined animal facilities may be established within the Quiet Zone on slopes of 3:1 or less only if the facilities will not require fuel modification to extend into H1 habitat or the H1 habitat buffer, and subject to ERB review. Furthermore, public recreational facilities may also be located within this quiet zone, if it is developed and/or disturbed by historic use (e.g., recreational).

Policy CO-66

Protection of H1 and H2 habitat and public access shall take priority over other development standards, and where there is any conflict between general/other development standards and the biological resource and/or public access protection provisions, the standards that are most protective of H1 and H2 habitat and public access shall have precedence.

Policy CO-109:

Site and design new development to protect natural features, and minimize removal of natural vegetation.

Policy CO-124:

The Santa Monica Mountains contain scenic resources of regional and national importance. The scenic and visual qualities of these resources shall be protected and, where feasible, enhanced.

Policy CO-125:

Protect public views within Scenic Areas and throughout the Coastal Zone. Places on, along, within, or visible from Scenic Routes, public parklands, public trails, beaches, and state waters that offer scenic vistas of the mountains, canyons, coastline, beaches, and other unique natural features are considered Scenic Resource Areas. Scenic Resource Areas do not include areas that are largely developed such as existing, predominantly built-out residential subdivisions. Scenic Resource Areas also include the scenic resources identified on Map 3 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.

Policy 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*

Policy CO-128:

New development shall be subordinate to the character of its setting.

Policy CO-131:

Site and design new development to minimize adverse impacts on scenic resources to the maximum extent feasible. If there is no feasible building site location on the proposed project site where development would not be visible, then the development shall be sited and designed to minimize impacts on scenic areas through measures that may include, but not be limited to, siting development in the least visible portion of the site, breaking up the mass of new structures, designing structures to blend into the natural hillside setting, restricting the building maximum size, reducing maximum height, clustering development, minimizing grading, incorporating landscape and building material screening elements, and where appropriate, berming.

Policy CO-133:

New development shall be sited and designed to minimize alteration of natural landforms by:

- a. Conforming to the natural topography.*
- b. Preventing substantial grading or reconfiguration of the project site.*
- c. Eliminating flat building pads on slopes. Building pads on sloping sites shall utilize split-level or stepped-pad designs.*
- d. Requiring that manufactured contours mimic the natural contours.*
- e. Ensuring that graded slopes blend with the existing terrain of the site and surrounding area.*
- f. Minimizing grading permitted outside of the building footprint.*

- g. Clustering structures to minimize site disturbance and to minimize development area.*
- h. Minimizing height and length of cut and fill slopes.*
- i. Minimizing the height and length of retaining walls.*
- j. Cut and fill operations may be balanced on site, where the grading does not substantially alter the existing topography and blends with the surrounding area. Export of cut material may be required to preserve the natural topography.*

Policy CO-147:

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

Land Use Element

Policy LU-33:

Require that new development be compatible with the rural character of the area and the surrounding natural environment.

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

ZONING CODE CONSISTENCY FINDINGS

- 13. HABITAT CATEGORIES.** The Commission finds that the Project is not consistent with the standard identified in County Code Section 22.44.1890. The Project Site is designated as H1 Habitat and H3 Habitat by the LUP. While all construction would occur within H3 Habitat, impacts from the development would be located within the H1 Quiet Zone and H1 Habitat Buffer. The Project would also result in required fuel modification within H1 Habitat.

Per the requirements of the LIP, no development, except for access driveways and resource-dependent uses, is permitted in H1 Habitat (County Code Section 22.44.1890 C). Because habitable structures are proposed less than 200 feet from H1 Habitat (oak woodland) to the west, fuel modification is required within this area by the approved fuel modification plan. Therefore, the Project design is not compatible with surrounding environmental resources, as it would result in development of H1 Habitat.

Additionally, development is proposed within the H1 Habitat Buffer and H1 Quiet Zone. Per the requirements of the LIP, residential development may only be permitted within an H1 Quiet Zone or H1 Habitat Buffer when all of the following apply:

- a. The Project Site is on a lawfully created parcel;
- b. The development is the minimum necessary to provide the landowner a reasonable economic use of the property, and in no case shall it exceed the maximum standards provided in County Code Sections 22.44.1910 and 22.44.1920;
- c. There is no other feasible alternative building site location that can avoid the H1 Habitat Buffer or H1 Quiet Zone;
- d. The maximum feasible buffer width is provided between the development and the H1 Habitat area;
- e. The development is sited and designed to prevent impacts that would significantly degrade H1 Habitat; and
- f. All feasible mitigation measures have been provided to minimize adverse environmental effects.

The Project proposes a 4,823-square-foot single-family residence. Reducing the square footage of the proposed residence would provide a greater buffer between development and the H1 Habitat area. Thus, the development is not the minimum necessary development for the site, as required within an H1 Quiet Zone or H1 Habitat Buffer by the LIP. Therefore, the findings in County Code Sections 22.44.1890 D.8.b and 22.44.1890 E.12.b cannot be met.

14. **OWTS STANDARDS.** The Commission finds that the LIP specifically prohibits OWTS seepage pits or leach fields to be placed within 50 feet of the dripline of an oak tree (County Code Section 22.44.1340 B.3.c). There are several locations on the Project Site located more than 50 feet from oaks or other native trees, and the applicant has not provided documentation that these alternative locations are unsuitable for OWTS seepage pits. Thus, it has not been demonstrated that a variance is necessary due to special characteristics of the lot or to preserve a substantial property right (see “Variance Findings” below).

COASTAL DEVELOPMENT PERMIT FINDINGS

15. **The Commission finds that the proposed development is not in conformity with the certified local coastal program.** As proposed, the Project would not comply with all applicable development standards for residences in the Santa Monica Mountains Local Coastal Program, which includes the LUP and LIP, specifically those standards related to habitat categories, Scenic Resource Areas, and OWTS standards.
16. **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 Project Site is not

located between the ocean and the nearest public road, so coastal access requirements would not be applicable.

VARIANCE FINDINGS

17. **The Commission finds that there are no special circumstances or exceptional characteristics applicable to the property involved, such as size, shape, topography, location, or surroundings, which are not generally applicable to other properties in the same vicinity and under identical zoning classification.** It has not been demonstrated that OWTS seepage pits cannot be placed in a location more than 50 feet from the dripline of an oak tree.
18. **The Commission finds that such variance is unnecessary for the preservation of a substantial property right of the applicant such as that possessed by owners of other property in the same vicinity and zone.** It has not been demonstrated that OWTS seepage pits cannot be placed in a location more than 50 feet from the dripline of an oak tree.
19. **The Commission finds that the granting of the variance will be materially detrimental to the public welfare or be injurious to other property or improvements in the same vicinity and zone.** The proposed OWTS location results in greater development near oak trees, which would detrimentally affect the public welfare and other properties by degrading scenic and biological resources.
20. **The Commission finds that the granting of the variance will be materially detrimental to coastal resources.** The proposed OWTS location results in greater development near oak trees, which would detrimentally affect coastal resources by degrading scenic and biological resources.

ADMINISTRATIVE FINDINGS

21. **HEARING PROCEEDINGS.** A duly noticed appeal hearing was held before the Commission on April 26, 2023. Regional Planning Staff recommended denial of the Project. Testimony was taken both for and against the Project. After a brief discussion, the Commission subsequently closed the public hearing and denied the Project.
22. **LEGAL NOTIFICATION.** The Commission finds that pursuant to Section 22.44.990 of the County Code, 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 the County Department of Regional Planning's ("LA County Planning") website. On March 23, 2022, a total of 115 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 20 notices to those on the courtesy mailing list for The Malibu Zoned District and additional interested parties.
23. **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 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 COMMISSION CONCLUDES THAT:

Regarding the Minor CDP:

- A. The proposed development is not in conformity with the certified local coastal program.
- B. 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.

Regarding the Variance:

- A. There are no special circumstances or exceptional characteristics applicable to the property involved, such as size, shape, topography, location, or surroundings, which are not generally applicable to other properties in the same vicinity and under identical zoning classification.
- B. Such variance is unnecessary for the preservation of a substantial property right of the applicant such as that possessed by owners of other property in the same vicinity and zone.
- C. 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.
- D. The granting of the variance will be materially detrimental to coastal resources.

THEREFORE, THE COMMISSION:

1. Denies **MINOR COASTAL DEVELOPMENT PERMIT NO. RPPL2019002479.**
2. Denies **VARIANCE NO. RPPL2019002480.**

ACTION DATE: April 26, 2023

VOTE: 5-0

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

Dissenting: None

Abstaining: None

Absent: None

**PROJECT NO. 2019-000686-(3)
MINOR COASTAL DEVELOPMENT PERMIT NO.
RPPL2019002479, VARIANCE NO. RPPL2019002480**

**FINDINGS
PAGE 11 OF 11**

MG:RG:TM
4/26/23

c: Zoning Enforcement, Building and Safety

**LOS ANGELES COUNTY
DEPARTMENT OF REGIONAL PLANNING
FINDINGS OF THE REGIONAL PLANNING COMMISSION
AND ORDER
PROJECT NO. 2019-000686-(3)
MINOR COASTAL DEVELOPMENT PERMIT NO. RPPL2019002885
VARIANCE NO. RPPL2019002886**

RECITALS

1. **HEARING DATE(S).** The Los Angeles County (“County”) Regional Planning Commission (“Commission”) conducted a duly noticed public hearing on April 26, 2023 in the matter of Project No. 2019-000686-(3), Minor Coastal Development Permit No. RPPL2019002885 (“CDP”), and Variance No. RPPL2019002886 (“Variance”).
2. **ENTITLEMENT(S) REQUESTED.** The applicant, California Pacific Homes, requests the CDP and Variance to authorize the construction of a 4,100-square-foot single-family residence, a 525-square-foot guest house, and an onsite wastewater treatment system (“OWTS”) (“Project”) on a 0.93-acre property located on the north side of Piuma Road (Assessor’s Parcel Number 4456-038-004) in the Monte Nido Rural Village of the Santa Monica Mountains Coastal Zone (“Project Site”). The guest house would share the OWTS with the main residence, and an OWTS seepage pit would be located less than 50 feet from an oak tree. The residence would also occupy more than 50 percent of the linear frontage of Piuma Road—a designated scenic route. A total of 459 cubic yards of earth (459 cubic yards cut, all exported) would be graded. The Project would result in new fuel modification or brush clearance within the protected zones of 10 oak trees.
3. **ENTITLEMENT(S) REQUIRED.** A CDP is required to construct a single-family residence and an OWTS in the R-C-1 (Rural Coastal—One-Acre Minimum Required Lot Area) Zone pursuant to Los Angeles County Code (“County Code”) Section 22.44.810, and a Minor CDP is required for any project that requires Environmental Review Board (“ERB”) review (County Code Sections 22.44.860 and 22.44.940). The residence would result in development less than 200 feet from H1 Habitat and thus requires ERB review. A Minor CDP is also required for any project that results in the encroachment into the protected zone of any oak tree (County Code Section 22.44.950). As currently proposed, new fuel modification or brush clearance would occur within the protected zones of 10 oak trees. As a result, a Minor CDP is required for the Project.

A variance is required for construction of an OWTS seepage pit or leach field within 50 feet of an oak tree, per County Code Section 22.44.1340 B.3.c. A variance is also required to permit a habitable accessory structure that shares an OWTS with the main residence (County Code Section 22.44.1370 D.8) and to permit a structure that occupies more than 50 percent of the linear frontage of a parcel fronting a scenic route (County Code Section 22.44.2040 C.1). County Code Section 22.44.1910 I restricts the building site area for new residential development to 10,000 square feet. Because the guest house would share an OWTS with the main residence, an OWTS seepage pit

is proposed less than 50 feet from an oak tree, the residence would occupy more than 50 percent of the parcel frontage, and the building site area is greater than 10,000 square feet, a variance is required for all deviations from the Santa Monica Mountains Local Implementation Program (“LIP”).

4. **LAND USE DESIGNATION.** The Project Site is located within the Rural Village land use designation of the Santa Monica Mountains Local Coastal Program Land Use Policy Map, a component of the General Plan.
5. **ZONING.** The Project Site is located in The Malibu Zoned District and is zoned R-C-1. Pursuant to County Code Section 22.44.1750, a single-family residence is a principal permitted use within the R-C Zone. However, County Code Sections 22.44.860, 22.44.940, and 22.44.950 require a Minor CDP for any development that needs ERB review or encroaches into the protected zones of oak trees, as does the Project. A variance is required for construction of an OWTS seepage pit or leach field within 50 feet of an oak tree, per County Code Section 22.44.1340 B.3.c. A variance is also required to permit a habitable accessory structure that shares an OWTS with the main residence (County Code Section 22.44.1370 D.8) and for structures that occupy more than 50 percent of the linear frontage of a parcel fronting a scenic route (County Code Section 22.44.2040 C.1). County Code Section 22.44.1910 I also restricts building site area for new residential development to 10,000 square feet. Because an OWTS seepage pit is proposed less than 50 feet from an oak tree, the guest house would share an OWTS with the main residence, the residence would occupy more than 50 percent of the parcel frontage, and the proposed building site area exceeds 10,000 square feet, a variance is required for all the deviations.

6. PROJECT AND SITE PLAN DESCRIPTION.

A. Existing Site Conditions

The Project Site is 0.93 gross acres in size and consists of one legal lot, which is generally rectangular in shape with level terrain on its southern portion and steep downward slopes on its central and northern portions. An existing graded pad of approximately 12,000 square feet and drainage structures are located on the southern portion of the of the lot. These were legally developed with CDP No. 5-83-004, which was approved with the underlying tract map in 1987 (Tract Map No. 38931). The entirety of the Project Site is mapped as H3 Habitat in the Santa Monica Mountains Local Coastal Program Land Use Plan (“LUP”). Most of the Project Site is within 200 feet of H1 Habitat to the west within the H1 Quiet Zone (100-200 feet away). Other than the oaks, the Project Site contains mostly native and non-native grasses.

B. Site Access

The Project Site would be accessed from Piuma Road, a 65-foot-wide public road and designated scenic route, immediately to the south of the Project Site.

C. Site Plan

The applicant proposes the construction of a 4,100-square-foot single-family residence, a 769-square-foot attached garage, and a 525-square-foot guest house on the southern portion of the 0.93-acre Project Site. The residence would have a maximum height of 16 feet, five inches above grade. A total of 459 cubic yards of earth (459 cubic yards cut, all exported) would be graded. The Project would also include one OWTS, retaining walls, and other appurtenant facilities on a total building site of 11,550 square feet within the existing graded pad. The building would be accessed by a 45-foot-long paved driveway, which would access Piuma Road to the south. Development from new brush clearance and fuel modification would also encroach into the protected zones of 10 coast live oaks. While the entirety of the Project Site is mapped as H3 Habitat within the LUP, a majority of the Project Site is within the H1 Quiet Zone (100-200 feet away). The residence is proposed for a location on the southern portion of the Project Site within the H1 Quiet Zone, although the guest house, located to the southwest of the residence, is not. An OWTS seepage pit is also proposed north of the residence in a location less than 50 feet from the dripline of an oak tree. The Project Site has a linear street frontage of 104 feet and a linear development frontage of 83 feet.

7. PUBLIC COMMENTS. Four phone calls and nine letters of opposition have been received over the course of the hearing process for this Project. Issues raised include destruction of sensitive habitat, light pollution, traffic, construction noise, fire hazard, proximity to wildlife, and interference of scenic views from the Backbone Trail.

8. AGENCY RECOMMENDATIONS.

A. County Department of Parks and Recreation: Recommended clearance to public hearing with no conditions through the County's electronic consultation system (EPIC-LA) on September 29, 2020.

B. County Fire Department: Recommended clearance to public hearing with no conditions through EPIC-LA on September 30, 2020.

C. County Department of Public Works: Recommended denial of the Project due to lack of documentation regarding road boundaries, road improvements, lines of sight, and earthmoving details in a letter dated February 3, 2021.

D. County Department of Public Health: Recommended denial of the Project due to the sharing of an OWTS between a single-family residence and habitable accessory structure in a letter dated October 27, 2020.

E. County Environmental Review Board: Chose to take no action regarding the Project at a meeting held on August 16, 2021. Recommended that it return with a more comprehensive plan and biological assessment, as well as a redesign to be consistent with the LIP.

9. CEQA DETERMINATION. No determination has been made regarding the applicability of the California Environmental Quality Act (Public Resources Code

section 21000, et seq.) (“CEQA”) to this project. Per State CEQA Guidelines and the Environmental Document Reporting Procedures and Guidelines for the County, a CEQA determination is not required when a project is denied.

10. **PREVIOUS HEARING PROCEEDINGS.** A duly noticed public hearing was held before the Hearing Officer on October 4, 2022, which was continued to November 1, 2022 to allow the Hearing Officer to do a site visit and thoroughly review all documents. At the November 1, 2022 continued public hearing, Regional Planning Staff recommended denial of the Project. The applicant’s representative spoke in favor of the Project. The Hearing Officer indicated her intent to deny the Project and continued the hearing to February 7, 2023 to allow additions and edits to the required denial findings. At the continued hearing on February 7, 2023, the Hearing Officer closed the public hearing and denied the Project. The applicant appealed this denial to the Commission on February 13, 2023 per the provisions of Los Angeles County Code Section 22.44.970.

GENERAL PLAN CONSISTENCY FINDINGS

11. **LAND USE POLICY.** The Commission finds that the Project is not consistent with the LUP. The Rural Village land use designation is intended for single-family residential uses on relatively small lots. Although a single-family residence is specifically listed as a principal permitted use under this designation, the Project is not consistent with the policies of the LUP, as described below.
12. **GOALS AND POLICIES.** The Commission finds that the Project would not be consistent with the following policies of the LUP:

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Policy CO-41:

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Policy CO-51:

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

Policy CO-57:

New non-resource-dependent development shall also provide an additional 100-foot "Quiet Zone" from H1 habitat where feasible (measured from the outer edge of the 100-foot H1 habitat buffer required above). New development is not permitted in the H1 habitat Quiet Zone except resource-dependent uses, non-irrigated fuel modification required by the Fire Department for lawfully-established structures, and the following other uses in very limited circumstances: (1) public works projects required to protect existing public roads when there is no feasible alternative, as long as impacts to H1 habitat and the H1 buffer are avoided to the maximum extent feasible, and unavoidable impacts are minimized and mitigated; (2) an access road to a lawfully-permitted use when there is no other feasible alternative to provide access to public recreation areas or development on a legal parcel, as long as impacts to H1 habitat and H1 buffer are avoided to the maximum extent feasible, and unavoidable impacts are minimized and mitigated; (3) a development on a lawfully-created parcel that is the minimum development necessary to provide a reasonable economic use of the property and where there is no feasible alternative, as long as impacts to H1 habitat and H1 buffer are avoided to the maximum Santa Monica Mountains Local Coastal Program 31 February 2018 Land Use Plan extent feasible, and unavoidable impacts are minimized and mitigated; (4) equestrian pasture outside of the fuel modification zone, consistent with the requirements of the LCP, where the development is sited and designed to ensure that no required fuel modification extends into H1 habitat or H1 buffer, it will not significantly degrade H1 habitat, and will not adversely affect wildlife usage, including movement patterns, of the local area or region. Additionally, if existing fuel modification for the principal use is located within the Quiet Zone, confined animal facilities may be established within the Quiet Zone on slopes of 3:1 or less only if the facilities will not

require fuel modification to extend into H1 habitat or the H1 habitat buffer, and subject to ERB review. Furthermore, public recreational facilities may also be located within this quiet zone, if it is developed and/or disturbed by historic use (e.g., recreational).

Policy CO-66

Protection of H1 and H2 habitat and public access shall take priority over other development standards, and where there is any conflict between general/other development standards and the biological resource and/or public access protection provisions, the standards that are most protective of H1 and H2 habitat and public access shall have precedence.

Policy CO-109:

Site and design new development to protect natural features, and minimize removal of natural vegetation.

Policy CO-124:

The Santa Monica Mountains contain scenic resources of regional and national importance. The scenic and visual qualities of these resources shall be protected and, where feasible, enhanced.

Policy CO-125:

Protect public views within Scenic Areas and throughout the Coastal Zone. Places on, along, within, or visible from Scenic Routes, public parklands, public trails, beaches, and state waters that offer scenic vistas of the mountains, canyons, coastline, beaches, and other unique natural features are considered Scenic Resource Areas. Scenic Resource Areas do not include areas that are largely developed such as existing, predominantly built-out residential subdivisions. Scenic Resource Areas also include the scenic resources identified on Map 3 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.

Policy 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*

Policy CO-128:

New development shall be subordinate to the character of its setting.

Policy CO-131:

Site and design new development to minimize adverse impacts on scenic resources to the maximum extent feasible. If there is no feasible building site location on the proposed project site where development would not be visible, then the development shall be sited and designed to minimize impacts on scenic areas through measures that may include, but not be limited to, siting development in the least visible portion of the site, breaking up the mass of new structures, designing structures to blend into the natural hillside setting, restricting the building maximum size, reducing maximum height, clustering development, minimizing grading, incorporating landscape and building material screening elements, and where appropriate, berming.

Policy CO-133:

New development shall be sited and designed to minimize alteration of natural landforms by:

- a. Conforming to the natural topography.*
- b. Preventing substantial grading or reconfiguration of the project site.*
- c. Eliminating flat building pads on slopes. Building pads on sloping sites shall utilize split-level or stepped-pad designs.*
- d. Requiring that manufactured contours mimic the natural contours.*
- e. Ensuring that graded slopes blend with the existing terrain of the site and surrounding area.*
- f. Minimizing grading permitted outside of the building footprint.*
- g. Clustering structures to minimize site disturbance and to minimize development area.*
- h. Minimizing height and length of cut and fill slopes.*
- i. Minimizing the height and length of retaining walls.*
- j. Cut and fill operations may be balanced on site, where the grading does not substantially alter the existing topography and blends with the surrounding area. Export of cut material may be required to preserve the natural topography.*

Policy CO-147:

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

Land Use Element

Policy LU-33:

Require that new development be compatible with the rural character of the area and the surrounding natural environment.

The Project's large square footage and building site area would result in development that would extend into the H1 Quiet Zone, as well as brush clearance that would extend into H1 Habitat (oak woodland) and H1 Habitat Buffer. The Project's large footprint and square footage, as well as a habitable accessory structure, result in a design that is not protective of surrounding landforms by failing to preserve H1 Habitat areas in a more natural state. This would also not be consistent with policies regarding the protection of Scenic Resource Areas. The Project's design, which includes a building site area of 11,550 square feet, when paired with its proximity to Piuma Road, a designated scenic route, would result in unnecessary visual impacts to the surrounding area.

ZONING CODE CONSISTENCY FINDINGS

13. HABITAT CATEGORIES. The Commission finds that the Project is not consistent with the standard identified in County Code Section 22.44.1890. The Project Site is designated as H3 Habitat by the LUP. While all construction would occur within H3 Habitat, impacts from the development would be located within the H1 Quiet Zone. The Project would also result in required brush clearance within H1 Habitat and H1 Habitat Buffer.

Per the requirements of the LIP, no development, except for access driveways and resource-dependent uses, is permitted in H1 Habitat (County Code Section 22.44.1890 C). Because habitable structures are proposed less than 200 feet from H1 Habitat (oak woodland) to the west, brush clearance will be required within H1 Habitat by the County Agricultural Commissioner. Therefore, the Project design is not compatible with surrounding environmental resources, as it would result in development of H1 Habitat.

Additionally, development is proposed within the H1 Quiet Zone. Per the requirements of the LIP, residential development may only be permitted within an H1 Quiet Zone or H1 Habitat Buffer when all of the following apply:

- a. The Project Site is on a lawfully created parcel;
- b. The development is the minimum necessary to provide the landowner a reasonable economic use of the property, and in no case shall it exceed the maximum standards provided in County Code Sections 22.44.1910 and 22.44.1920;
- c. There is no other feasible alternative building site location that can avoid the H1 Habitat Buffer or H1 Quiet Zone;
- d. The maximum feasible buffer width is provided between the development and the H1 Habitat area;

- e. The development is sited and designed to prevent impacts that would significantly degrade H1 Habitat; and
- f. All feasible mitigation measures have been provided to minimize adverse environmental effects.

The Project proposes a 4,100-square-foot single-family residence and a habitable accessory structure (guest house). Reducing the square footage of the proposed residence would provide a greater buffer between development and the H1 Habitat area. Thus, the development is not the minimum necessary development for the site, as required within an H1 Quiet Zone or H1 Habitat Buffer by the LIP. Therefore, the findings in County Code Sections 22.44.1890 D.8.b and 22.44.1890 E.12.b cannot be met.

14. **HABITABLE ACCESSORY STRUCTURES.** The Commission finds that habitable accessory structures are required to have an OWTS separate from the main residence (County Code Section 22.44.1370 D.8). The Department of Public Health's Environmental Health Division, which is responsible for the review of OWTS, has not approved any arrangements for the sharing of an OWTS by both structures. It has also not been demonstrated that the placement of two separate OWTS on the Project Site is infeasible, nor would it be necessary to allow reasonable economic use of the property. Because a single-family residence alone would provide a reasonable economic use, it cannot be demonstrated that a variance for the habitable accessory structure is necessary to preserve a substantial property right (see "Variance Findings" below).
15. **OWTS STANDARDS.** The Commission finds that the LIP specifically prohibits OWTS seepage pits or leach fields to be placed within 50 feet of the dripline of an oak tree (County Code Section 22.44.1340 B.3.c). There are several locations on the Project Site located more than 50 feet from oaks or other native trees, and the applicant has not provided documentation that these alternative locations are unsuitable for OWTS seepage pits. Thus, it has not been demonstrated that this variance is necessary due to special characteristics of the lot or to preserve a substantial property right (see "Variance Findings" below).
16. **BUILDING SITE AREA.** The Commission finds that a variance is required for a building site area greater than 10,000 square feet, per County Code Section 22.44.1910 I. The Project proposes a building site area of 11,550 square feet. There are no special characteristics of the Project Site requiring this, and the building site area could be reduced in size to comply with these sections of the LIP. Thus, it has not been demonstrated that this variance is necessary due to special characteristics of the lots or to preserve a substantial property right (see "Variance Findings" below).

COASTAL DEVELOPMENT PERMIT FINDINGS

17. **The Commission finds that the proposed development is not in conformity with the certified local coastal program.** As proposed, the Project would not comply with all applicable development standards for residences in the Santa Monica Mountains

Local Coastal Program, which includes the LUP and LIP, specifically those standards related to habitat categories, habitable accessory structures, building site area, Scenic Resource Areas, and OWTS standards.

18. **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 Project Site is not located between the ocean and the nearest public road, so coastal access requirements would not be applicable.

VARIANCE FINDINGS

19. **The Commission finds that there are no special circumstances or exceptional characteristics applicable to the property involved, such as size, shape, topography, location, or surroundings, which are not generally applicable to other properties in the same vicinity and under identical zoning classification.** It has not been demonstrated that OWTS seepage pits cannot be placed in a location more than 50 feet from the dripline of an oak tree, and the design of the residence could be modified to reduce the building site area. Also, the proposed habitable accessory structure is not necessary to allow for a reasonable economic use of the property.
20. **The Commission finds that such variance is unnecessary for the preservation of a substantial property right of the applicant such as that possessed by owners of other property in the same vicinity and zone.** The proposed habitable accessory structure is not necessary to allow for a reasonable economic use of the property. The design of the residence could be modified to reduce the building site area. It has also not been demonstrated that OWTS seepage pits cannot be placed in a location more than 50 feet from the dripline of an oak tree.
21. **The Commission finds that the granting of the variance will be materially detrimental to the public welfare or be injurious to other property or improvements in the same vicinity and zone.** The proposed habitable accessory structure, large building site area, and the OWTS location result in greater development near oak trees, which would detrimentally affect the public welfare and other properties by degrading scenic and biological resources.
22. **The Commission finds that the granting of the variance will be materially detrimental to coastal resources.** The proposed habitable accessory structure, large building site area, and the OWTS location results in greater development near oak trees, which would detrimentally affect coastal resources by degrading scenic and biological resources.

ADMINISTRATIVE FINDINGS

23. **HEARING PROCEEDINGS.** A duly noticed appeal hearing was held before the Commission on April 26, 2023. Regional Planning Staff recommended denial of the

Project. Testimony was taken both for and against the Project. After a brief discussion, the Commission subsequently closed the public hearing and denied the Project.

24. LEGAL NOTIFICATION. The Commission finds that pursuant to Section 22.44.990 of the County Code, 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 the County Department of Regional Planning's ("LA County Planning") website. On March 23, 2023, a total of 115 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 20 notices to those on the courtesy mailing list for The Malibu Zoned District and additional interested parties.

25. 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 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 COMMISSION CONCLUDES THAT:

Regarding the Minor CDP:

- A. The proposed development is not in conformity with the certified local coastal program.
- B. 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.

Regarding the Variance:

- A. There are no special circumstances or exceptional characteristics applicable to the property involved, such as size, shape, topography, location, or surroundings, which are not generally applicable to other properties in the same vicinity and under identical zoning classification.
- B. Such variance is unnecessary for the preservation of a substantial property right of the applicant such as that possessed by owners of other property in the same vicinity and zone.
- C. 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.
- D. The granting of the variance will be materially detrimental to coastal resources.

THEREFORE, THE COMMISSION:

1. Denies **MINOR COASTAL DEVELOPMENT PERMIT NO. RPPL2019002885.**
2. Denies **VARIANCE NO. RPPL2019002886.**

ACTION DATE: April 26, 2023

VOTE: 5-0

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

Dissenting: None

Abstaining: None

Absent: None

MG:RG:TM
4/26/23

c: Zoning Enforcement, Building and Safety

**LOS ANGELES COUNTY
DEPARTMENT OF REGIONAL PLANNING
FINDINGS OF THE REGIONAL PLANNING COMMISSION
AND ORDER
PROJECT NO. 2019-000686-(3)
MINOR COASTAL DEVELOPMENT PERMIT NO. RPPL2019002887
VARIANCE NO. RPPL2019002888**

RECITALS

1. **HEARING DATE(S).** The Los Angeles County (“County”) Regional Planning Commission (“Commission”) conducted a duly noticed public hearing on April 26, 2023 in the matter of Project No. 2019-000686-(3), Minor Coastal Development Permit No. RPPL2019002887 (“CDP”), and Variance No. RPPL2019002888 (“Variance”).
2. **ENTITLEMENT(S) REQUESTED.** The applicant, California Pacific Homes, requests the CDP and Variance to authorize the construction of a 5,205-square-foot single-family residence and an onsite wastewater treatment system (“OWTS”) (“Project”) on a 0.98-acre property located on the north side of Piuma Road (Assessor’s Parcel Number 4456-038-006) in the Monte Nido Rural Village of the Santa Monica Mountains Coastal Zone (“Project Site”). An OWTS seepage pit would be located less than 50 feet from an oak tree. A total of 899 cubic yards of earth (899 cubic yards cut, all exported) would be graded. The Project would result in fuel modification or brush clearance within the protected zones of five oak trees.
3. **ENTITLEMENT(S) REQUIRED.** A CDP is required to construct a single-family residence and an OWTS in the R-C-1 (Rural Coastal—One-Acre Minimum Required Lot Area) Zone pursuant to Los Angeles County Code (“County Code”) Section 22.44.810, and a Minor CDP is required for any project that requires Environmental Review Board (“ERB”) review (County Code Sections 22.44.860 and 22.44.940). The residence would result in development less than 200 feet from H1 Habitat and thus requires ERB review. A Minor CDP is also required for any project that results in the encroachment into the protected zone of any oak tree (County Code Section 22.44.950). As currently proposed, fuel modification or brush clearance would occur within the protected zones of five oak trees. As a result, a Minor CDP is required for the Project.

A variance is required for construction of an OWTS seepage pit or leach field within 50 feet of an oak tree, per County Code Section 22.44.1340 B.3.c. Also, County Code Section 22.44.1910 I restricts building site area for new residential development to 10,000 square feet. Because an OWTS seepage pit is proposed less than 50 feet from an oak tree and the proposed building site area is 11,520 square feet, a variance is required for all deviations from development standards of the Santa Monica Mountains Local Implementation Program (“LIP”).

4. **LAND USE DESIGNATION.** The Project Site is located within the Rural Village land use designation of the Santa Monica Mountains Local Coastal Program Land Use Policy Map, a component of the General Plan.

5. **ZONING.** The Project Site is located in The Malibu Zoned District and is zoned R-C-1. Pursuant to County Code Section 22.44.1750, a single-family residence is a principal permitted use within the R-C Zone. However, County Code Sections 22.44.860, 22.44.940, and 22.44.950 require a Minor CDP for any development that needs ERB review or encroaches into the protected zone of oak trees, as does the Project. A variance is required for construction of an OWTS seepage pit or leach field within 50 feet of an oak tree (County Code Section 22.44.1340 B.3.c) or to permit a structure that occupies more than 50 percent of the linear frontage of a parcel fronting a scenic route (County Code Section 22.44.2040 C.1). County Code Section 22.44.1910 I also restricts building site area for new residential development to 10,000 square feet. Because an OWTS seepage pit is proposed less than 50 feet from an oak tree, the residence would occupy more than 50 percent of the parcel frontage, and the proposed building site area exceeds 10,000 square feet, a variance is required.

6. PROJECT AND SITE PLAN DESCRIPTION.

A. Existing Site Conditions

The Project Site is 0.98 gross acres in size and consists of one legal lot, which is generally rectangular in shape and consists of level terrain on the southern portion of the lot, with steep downward slopes on the central and northern portions. An existing graded pad of approximately 12,000 square feet and drainage structures are located on the southern portion of the of the lot. These were legally developed with CDP No. 5-83-004, which was approved with the underlying tract map in 1987 (Tract Map No. 38931). A small part of the northeastern portion of the Project Site is mapped as H1 Habitat, with the remainder mapped as H3 Habitat in the Santa Monica Mountains Local Coastal Program Land Use Plan (“LUP”). The majority of the Project Site is within 200 feet of H1 Habitat, which places it within the H1 Habitat Buffer (0-100 feet away) or H1 Quiet Zone (100-200 feet away). Other than the oaks, the Project Site contains mostly native and non-native grasses.

B. Site Access

The Project Site would be accessed from Piuma Road, a 65-foot-wide public road and designated scenic route, immediately to the south of the Project Site.

C. Site Plan

The applicant proposes the construction of a 5,200-square-foot single-family residence and a 656-square-foot attached garage on the southern portion of the 0.98-acre Project Site. The residence would have a maximum height of 15 feet, one inch above grade. A total of 899 cubic yards of earth (899 cubic yards cut, all exported) would be graded. The Project would also include one OWTS, retaining walls, and other appurtenant facilities on a total building site of 11,520 square feet within the existing graded pad. The building would be accessed by a 52-foot-long paved driveway, which would access Piuma Road to the south. Development from brush clearance and fuel modification would also encroach into the protected zones of five coast live oaks. While the majority of the Project Site is mapped as H3 Habitat within the LUP, a small part of the northeastern portion is H1 Habitat, which places almost the entirety of the site within the H1 Habitat Buffer (0-100 feet away)

or H1 Quiet Zone (100-200 feet away). The residence is proposed for a location on the southern portion of the Project Site, within the H1 Habitat Buffer and H1 Quiet Zone. An OWTS seepage pit is proposed south of the residence, less than 50 feet from the dripline of an oak tree. The Project Site has a linear street frontage of 110 feet and a linear development frontage of 55 feet.

7. **PUBLIC COMMENTS.** Four phone calls and nine letters of opposition have been received over the course of the hearing process for this Project. Issues raised include destruction of sensitive habitat, light pollution, traffic, construction noise, fire hazard, proximity to wildlife, and interference of scenic views from the Backbone Trail.
8. **AGENCY RECOMMENDATIONS.**
 - A. County Department of Parks and Recreation: Recommended clearance to public hearing with no conditions through the County's electronic consultation system (EPIC-LA) on September 29, 2020.
 - B. County Fire Department: Recommended clearance to public hearing with no conditions through EPIC-LA on September 30, 2020.
 - C. County Department of Public Works: Recommended denial of the Project due to lack of documentation regarding road boundaries, road improvements, lines of sight, and earthmoving details in a letter dated February 3, 2021.
 - D. County Department of Public Health: Recommended denial of the Project due to lack of information regarding the proposed OWTS and water service in a letter dated October 27, 2020.
 - E. County Environmental Review Board: Chose to take no action regarding the Project at a meeting held on August 16, 2021. Recommended that it return with a more comprehensive plan and biological assessment, as well as a redesign to be consistent with the LIP.
9. **CEQA DETERMINATION.** No determination has been made regarding the applicability of the California Environmental Quality Act (Public Resources Code section 21000, et seq.) ("CEQA") to this project. Per State CEQA Guidelines and the Environmental Document Reporting Procedures and Guidelines for the County, a CEQA determination is not required when a project is denied.
10. **PREVIOUS HEARING PROCEEDINGS.** A duly noticed public hearing was held before the Hearing Officer on October 4, 2022, which was continued to November 1, 2022 to allow the Hearing Officer to do a site visit and thoroughly review all documents. At the November 1, 2022 continued public hearing, Regional Planning Staff recommended denial of the Project. The applicant's representative spoke in favor of the Project. The Hearing Officer indicated her intent to deny the Project and continued the hearing to February 7, 2023 to allow additions and edits to the required denial findings. At the continued hearing on February 7, 2023, the Hearing Officer closed the public hearing and denied the Project. The applicant appealed this denial to the

Commission on February 13, 2023 per the provisions of Los Angeles County Code Section 22.44.970.

GENERAL PLAN CONSISTENCY FINDINGS

11. **LAND USE POLICY.** The Commission finds that the Project is not consistent with the LUP. The Rural Village land use designation is intended for single-family residential uses on relatively small lots. Although a single-family residence is specifically listed as a principal permitted use under this designation, the Project is not consistent with the policies of the LUP, as described below.
12. **GOALS AND POLICIES.** The Commission finds that the Project would not be consistent with the following policies of the LUP:

Conservation and Open Space Element

Policy CO-41:

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

Policy CO-51:

Where new development is permitted in H2 habitat pursuant to this LCP, the maximum allowable building site area on parcels shall be 10,000 square feet, or 25 percent of the parcel size, whichever is less. Where new residential development is permitted in H3 habitat, the maximum allowable residential building site area shall be 10,000 square feet, or 25 percent of the parcel size, whichever is less. The restriction of the building site area to less than the maximum may be required if the native tree protection policies require a smaller area or if it is determined that a smaller building site area would serve to avoid impacts to H1 habitat areas, substantially minimize grading associated with the project, reduce the need for manufactured slopes, or reduce the need for retaining features visible from scenic areas, public trails, and public lands. The allowable building site area may be increased for projects that qualify for participation in the incentive program of Policy LU-29 or for projects that comprise two adjoining legal lots, if the existing lots are

merged into one lot and one consolidated building site is provided with one access road or driveway. The allowable building site area shall not exceed the total of the building site areas allowed for each individual parcel. Adverse impacts to H2 habitat that cannot be avoided through the implementation of siting and design alternatives shall be accommodated through the Resource Conservation Program pursuant to Policy CO-86a.

Policy CO-57:

New non-resource-dependent development shall also provide an additional 100-foot "Quiet Zone" from H1 habitat where feasible (measured from the outer edge of the 100-foot H1 habitat buffer required above). New development is not permitted in the H1 habitat Quiet Zone except resource-dependent uses, non-irrigated fuel modification required by the Fire Department for lawfully-established structures, and the following other uses in very limited circumstances: (1) public works projects required to protect existing public roads when there is no feasible alternative, as long as impacts to H1 habitat and the H1 buffer are avoided to the maximum extent feasible, and unavoidable impacts are minimized and mitigated; (2) an access road to a lawfully-permitted use when there is no other feasible alternative to provide access to public recreation areas or development on a legal parcel, as long as impacts to H1 habitat and H1 buffer are avoided to the maximum extent feasible, and unavoidable impacts are minimized and mitigated; (3) a development on a lawfully-created parcel that is the minimum development necessary to provide a reasonable economic use of the property and where there is no feasible alternative, as long as impacts to H1 habitat and H1 buffer are avoided to the maximum Santa Monica Mountains Local Coastal Program 31 February 2018 Land Use Plan extent feasible, and unavoidable impacts are minimized and mitigated; (4) equestrian pasture outside of the fuel modification zone, consistent with the requirements of the LCP, where the development is sited and designed to ensure that no required fuel modification extends into H1 habitat or H1 buffer, it will not significantly degrade H1 habitat, and will not adversely affect wildlife usage, including movement patterns, of the local area or region. Additionally, if existing fuel modification for the principal use is located within the Quiet Zone, confined animal facilities may be established within the Quiet Zone on slopes of 3:1 or less only if the facilities will not require fuel modification to extend into H1 habitat or the H1 habitat buffer, and subject to ERB review. Furthermore, public recreational facilities may also be located within this quiet zone, if it is developed and/or disturbed by historic use (e.g., recreational).

Policy CO-66

Protection of H1 and H2 habitat and public access shall take priority over other development standards, and where there is any conflict between general/other development standards and the biological resource and/or public access protection provisions, the standards that are most protective of H1 and H2 habitat and public access shall have precedence.

Policy CO-109:

Site and design new development to protect natural features, and minimize removal of natural vegetation.

Policy CO-124:

The Santa Monica Mountains contain scenic resources of regional and national importance. The scenic and visual qualities of these resources shall be protected and, where feasible, enhanced.

Policy CO-125:

Protect public views within Scenic Areas and throughout the Coastal Zone. Places on, along, within, or visible from Scenic Routes, public parklands, public trails, beaches, and state waters that offer scenic vistas of the mountains, canyons, coastline, beaches, and other unique natural features are considered Scenic Resource Areas. Scenic Resource Areas do not include areas that are largely developed such as existing, predominantly built-out residential subdivisions. Scenic Resource Areas also include the scenic resources identified on Map 3 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.

Policy 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*

Policy CO-128:

New development shall be subordinate to the character of its setting.

Policy CO-131:

Site and design new development to minimize adverse impacts on scenic resources to the maximum extent feasible. If there is no feasible building site location on the proposed project site where development would not be visible, then the development shall be sited and designed to minimize impacts on scenic areas through measures that may include, but not be limited to, siting development in the least visible portion of the site, breaking up the mass of new structures, designing

structures to blend into the natural hillside setting, restricting the building maximum size, reducing maximum height, clustering development, minimizing grading, incorporating landscape and building material screening elements, and where appropriate, berming.

Policy CO-133:

New development shall be sited and designed to minimize alteration of natural landforms by:

- a. Conforming to the natural topography.*
- b. Preventing substantial grading or reconfiguration of the project site.*
- c. Eliminating flat building pads on slopes. Building pads on sloping sites shall utilize split-level or stepped-pad designs.*
- d. Requiring that manufactured contours mimic the natural contours.*
- e. Ensuring that graded slopes blend with the existing terrain of the site and surrounding area.*
- f. Minimizing grading permitted outside of the building footprint.*
- g. Clustering structures to minimize site disturbance and to minimize development area.*
- h. Minimizing height and length of cut and fill slopes.*
- i. Minimizing the height and length of retaining walls.*
- j. Cut and fill operations may be balanced on site, where the grading does not substantially alter the existing topography and blends with the surrounding area. Export of cut material may be required to preserve the natural topography.*

Policy CO-147:

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

Land Use Element

Policy LU-33:

Require that new development be compatible with the rural character of the area and the surrounding natural environment.

The Project's large square footage and footprint would result in development that would extend into the H1 Habitat Buffer and H1 Quiet Zone, as well as fuel modification and brush clearance that would extend into H1 Habitat (riparian zone). The Project's large footprint, building site area, and square footage, as well as an OWTS less than 50 feet from an oak tree, result in a design that is not protective of surrounding landforms by failing to preserve H1 Habitat areas in a more natural state. This would also not be consistent with policies regarding the protection of Scenic Resource Areas. The Project's design, which includes a building site area of 11,520 square feet, when paired

with its proximity to Piuma Road, a designated scenic route, would result in unnecessary visual impacts to the surrounding area.

ZONING CODE CONSISTENCY FINDINGS

13. HABITAT CATEGORIES. The Commission finds that the Project is not consistent with the standard identified in County Code Sections 22.44.1890. The Project Site is designated as H1 Habitat and H3 Habitat by the LUP. While all construction would occur within H3 Habitat, impacts from the development would be located within the H1 Quiet Zone and H1 Habitat Buffer. The Project would also result in required fuel modification and brush clearance within H1 Habitat.

Per the requirements of the LIP, no development, except for access driveways and resource-dependent uses, is permitted in H1 Habitat (County Code Section 22.44.1890 C). Because habitable structures are proposed less than 200 feet from H1 Habitat (riparian zone) to the northeast, fuel modification is required within this area by the approved fuel modification plan. Therefore, the Project design is not compatible with surrounding environmental resources, as it would result in development of H1 Habitat.

Additionally, development is proposed within the H1 Habitat Buffer and H1 Quiet Zone. Per the requirements of the LIP, residential development may only be permitted within an H1 Quiet Zone or H1 Habitat Buffer when all of the following apply:

- a. The Project Site is on a lawfully created parcel;
- b. The development is the minimum necessary to provide the landowner a reasonable economic use of the property, and in no case shall it exceed the maximum standards provided in County Code Sections 22.44.1910 and 22.44.1920;
- c. There is no other feasible alternative building site location that can avoid the H1 Habitat Buffer or H1 Quiet Zone;
- d. The maximum feasible buffer width is provided between the development and the H1 Habitat area;
- e. The development is sited and designed to prevent impacts that would significantly degrade H1 Habitat; and
- f. All feasible mitigation measures have been provided to minimize adverse environmental effects.

The Project proposes a 5,205-square-foot single-family residence. Reducing the square footage of the proposed residence would provide a greater buffer between development and the H1 Habitat area. Thus, the development is not the minimum necessary development for the site, as required within an H1 Quiet Zone or H1 Habitat Buffer by the LIP. Therefore, the findings in County Code Sections 22.44.1890 D.8.b and 22.44.1890 E.12.b cannot be met.

14. OWTS STANDARDS. The Commission finds that the LIP specifically prohibits OWTS seepage pits or leach fields to be placed within 50 feet of the dripline of an oak tree

(County Code Section 22.44.1340 B.3.c). There are several locations on the Project Site located more than 50 feet from oaks or other native trees, and the applicant has not provided documentation that these alternative locations are unsuitable for OWTS seepage pits. Thus, it has not been demonstrated that this variance is necessary due to special characteristics of the lot or to preserve a substantial property right (see "Variance Findings" below).

15. **BUILDING SITE AREA.** The Commission finds that a variance is required for a building site area greater than 10,000 square feet, per County Code Section 22.44.1910 I. The Project proposes a building site area of 11,900 square feet. There are no special characteristics of the Project Site requiring this, and the building site area could be reduced in size to comply with these sections of the LIP. Thus, it has not been demonstrated that this variance is necessary due to special characteristics of the lots or to preserve a substantial property right (see "Variance Findings" below).

COASTAL DEVELOPMENT PERMIT FINDINGS

16. **The Commission finds that the proposed development is not in conformity with the certified local coastal program.** As proposed, the Project would not comply with all applicable development standards for residences in the Santa Monica Mountains Local Coastal Program, which includes the LUP and LIP, specifically those standards related to habitat categories, building site area, Scenic Resource Areas, and OWTS standards.
17. **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 Project Site is not located between the ocean and the nearest public road, so coastal access requirements would not be applicable.

VARIANCE FINDINGS

18. **The Commission finds that there are no special circumstances or exceptional characteristics applicable to the property involved, such as size, shape, topography, location, or surroundings, which are not generally applicable to other properties in the same vicinity and under identical zoning classification.** The design of the residence could be modified to reduce the building site area. It also has not been demonstrated that OWTS seepage pits cannot be placed in a location more than 50 feet from the dripline of an oak tree. Thus, the property has not been shown to have special circumstances or exceptional characteristics.
19. **The Commission finds that such variance is unnecessary for the preservation of a substantial property right of the applicant such as that possessed by owners of other property in the same vicinity and zone.** The design of the residence could be modified to reduce the building site area. It also has not been demonstrated that OWTS seepage pits cannot be placed in a location more than 50 feet from the dripline of an oak tree. Thus, the variance is unnecessary to preserve a substantial property right.

20. **The Commission finds that the granting of the variance will be materially detrimental to the public welfare or be injurious to other property or improvements in the same vicinity and zone.** The proposed OWTS location and large building site area would result in greater development near to oak trees, which would detrimentally affect the public welfare and other properties by degrading scenic and biological resources.
21. **The Commission finds that the granting of the variance will be materially detrimental to coastal resources.** The proposed OWTS location and large building site area would result in greater development near to oak trees, which would detrimentally affect coastal resources by degrading scenic and biological resources.

ADMINISTRATIVE FINDINGS

22. **HEARING PROCEEDINGS.** A duly noticed appeal hearing was held before the Commission on April 26, 2023. Regional Planning Staff recommended denial of the Project. Testimony was taken both for and against the Project. After a brief discussion, the Commission subsequently closed the public hearing and denied the Project.
23. **LEGAL NOTIFICATION.** The Commission finds that pursuant to Section 22.44.990 of the County Code, 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 the County Department of Regional Planning's ("LA County Planning") website. On March 23, 2023, a total of 115 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 20 notices to those on the courtesy mailing list for The Malibu Zoned District and additional interested parties.
24. **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 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 COMMISSION CONCLUDES THAT:

Regarding the Minor CDP:

- A. The proposed development is not in conformity with the certified local coastal program.
- B. 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.

Regarding the Variance:

- A. There are no special circumstances or exceptional characteristics applicable to the property involved, such as size, shape, topography, location, or surroundings, which are not generally applicable to other properties in the same vicinity and under identical zoning classification.
- B. Such variance is unnecessary for the preservation of a substantial property right of the applicant such as that possessed by owners of other property in the same vicinity and zone.
- C. 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.
- D. The granting of the variance will be materially detrimental to coastal resources.

THEREFORE, THE COMMISSION:

- 1. Denies **MINOR COASTAL DEVELOPMENT PERMIT NO. RPPL2019002887.**
- 2. Denies **VARIANCE NO. RPPL2019002888.**

ACTION DATE: April 26, 2023

VOTE: 5-0

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

Dissenting: None

Abstaining: None

Absent: None

MG:RG:TM

4/26/23

c: Zoning Enforcement, Building and Safety

**LOS ANGELES COUNTY
DEPARTMENT OF REGIONAL PLANNING
FINDINGS OF THE REGIONAL PLANNING COMMISSION
AND ORDER
PROJECT NO. 2019-000686-(3)
MINOR COASTAL DEVELOPMENT PERMIT NO. RPPL2019001222
VARIANCE NO. RPPL2019001224**

RECITALS

1. **HEARING DATE(S).** The Los Angeles County (“County”) Regional Planning Commission (“Commission”) conducted a duly noticed public hearing on April 26, 2023 in the matter of Project No. 2019-000686-(3), Minor Coastal Development Permit No. RPPL2019001222 (“CDP”), and Variance No. RPPL2019001224 (“Variance”).
2. **ENTITLEMENT(S) REQUESTED.** The applicant, California Pacific Homes, requests the CDP and Variance to authorize the construction of a 5,429-square-foot single-family residence and an onsite wastewater treatment system (“OWTS”) (“Project”) on a 2.77-acre property located on the north side of Piuma Road (Assessor’s Parcel Number 4456-038-007) in the Monte Nido Rural Village of the Santa Monica Mountains Coastal Zone (“Project Site”). An OWTS seepage pit would be located less than 50 feet from an oak tree and less than 150 feet from riparian canopy. A total of 994 cubic yards of earth (994 cubic yards cut, all exported) would be graded. The Project would result in construction within an H1 Habitat Buffer zone and fuel modification or brush clearance within the protected zones of 27 oak trees.
3. **ENTITLEMENT(S) REQUIRED.** A CDP is required to construct a single-family residence and an OWTS in the R-C-1 (Rural Coastal—One-Acre Minimum Required Lot Area) Zone pursuant to Los Angeles County Code (“County Code”) Section 22.44.810, and a Minor CDP is required for any project that requires Environmental Review Board (“ERB”) review (County Code Sections 22.44.860 and 22.44.940). The residence would result in development less than 200 feet from H1 Habitat and thus requires ERB review. A Minor CDP is also required for any project that results in the encroachment into the protected zone of any oak tree (County Code Section 22.44.950). As currently proposed, fuel modification or brush clearance would occur within the protected zones of 27 oak trees. As a result, a Minor CDP is required for the Project.

A variance is required for construction of an OWTS seepage pit or leach field within 50 feet of an oak tree or within 150 feet of riparian canopy, per County Code Section 22.44.1340 B.3.c. County Code Section 22.44.1910 I also restricts building site area for new residential development to 10,000 square feet. Because an OWTS seepage pit is proposed less than 50 feet from an oak tree and less than 150 feet from riparian canopy, and the Project proposes a building site area of 11,900 square feet, a variance is required.

4. **LAND USE DESIGNATION.** The Project Site is located within the Rural Village land use designation of the Santa Monica Mountains Local Coastal Program Land Use Policy Map, a component of the General Plan.
5. **ZONING.** The Project Site is located in The Malibu Zoned District and is zoned R-C-1. Pursuant to County Code Section 22.44.1750, a single-family residence is a principal permitted use within the R-C Zone. However, County Code Sections 22.44.860, 22.44.940, and 22.44.950 require a Minor CDP for any development that needs ERB review or encroaches into the protected zones of oak trees, as does the Project. A variance is required for construction of an OWTS seepage pit or leach field within 50 feet of an oak tree and within 150 feet of riparian canopy (County Code Section 22.44.1340 B.3.c). County Code Section 22.44.1910 I also restricts the building site area for new residential development to 10,000 square feet. Because an OWTS seepage pit is proposed less than 50 feet from an oak tree and less than 150 feet from riparian canopy, and the Project proposes a building site area of 11,900 square feet, a variance is required for all deviations from the development standards of the Santa Monica Mountains Local Implementation Program (“LIP”).

6. PROJECT AND SITE PLAN DESCRIPTION.

A. Existing Site Conditions

The Project Site is 2.77 gross acres in size and consists of one legal lot, which is irregular in shape and consists of level terrain on the southern portion of the lot, with steep slopes and a drainage flowing from southeast to northwest on the central and northern portions. An existing graded pad of approximately 12,000 square feet and drainage structures are located on the southern portion of the lot. These were legally developed with CDP No. 5-83-004, which was approved with the underlying tract map in 1987 (Tract Map No. 38931). The central portion of the lot, corresponding to riparian vegetation in the drainage, is mapped as H1 Habitat, with a small portion of H2 Habitat on the northeastern portion of the lot, and the remainder mapped as H3 Habitat in the Santa Monica Mountains Local Coastal Program Land Use Plan (“LUP”). The majority of the Project Site is within 200 feet of H1 Habitat, which places it within the H1 Habitat Buffer (0-100 feet away) or H1 Quiet Zone (100-200 feet away). Other than the oaks, the Project Site contains riparian vegetation, native trees, and native and non-native grasses.

B. Site Access

The Project Site would be accessed from Pioma Road, a 65-foot-wide public road and designated scenic route, immediately to the south of the Project Site.

C. Site Plan

The applicant proposes the construction of a 5,429-square-foot single-family residence, including a 1,645-square-foot basement, a 503-square-foot attached garage, and an 800-square-foot covered terrace on the southern portion of the 2.77-acre Project Site. The residence would have a maximum height of 16 feet, 10 inches above grade. A total of 994 cubic yards of earth (994 cubic yards cut, all exported) would be graded. The Project would also include an OWTS, retaining

walls, and other appurtenant facilities on a total building site of 11,900 square feet—including non-exempt driveway areas—within the existing graded pad. The building would be accessed by a 52-foot-long paved driveway, which would access Piuma Road to the south. Development from brush clearance and fuel modification would also encroach into the protected zones of 27 coast live oaks. The central portion of the Project Site is mapped as H1 Habitat, which places almost the entirety of the site within the H1 Habitat Buffer (0-100 feet away) or H1 Quiet Zone (100-200 feet away). The residence is proposed for a location on the southern portion of the Project Site, within the H1 Habitat Buffer and H1 Quiet Zone. An OWTS seepage pit is proposed south of the residence within the H1 Quiet Zone and less than 50 feet from the dripline of an oak tree. It is also less than 150 feet from riparian canopy to the northeast. The Project Site has a linear street frontage of 247 feet and a linear development frontage of 75 feet.

7. **PUBLIC COMMENTS.** Four phone calls and nine letters of opposition have been received over the course of the hearing process for this Project. Issues raised include destruction of sensitive habitat, light pollution, traffic, construction noise, fire hazard, proximity to wildlife, and interference of scenic views from the Backbone Trail.

8. **AGENCY RECOMMENDATIONS.**

- A. County Department of Parks and Recreation: Recommended clearance to public hearing with no conditions through the County's electronic consultation system (EPIC-LA) on September 29, 2020.
- B. County Fire Department: Recommended clearance to public hearing with no conditions through EPIC-LA on September 30, 2020.
- C. County Department of Public Works: Recommended denial of the Project due to lack of documentation regarding road boundaries, road improvements, lines of sight, and earthmoving details in a letter dated November 5, 2020.
- D. County Department of Public Health: Recommended denial of the Project due to lack of information regarding the proposed OWTS and water service in a letter dated October 27, 2020.
- E. County Environmental Review Board: Chose to take no action regarding the Project at a meeting held on August 16, 2021. Recommended that it return with a more comprehensive plan and biological assessment, as well as a redesign to be consistent with the LIP.

9. **CEQA DETERMINATION.**

No determination has been made regarding the applicability of the California Environmental Quality Act (Public Resources Code section 21000, et seq.) ("CEQA") to this project. Per State CEQA Guidelines and the Environmental Document Reporting Procedures and Guidelines for the County, a CEQA determination is not required when a project is denied.

10. PREVIOUS HEARING PROCEEDINGS. A duly noticed public hearing was held before the Hearing Officer on October 4, 2022, which was continued to November 1, 2022 to allow the Hearing Officer to do a site visit and thoroughly review all documents. At the November 1, 2022 continued public hearing, Regional Planning Staff recommended denial of the Project. The applicant's representative spoke in favor of the Project. The Hearing Officer indicated her intent to deny the Project and continued the hearing to February 7, 2023 to allow additions and edits to the required denial findings. At the continued hearing on February 7, 2023, the Hearing Officer closed the public hearing and denied the Project. The applicant appealed this denial to the Commission on February 13, 2023 per the provisions of Los Angeles County Code Section 22.44.970.

GENERAL PLAN CONSISTENCY FINDINGS

11. LAND USE POLICY. The Commission finds that the Project is not consistent with the LUP. The Rural Village land use designation is intended for single-family residential uses, as well as other resource-dependent uses, on relatively small lots. Although a single-family residence is specifically listed as a principal permitted use under this designation, the Project is not consistent with the policies of the LUP, as described below.

12. GOALS AND POLICIES. The Commission finds that the Project would not be consistent with the following policies of the LUP:

Conservation and Open Space Element

Policy CO-41:

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

Policy CO-51:

Where new development is permitted in H2 habitat pursuant to this LCP, the maximum allowable building site area on parcels shall be 10,000 square feet, or 25 percent of the parcel size, whichever is less. Where new residential development is

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

Policy CO-57:

New non-resource-dependent development shall also provide an additional 100-foot "Quiet Zone" from H1 habitat where feasible (measured from the outer edge of the 100-foot H1 habitat buffer required above). New development is not permitted in the H1 habitat Quiet Zone except resource-dependent uses, non-irrigated fuel modification required by the Fire Department for lawfully-established structures, and the following other uses in very limited circumstances: (1) public works projects required to protect existing public roads when there is no feasible alternative, as long as impacts to H1 habitat and the H1 buffer are avoided to the maximum extent feasible, and unavoidable impacts are minimized and mitigated; (2) an access road to a lawfully-permitted use when there is no other feasible alternative to provide access to public recreation areas or development on a legal parcel, as long as impacts to H1 habitat and H1 buffer are avoided to the maximum extent feasible, and unavoidable impacts are minimized and mitigated; (3) a development on a lawfully-created parcel that is the minimum development necessary to provide a reasonable economic use of the property and where there is no feasible alternative, as long as impacts to H1 habitat and H1 buffer are avoided to the maximum Santa Monica Mountains Local Coastal Program 31 February 2018 Land Use Plan extent feasible, and unavoidable impacts are minimized and mitigated; (4) equestrian pasture outside of the fuel modification zone, consistent with the requirements of the LCP, where the development is sited and designed to ensure that no required fuel modification extends into H1 habitat or H1 buffer, it will not significantly degrade H1 habitat, and will not adversely affect wildlife usage, including movement patterns, of the local area or region. Additionally, if existing fuel modification for the principal use is located within the Quiet Zone, confined animal facilities may be established within the Quiet Zone on slopes of 3:1 or less only if the facilities will not require fuel modification to extend into H1 habitat or the H1 habitat buffer, and subject to ERB review. Furthermore, public recreational facilities may also be located within this quiet zone, if it is developed and/or disturbed by historic use (e.g., recreational).

Policy CO-66

Protection of H1 and H2 habitat and public access shall take priority over other development standards, and where there is any conflict between general/other development standards and the biological resource and/or public access protection provisions, the standards that are most protective of H1 and H2 habitat and public access shall have precedence.

Policy CO-109:

Site and design new development to protect natural features, and minimize removal of natural vegetation.

Policy CO-124:

The Santa Monica Mountains contain scenic resources of regional and national importance. The scenic and visual qualities of these resources shall be protected and, where feasible, enhanced.

Policy CO-125:

Protect public views within Scenic Areas and throughout the Coastal Zone. Places on, along, within, or visible from Scenic Routes, public parklands, public trails, beaches, and state waters that offer scenic vistas of the mountains, canyons, coastline, beaches, and other unique natural features are considered Scenic Resource Areas. Scenic Resource Areas do not include areas that are largely developed such as existing, predominantly built-out residential subdivisions. Scenic Resource Areas also include the scenic resources identified on Map 3 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.

Policy 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*

Policy CO-128:

New development shall be subordinate to the character of its setting.

Policy CO-131:

Site and design new development to minimize adverse impacts on scenic resources to the maximum extent feasible. If there is no feasible building site location on the proposed project site where development would not be visible, then the development shall be sited and designed to minimize impacts on scenic areas through measures that may include, but not be limited to, siting development in the least visible portion of the site, breaking up the mass of new structures, designing structures to blend into the natural hillside setting, restricting the building maximum size, reducing maximum height, clustering development, minimizing grading, incorporating landscape and building material screening elements, and where appropriate, berming.

Policy CO-133:

New development shall be sited and designed to minimize alteration of natural landforms by:

- a. Conforming to the natural topography.*
- b. Preventing substantial grading or reconfiguration of the project site.*
- c. Eliminating flat building pads on slopes. Building pads on sloping sites shall utilize split-level or stepped-pad designs.*
- d. Requiring that manufactured contours mimic the natural contours.*
- e. Ensuring that graded slopes blend with the existing terrain of the site and surrounding area.*
- f. Minimizing grading permitted outside of the building footprint.*
- g. Clustering structures to minimize site disturbance and to minimize development area.*
- h. Minimizing height and length of cut and fill slopes.*
- i. Minimizing the height and length of retaining walls.*
- j. Cut and fill operations may be balanced on site, where the grading does not substantially alter the existing topography and blends with the surrounding area. Export of cut material may be required to preserve the natural topography.*

Policy CO-147:

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

Land Use Element

Policy LU-33:

Require that new development be compatible with the rural character of the area and the surrounding natural environment.

The Project's large square footage and 11,900-square-foot building site area would result in development that would extend into the H1 Habitat Buffer and H1 Quiet Zone, as well as fuel modification and brush clearance that would extend into H1 Habitat (riparian zone). The Project's large footprint and square footage, as well as its OWTS location, result in a design that is not protective of surrounding landforms by failing to preserve H1 Habitat areas in a more natural state.

ZONING CODE CONSISTENCY FINDINGS

13. HABITAT CATEGORIES. The Commission finds that the Project is not consistent with the standard identified in County Code Section 22.44.1890. The Project Site is designated as H1 Habitat and H3 Habitat by the LUP. While all construction would occur within H3 Habitat, impacts from the development would be located within the H1 Quiet Zone and H1 Habitat Buffer. The Project would also result in required fuel modification and brush clearance within H1 Habitat.

Per the requirements of the LIP, no development, except for access driveways and resource-dependent uses, is permitted in H1 Habitat (County Code Section 22.44.1890 C). Because habitable structures are proposed less than 100 feet from H1 Habitat (riparian zone) to the northeast, fuel modification is required within this area by the approved fuel modification plan. Therefore, the Project design is not compatible with surrounding environmental resources, as it would result in development of H1 Habitat.

Additionally, development is proposed within the H1 Habitat Buffer and H1 Quiet Zone. Per the requirements of the LIP, residential development may only be permitted within an H1 Quiet Zone or H1 Habitat Buffer when all of the following apply:

- a. The Project Site is on a lawfully created parcel;
- b. The development is the minimum necessary to provide the landowner a reasonable economic use of the property, and in no case shall it exceed the maximum standards provided in County Code Sections 22.44.1910 and 22.44.1920;
- c. There is no other feasible alternative building site location that can avoid the H1 Habitat Buffer or H1 Quiet Zone;
- d. The maximum feasible buffer width is provided between the development and the H1 Habitat area;
- e. The development is sited and designed to prevent impacts that would significantly degrade H1 Habitat; and
- f. All feasible mitigation measures have been provided to minimize adverse environmental effects.

The Project proposes a 5,429-square-foot single-family residence. Reducing the square footage of the proposed residence would provide a greater buffer between development and the H1 Habitat area. Thus, the development is not the minimum necessary development for the site, as required within an H1 Quiet Zone or H1 Habitat

Buffer by the LIP. Therefore, the findings in County Code Sections 22.44.1890 D.8.b and 22.44.1890 E.12.b cannot be met.

14. **OWTS STANDARDS.** The Commission finds that the LIP specifically prohibits OWTS seepage pits or leach fields to be placed within 50 feet of the dripline of an oak tree or within 150 feet of riparian canopy (County Code Section 22.44.1340 B.3.c). There are locations on the Project Site more than 50 feet from oaks or other native trees as well as locations more than 150 feet from riparian canopy, and the applicant has not provided documentation that these alternative locations are unsuitable for OWTS seepage pits. Thus, it has not been demonstrated that this variance is necessary due to special characteristics of the lot or to preserve a substantial property right (see "Variance Findings" below).
15. **BUILDING SITE AREA.** The Commission finds that a variance is required for a building site area greater than 10,000 square feet, per County Code Section 22.44.1910 I. The Project proposes a building site area of 11,900 square feet. There are no special characteristics of the Project Site requiring this, and the building site area could be reduced in size to comply with these sections of the LIP. Thus, it has not been demonstrated that this variance is necessary due to special characteristics of the lots or to preserve a substantial property right (see "Variance Findings" below).

COASTAL DEVELOPMENT PERMIT FINDINGS

16. **The Commission finds that the proposed development is not in conformity with the certified local coastal program.** As proposed, the Project would not comply with all applicable development standards for residences in the Santa Monica Mountains Local Coastal Program, which includes the LUP and LIP, specifically those standards related to habitat categories, building site area, and OWTS standards.
17. **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 Project Site is not located between the ocean and the nearest public road, so coastal access requirements would not be applicable.

VARIANCE FINDINGS

18. **The Commission finds that there are no special circumstances or exceptional characteristics applicable to the property involved, such as size, shape, topography, location, or surroundings, which are not generally applicable to other properties in the same vicinity and under identical zoning classification.** The design of the Project could easily be modified to reduce the building site area. It has not been demonstrated that OWTS seepage pits cannot be placed in a location more than 50 feet from the dripline of an oak tree and/or more than 150 feet from riparian canopy, or that the proposed location is the least impactful to biological resources. Thus, the property has not been shown to have special circumstances or exceptional characteristics.

19. **The Commission finds that such variance is unnecessary for the preservation of a substantial property right of the applicant such as that possessed by owners of other property in the same vicinity and zone.** The design of the Project could easily be modified to reduce the building site area. It has not been demonstrated that OWTS seepage pits cannot be placed in a location more than 50 feet from the dripline of an oak tree or that that the proposed location is the least impactful to biological resources. Thus, the variance is unnecessary to preserve a substantial property right.
20. **The Commission finds that the granting of the variance will be materially detrimental to the public welfare or be injurious to other property or improvements in the same vicinity and zone.** The proposed OWTS location and large building site area would result in greater development near to oak trees and riparian canopy, which would detrimentally affect the public welfare and other properties by degrading scenic and biological resources.
21. **The Commission finds that the granting of the variance will be materially detrimental to coastal resources.** The proposed OWTS location and building site area would result in greater development near to oak trees and riparian canopy, which would detrimentally affect coastal resources by degrading scenic and biological resources.

ADMINISTRATIVE FINDINGS

22. **HEARING PROCEEDINGS.** A duly noticed appeal hearing was held before the Commission on April 26, 2023. Regional Planning Staff recommended denial of the Project. Testimony was taken both for and against the Project. After a brief discussion, the Commission subsequently closed the public hearing and denied the Project.
23. **LEGAL NOTIFICATION.** The Commission finds that pursuant to Section 22.44.990 of the County Code, 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 the County Department of Regional Planning's ("LA County Planning") website. On March 23, 2023, a total of 115 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 20 notices to those on the courtesy mailing list for The Malibu Zoned District and additional interested parties.
24. **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 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 COMMISSION CONCLUDES THAT:

Regarding the Minor CDP:

- A. The proposed development is not in conformity with the certified local coastal program.
- B. 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.

Regarding the Variance:

- A. There are no special circumstances or exceptional characteristics applicable to the property involved, such as size, shape, topography, location, or surroundings, which are not generally applicable to other properties in the same vicinity and under identical zoning classification.
- B. Such variance is unnecessary for the preservation of a substantial property right of the applicant such as that possessed by owners of other property in the same vicinity and zone.
- C. 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.
- D. The granting of the variance will be materially detrimental to coastal resources.

THEREFORE, THE COMMISSION:

1. Denies **MINOR COASTAL DEVELOPMENT PERMIT NO. RPPL2019001222.**
2. Denies **VARIANCE NO. RPPL2019001224.**

ACTION DATE: April 26, 2023

VOTE: 5-0

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

Dissenting: None

Abstaining: None

Absent: None

MG:RG:TM

4/26/23

c: Zoning Enforcement, Building and Safety

**LOS ANGELES COUNTY
DEPARTMENT OF REGIONAL PLANNING
FINDINGS OF THE REGIONAL PLANNING COMMISSION
AND ORDER
PROJECT NO. 2019-000686-(3)
MINOR COASTAL DEVELOPMENT PERMIT NO. RPPL2019003431
VARIANCE NO. RPPL2019003432**

RECITALS

1. **HEARING DATE(S).** The Los Angeles County (“County”) Regional Planning Commission (“Commission”) conducted a duly noticed public hearing on April 26, 2023 in the matter of Project No. 2019-000686-(3), Minor Coastal Development Permit No. RPPL2019003431 (“CDP”), and Variance No. RPPL2019003432 (“Variance”).
2. **ENTITLEMENT(S) REQUESTED.** The applicant, California Pacific Homes, requests the CDP and Variance to authorize the construction of a 4,270-square-foot single-family residence with a height of 26 feet, three inches above grade and an onsite wastewater treatment system (“OWTS”) (“Project”) on a 0.92-acre property located on the south side of Piuma Road (Assessor’s Parcel Number 4456-038-013) in the Santa Monica Mountains Coastal Zone (“Project Site”). An OWTS seepage pit would be located less than 50 feet from an oak tree. A total of 730 cubic yards of earth (730 cubic yards cut, all exported) would be graded. The Project would result in construction within an H1 Habitat Buffer and fuel modification or brush clearance within the protected zones of 13 oak trees.
3. **ENTITLEMENT(S) REQUIRED.** A CDP is required to construct a single-family residence and an OWTS in the R-C-20 (Rural Coastal—20-Acre Minimum Required Lot Area) Zone pursuant to Los Angeles County Code (“County Code”) Section 22.44.810, and a Minor CDP is required for any project that requires Environmental Review Board (“ERB”) review (County Code Sections 22.44.860 and 22.44.940). The residence would result in development less than 200 feet from H1 Habitat and thus requires ERB review. A Minor CDP is also required for any project that results in the encroachment into the protected zone of any oak tree (County Code Section 22.44.950). As currently proposed, fuel modification or brush clearance would occur within the protected zone of 13 oak trees. As a result, a Minor CDP is required for the Project.

A variance is required for new structures less than 100 feet from parklands, per County Code Section 22.44.1900 C. A variance is required for construction of an OWTS seepage pit or leach field within 50 feet of an oak tree, per County Code Section 22.44.1340 B.3.c. An OWTS seepage pit is proposed less than 50 feet from an oak tree and a portion of the residence is located less than 100 feet from parkland to the south and east. In addition, because the Project is located within a Scenic Resource Area, structures are allowed a maximum height of 18 feet above grade (County Code Section 22.44.1250 C). As proposed, the Project would have a maximum height of 26 feet, three inches above grade. Finally, County Code Section 22.44.1910 I restricts the building site area for new residential development to 10,000 square feet, while the

proposed building site area is 10,940 square feet. A variance is required for all these deviations from the Santa Monica Mountains Local Implementation Program (“LIP”) development standards.

4. **LAND USE DESIGNATION.** The Project Site is located within the RL20 (Rural Land— One dwelling unit/20 acres maximum) land use designation of the Santa Monica Mountains Local Coastal Program Land Use Policy Map.
5. **ZONING.** The Project Site is located in The Malibu Zoned District and is zoned R-C-20. Pursuant to County Code Section 22.44.1750, a single-family residence is a principal permitted use within the R-C Zone. However, County Code Sections 22.44.860, 22.44.940, and 22.44.950 require a Minor CDP for any development that needs ERB review or encroaches into the protected zone of oak trees, as does the Project. A variance is required for construction of an OWTS seepage pit or leach field within 50 feet of an oak tree (County Code Section 22.44.1340 B.3.c). A variance is required for new structures less than 100 feet from parklands, per County Code Section 22.44.1900 C. Finally, County Code Section 22.44.1910 I restricts the building site area for new residential development to 10,000 square feet. Because an OWTS seepage pit is proposed less than 50 feet from an oak tree, a portion of the residence is less than 100 feet from parkland, and the Project would have a building site area more than 10,000 square feet, a variance is required for these deviations from the development standards of the LIP.

6. PROJECT AND SITE PLAN DESCRIPTION.

A. Existing Site Conditions

The Project Site is 0.92 gross acres in size and consists of one legal lot, which is irregular in shape and consists of generally level terrain. An existing graded pad of approximately 12,000 square feet and drainage structures are located on the northern portion of the of the lot. These were legally developed with CDP No. 5-83-004, which was approved with the underlying tract map in 1987 (Tract Map No. 38931). The central portion of the lot, corresponding to oak woodland, is mapped as H1 Habitat, with the remainder mapped as H3 Habitat in the Santa Monica Mountains Local Coastal Program Land Use Plan (“LUP”). The entirety of the Project Site is within 200 feet of H1 Habitat, which places it within the H1 Habitat Buffer (0-100 feet away) or H1 Quiet Zone (100-200 feet away). Other than the oaks, the Project Site contains mostly native and non-native grasses. There is also State Park land adjacent to the eastern and southern portion of the property.

B. Site Access

The Project Site would be accessed from Piuma Road, a 65-foot-wide public road and designated scenic route, immediately to the north of the Project Site.

C. Site Plan

The applicant proposes the construction of a 4,270-square-foot single-family residence, including a 558-square-foot basement, and a 547-square-foot attached garage on the northern portion of the 0.92-acre Project Site. The residence would

have a maximum height of 26 feet, three inches above grade. A total of 730 cubic yards of earth (730 cubic yards cut, all exported) would be graded. The Project would also include an OWTS, retaining walls, and other appurtenant facilities on a total building site of 10,940 square feet within the existing graded pad. The building would be accessed by a 30-foot-long paved driveway, which would access Piuma Road to the north. Development from brush clearance and fuel modification would also encroach into the protected zones of 13 coast live oaks. The southern portion of the Project Site is mapped as H1 Habitat, which places the entirety of the site within the H1 Habitat Buffer (0-100 feet away) or H1 Quiet Zone (100-200 feet away). The residence is proposed for a location on the northern portion of the Project Site, within the H1 Habitat Buffer and H1 Quiet Zone. An OWTS seepage pit is proposed south of the residence within the H1 Habitat Buffer and less than 50 feet from the dripline of an oak tree. The Project Site has a linear street frontage of 185 feet and a linear development frontage of 80 feet.

7. **PUBLIC COMMENTS.** Four phone calls and nine letters of opposition have been received over the course of the hearing process for this Project. Issues raised include destruction of sensitive habitat, light pollution, traffic, construction noise, fire hazard, proximity to wildlife, and interference of scenic views from the Backbone Trail.
8. **AGENCY RECOMMENDATIONS.**
 - A. County Department of Parks and Recreation: Recommended clearance to public hearing with no conditions through the County's electronic consultation system (EPIC-LA) on September 29, 2020.
 - B. County Fire Department: Recommended clearance to public hearing with no conditions through EPIC-LA on September 30, 2020.
 - C. County Department of Public Works: Recommended denial of the Project due to lack of documentation regarding road boundaries, road improvements, lines of sight, and earthmoving details in a letter dated November 5, 2020.
 - D. County Department of Public Health: Recommended denial of the Project due to lack of information regarding the proposed OWTS and water service in a letter dated October 27, 2020.
 - E. County Environmental Review Board: Chose to take no action regarding the Project at a meeting held on August 16, 2021. Recommended that it return with a more comprehensive plan and biological assessment, as well as a redesign to be consistent with the LIP.
9. **CEQA DETERMINATION.** No determination has been made regarding the applicability of the California Environmental Quality Act (Public Resources Code section 21000, et seq.) ("CEQA") to this project. Per State CEQA Guidelines and the Environmental Document Reporting Procedures and Guidelines for the County, a CEQA determination is not required when a project is denied.

10. **PREVIOUS HEARING PROCEEDINGS.** A duly noticed public hearing was held before the Hearing Officer on October 4, 2022, which was continued to November 1, 2022 to allow the Hearing Officer to do a site visit and thoroughly review all documents. At the November 1, 2022 continued public hearing, Regional Planning Staff recommended denial of the Project. The applicant's representative spoke in favor of the Project. The Hearing Officer indicated her intent to deny the Project and continued the hearing to February 7, 2023 to allow additions and edits to the required denial findings. At the continued hearing on February 7, 2023, the Hearing Officer closed the public hearing and denied the Project. The applicant appealed this denial to the Commission on February 13, 2023 per the provisions of Los Angeles County Code Section 22.44.970.

GENERAL PLAN CONSISTENCY FINDINGS

11. **LAND USE POLICY.** The Commission finds that the Project is not consistent with the LUP. The Rural Land 20 land use designation is intended for single-family residential uses, as well as other resource-dependent uses, on relatively large lots. Although a single-family residence is specifically listed as a principal permitted use under this designation, the Project is not consistent with the policies of the LUP, as described below.

12. **GOALS AND POLICIES.** The Commission finds that the Project would not be consistent with the following policies of the LUP:

Conservation and Open Space Element

Policy CO-41:

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

Policy CO-51:

Where new development is permitted in H2 habitat pursuant to this LCP, the maximum allowable building site area on parcels shall be 10,000 square feet, or 25

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

Policy CO-57:

New non-resource-dependent development shall also provide an additional 100-foot "Quiet Zone" from H1 habitat where feasible (measured from the outer edge of the 100-foot H1 habitat buffer required above). New development is not permitted in the H1 habitat Quiet Zone except resource-dependent uses, non-irrigated fuel modification required by the Fire Department for lawfully-established structures, and the following other uses in very limited circumstances: (1) public works projects required to protect existing public roads when there is no feasible alternative, as long as impacts to H1 habitat and the H1 buffer are avoided to the maximum extent feasible, and unavoidable impacts are minimized and mitigated; (2) an access road to a lawfully-permitted use when there is no other feasible alternative to provide access to public recreation areas or development on a legal parcel, as long as impacts to H1 habitat and H1 buffer are avoided to the maximum extent feasible, and unavoidable impacts are minimized and mitigated; (3) a development on a lawfully-created parcel that is the minimum development necessary to provide a reasonable economic use of the property and where there is no feasible alternative, as long as impacts to H1 habitat and H1 buffer are avoided to the maximum Santa Monica Mountains Local Coastal Program 31 February 2018 Land Use Plan extent feasible, and unavoidable impacts are minimized and mitigated; (4) equestrian pasture outside of the fuel modification zone, consistent with the requirements of the LCP, where the development is sited and designed to ensure that no required fuel modification extends into H1 habitat or H1 buffer, it will not significantly degrade H1 habitat, and will not adversely affect wildlife usage, including movement patterns, of the local area or region. Additionally, if existing fuel modification for the principal use is located within the Quiet Zone, confined animal facilities may be established within the Quiet Zone on slopes of 3:1 or less only if the facilities will not require fuel modification to extend into H1 habitat or the H1 habitat buffer, and subject to ERB review. Furthermore, public recreational facilities may also be located within this quiet zone, if it is developed and/or disturbed by historic use (e.g., recreational).

Policy CO-63

New development adjoining parklands, where the purpose of the park is to protect the natural environment and SERAs, shall be sited and designed to minimize impacts to habitat and recreational opportunities to the maximum extent feasible. Natural vegetation buffer areas shall be provided around parklands. Buffers shall be of a sufficient size to prevent impacts to parkland resources, but in no case shall they be less than 100 feet in width. Variances or modifications to the required H1 habitat buffer width shall not be granted, except for a permitted use included in Policy CO-56. New development permitted adjacent to parklands shall include open space conservation easements over the habitat areas outside the approved development site to ensure that impacts to the H1 and H2 habitat, H1 habitat buffer, or parkland buffer are avoided.

Policy CO-66

Protection of H1 and H2 habitat and public access shall take priority over other development standards, and where there is any conflict between general/other development standards and the biological resource and/or public access protection provisions, the standards that are most protective of H1 and H2 habitat and public access shall have precedence.

Policy CO-109:

Site and design new development to protect natural features, and minimize removal of natural vegetation.

Policy CO-124:

The Santa Monica Mountains contain scenic resources of regional and national importance. The scenic and visual qualities of these resources shall be protected and, where feasible, enhanced.

Policy CO-125:

Protect public views within Scenic Areas and throughout the Coastal Zone. Places on, along, within, or visible from Scenic Routes, public parklands, public trails, beaches, and state waters that offer scenic vistas of the mountains, canyons, coastline, beaches, and other unique natural features are considered Scenic Resource Areas. Scenic Resource Areas do not include areas that are largely developed such as existing, predominantly built-out residential subdivisions. Scenic Resource Areas also include the scenic resources identified on Map 3 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.

Policy 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*

Policy CO-128:

New development shall be subordinate to the character of its setting.

Policy CO-131:

Site and design new development to minimize adverse impacts on scenic resources to the maximum extent feasible. If there is no feasible building site location on the proposed project site where development would not be visible, then the development shall be sited and designed to minimize impacts on scenic areas through measures that may include, but not be limited to, siting development in the least visible portion of the site, breaking up the mass of new structures, designing structures to blend into the natural hillside setting, restricting the building maximum size, reducing maximum height, clustering development, minimizing grading, incorporating landscape and building material screening elements, and where appropriate, berming.

Policy CO-133:

New development shall be sited and designed to minimize alteration of natural landforms by:

- a. Conforming to the natural topography.*
- b. Preventing substantial grading or reconfiguration of the project site.*
- c. Eliminating flat building pads on slopes. Building pads on sloping sites shall utilize split-level or stepped-pad designs.*
- d. Requiring that manufactured contours mimic the natural contours.*
- e. Ensuring that graded slopes blend with the existing terrain of the site and surrounding area.*
- f. Minimizing grading permitted outside of the building footprint.*
- g. Clustering structures to minimize site disturbance and to minimize development area.*
- h. Minimizing height and length of cut and fill slopes.*
- i. Minimizing the height and length of retaining walls.*
- j. Cut and fill operations may be balanced on site, where the grading does not substantially alter the existing topography and blends with the surrounding area. Export of cut material may be required to preserve the natural topography.*

Policy CO-147:

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

Land Use Element

Policy LU-33:

Require that new development be compatible with the rural character of the area and the surrounding natural environment.

The Project's large square footage and footprint would result in development that would extend into the H1 Habitat Buffer and H1 Quiet Zone, as well as fuel modification and brush clearance that would extend into H1 Habitat (oak woodland). The Project's large footprint, square footage, and building site area result in a design that is not protective of surrounding landforms by failing to preserve H1 habitat areas in a more natural state. It would also negatively affect adjoining parklands by creating development less than 100 feet away. This would also not be consistent with policies regarding the protection of Scenic Resource Areas. The Project's design, including its excessive height, when paired with its location less than 100 feet from parklands to the south and its proximity to Piuma Road, a designated scenic route, would result in unnecessary visual impacts to the surrounding area.

ZONING CODE CONSISTENCY FINDINGS

13. HABITAT CATEGORIES. The Commission finds that the Project is not consistent with the standard identified in County Code Section 22.44.1890. The Project Site is designated as H1 Habitat and H3 Habitat by the LUP. While all construction would occur within H3 Habitat, impacts from the development would be located within the H1 Quiet Zone and H1 Habitat Buffer. The Project would also result in required fuel modification and brush clearance within H1 Habitat.

Per the requirements of the LIP, no development, except for access driveways and resource-dependent uses, is permitted in H1 Habitat (County Code Section 22.44.1890 C). Because habitable structures are proposed less than 100 feet from H1 Habitat (oak woodland) to the south, fuel modification is required within this area by the approved fuel modification plan. Therefore, the Project design is not compatible with surrounding environmental resources, as it would result in development of H1 Habitat.

Additionally, development is proposed within the H1 Habitat Buffer and H1 Quiet Zone. Per the requirements of the LIP, residential development may only be permitted within an H1 Quiet Zone or H1 Habitat Buffer when all of the following apply:

- a. The Project Site is on a lawfully created parcel;

- b. The development is the minimum necessary to provide the landowner a reasonable economic use of the property, and in no case shall it exceed the maximum standards provided in County Code Sections 22.44.1910 and 22.44.1920;
- c. There is no other feasible alternative building site location that can avoid H1 Habitat Buffer or H1 Quiet Zone;
- d. The maximum feasible buffer width is provided between the development and the H1 Habitat area;
- e. The development is sited and designed to prevent impacts that would significantly degrade H1 Habitat; and
- f. All feasible mitigation measures have been provided to minimize adverse environmental effects.

The Project proposes a 4,270-square-foot single-family residence. Reducing the square footage of the proposed residence and/or relocating the OWTS would provide a greater buffer between development and the H1 Habitat area. Thus, the development is not the minimum necessary development for the site, as required within an H1 Quiet Zone or H1 Habitat Buffer by the LIP. Therefore, the findings in County Code Sections 22.44.1890 D.8.b and 22.44.1890 E.12.b cannot be met.

14. **PARKLAND BUFFER.** The Commission finds that a variance is required for new structures less than 100 feet from parklands, per County Code Section 22.44.1900 C. Due to California State Parks open space immediately to the south, a small portion of the residence, as well as hardscape and retaining walls proposed for the Project Site, would extend into the required 100-foot parkland buffer. Because the structure could easily be redesigned to eliminate this encroachment, there are no special characteristics of the lot that require a variance, nor is it necessary to preserve a substantial property right (see “Variance Findings” below).
15. **OWTS STANDARDS.** The Commission finds that the LIP specifically prohibits OWTS seepage pits or leach fields to be placed within 50 feet of the dripline of an oak tree (County Code Section 22.44.1340 B.3.c). There are locations on the Project Site more than 50 feet from oaks or other native trees, and the applicant has not provided documentation that these alternative locations are unsuitable for OWTS seepage pits. Thus, it has not been demonstrated that this variance is necessary due to special characteristics of the lots or to preserve a substantial property right (see “Variance Findings” below).
16. **SCENIC RESOURCES.** The Commission finds that a variance is required for structures greater than 18 feet above grade within Scenic Resource Areas, per County Code Section 22.44.1250 C. The Project, due to its proximity to parklands, Piuma Road, and the Backbone Trail, is within a Scenic Resource Area. The residence would have a maximum structural height of 26 feet, three inches above grade. There are no special characteristics of the Project Site requiring this, and the overheight structures could be redesigned to comply with these sections of the LIP. Thus, it has not been demonstrated that this variance is necessary due to special characteristics of the lots or to preserve a substantial property right (see “Variance Findings” below).

17. **BUILDING SITE AREA.** The Commission finds that a variance is required for a building site area greater than 10,000 square feet, per County Code Section 22.44.1910 I. The Project proposes a building site area of 10,940 square feet. There are no special characteristics of the Project Site requiring this, and the building site area could be reduced in size to comply with these sections of the LIP. Thus, it has not been demonstrated that this variance is necessary due to special characteristics of the lots or to preserve a substantial property right (see "Variance Findings" below).

COASTAL DEVELOPMENT PERMIT FINDINGS

18. **The Commission finds that the proposed development is not in conformity with the certified local coastal program.** As proposed, the Project would not comply with all applicable development standards for residences in the Santa Monica Mountains Local Coastal Program, which includes the LUP and LIP, specifically those standards related to habitat categories, Scenic Resource Areas, building site area, parkland buffer, and OWTS standards.

19. **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 Project Site is not located between the ocean and the nearest public road, so coastal access requirements would not be applicable.

VARIANCE FINDINGS

20. **The Commission finds that there are no special circumstances or exceptional characteristics applicable to the property involved, such as size, shape, topography, location, or surroundings, which are not generally applicable to other properties in the same vicinity and under identical zoning classification.** It has not been demonstrated that OWTS seepage pits cannot be placed in a location more than 50 feet from the dripline of an oak tree. The design of the residence could be modified to avoid encroaching into the required 100-foot parkland buffer. Also, special site characteristics do not necessitate the construction of overheight structures in a Scenic Resource Area, nor do site conditions require a building site area greater than 10,000 square feet. Thus, the property has not been shown to have special circumstances or exceptional characteristics.

21. **The Commission finds that such variance is unnecessary for the preservation of a substantial property right of the applicant such as that possessed by owners of other property in the same vicinity and zone.** It has not been demonstrated that OWTS seepage pits cannot be placed in a location more than 50 feet from the dripline of an oak tree. The design of the residence could be modified to avoid encroaching into the required 100-foot parkland buffer. Also, special site characteristics do not necessitate the construction of overheight structures in a Scenic Resource Area, nor do site conditions require a building site area greater than 10,000 square feet. Thus, the variance is unnecessary to preserve a substantial property right.

22. **The Commission finds that the granting of the variance will be materially detrimental to the public welfare or be injurious to other property or improvements in the same vicinity and zone.** The proposed OWTS location and design would result in greater development near to oak trees and the proposed residence location would result in greater development near to parkland and within a Scenic Resource Area, which would detrimentally affect the public welfare and other properties by degrading scenic and biological resources.
23. **The Commission finds that the granting of the variance will be materially detrimental to coastal resources.** The proposed OWTS location would result in greater development near to oak trees and the proposed residence location and design would result in greater development near to parkland and within a Scenic Resource Area, which would detrimentally affect coastal resources by degrading scenic and biological resources.

ADMINISTRATIVE FINDINGS

24. **HEARING PROCEEDINGS.** A duly noticed appeal hearing was held before the Commission on April 26, 2023. Regional Planning Staff recommended denial of the Project. Testimony was taken both for and against the Project. After a brief discussion, the Commission subsequently closed the public hearing and denied the Project.
25. **LEGAL NOTIFICATION.** The Commission finds that pursuant to Section 22.44.990 of the County Code, 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 the County Department of Regional Planning's ("LA County Planning") website. On March 23, 2023, a total of 115 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 20 notices to those on the courtesy mailing list for The Malibu Zoned District and additional interested parties.
26. **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 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 COMMISSION CONCLUDES THAT:

Regarding the Minor CDP:

- A. The proposed development is not in conformity with the certified local coastal program.
- B. 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.

Regarding the Variance:

- A. There are no special circumstances or exceptional characteristics applicable to the property involved, such as size, shape, topography, location, or surroundings, which are not generally applicable to other properties in the same vicinity and under identical zoning classification.
- B. Such variance is unnecessary for the preservation of a substantial property right of the applicant such as that possessed by owners of other property in the same vicinity and zone.
- C. 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.
- D. The granting of the variance will be materially detrimental to coastal resources.

THEREFORE, THE COMMISSION:

- 1. Denies **MINOR COASTAL DEVELOPMENT PERMIT NO. RPPL2019003431.**
- 2. Denies **VARIANCE NO. RPPL2019003432.**

ACTION DATE: April 26, 2023

VOTE: 5-0

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

Dissenting: None

Abstaining: None

Absent: None

MG:RG:TM
4/26/23

c: Zoning Enforcement, Building and Safety

**LOS ANGELES COUNTY
DEPARTMENT OF REGIONAL PLANNING
FINDINGS OF THE REGIONAL PLANNING COMMISSION
AND ORDER
PROJECT NO. 2019-000686-(3)
MINOR COASTAL DEVELOPMENT PERMIT NO. RPPL2019003435
VARIANCE NO. RPPL2019003436**

RECITALS

1. **HEARING DATE(S).** The Los Angeles County (“County”) Regional Planning Commission (“Commission”) conducted a duly noticed public hearing on April 26, 2023 in the matter of Project No. 2019-000686-(3), Minor Coastal Development Permit No. RPPL2019003435 (“CDP”), and Variance No. RPPL2019003436 (“Variance”).
2. **ENTITLEMENT(S) REQUESTED.** The applicant, California Pacific Homes, requests the CDP and Variance to authorize the construction of a 5,645-square-foot single-family residence and an onsite wastewater treatment system (“OWTS”) (“Project”) on a 0.92-acre property located on the south side of Piuma Road (Assessor’s Parcel Number 4456-038-014) in the Santa Monica Mountains Coastal Zone (“Project Site”). Hardscape, retaining walls, and a portion of the residence would be located less than 100 feet from parkland to the south. A total of 1,612 cubic yards of earth (1,042 cubic yards cut, 570 cubic yards fill, 472 cubic yards export) would be graded, and seven-foot-tall retaining walls are proposed. The Project would result in construction within an H1 Habitat Buffer and fuel modification or brush clearance within the protected zones of 14 oak trees.
3. **ENTITLEMENT(S) REQUIRED.** A CDP is required to construct a single-family residence and an OWTS in the R-C-20 (Rural Coastal—20-Acre Minimum Required Lot Area) Zone pursuant to Los Angeles County Code (“County Code”) Section 22.44.810, and a Minor CDP is required for any project that requires Environmental Review Board (“ERB”) review (County Code Sections 22.44.860 and 22.44.940). The residence would result in development less than 200 feet from H1 Habitat and thus requires ERB review. A Minor CDP is also required for any project that results in the encroachment into the protected zone of any oak tree (County Code Section 22.44.950). As currently proposed, fuel modification or brush clearance would occur within the protected zones of 14 oak trees. As a result, a Minor CDP is required for the Project.

A variance is required for new structures less than 100 feet from parklands, per County Code Section 22.44.1900 C. A variance is also required for structures that occupy more than 50 percent of the linear frontage of a parcel fronting a scenic route (County Code Section 22.44.2040 C.1). County Code Section 22.44.2040 A.11.c also restricts the height of retaining walls in Scenic Resource Areas to six feet. Finally, County Code Section 22.44.1910 I restricts building site area for new residential development to 10,000 square feet. Because hardscape, retaining walls, and a portion of the residence are located less than 100 feet from parkland to the south, the residence would occupy more than 50 percent of the parcel frontage, the building site area would be 11,205

square feet, and seven-foot-high retaining walls are proposed, a variance is required for all deviations from the development standards of the Santa Monica Mountains Local Implementation Program (“LIP”).

4. **LAND USE DESIGNATION.** The Project Site is located within the RL20 (Rural Land—One dwelling unit/20 acres maximum) land use designation of the Santa Monica Mountains Local Coastal Program Land Use Policy Map.
5. **ZONING.** The Project Site is located in The Malibu Zoned District and is zoned R-C-20. Pursuant to County Code Section 22.44.1750, a single-family residence is a principal permitted use within the R-C Zone. However, County Code Sections 22.44.860, 22.44.940, and 22.44.950 require a Minor CDP for any development that needs ERB review or encroaches into the protected zone of oak trees, as does the Project. A variance is required for new structures less than 100 feet from parklands, per County Code Section 22.44.1900 C. A variance is also required for structures that occupy more than 50 percent of the linear frontage of a parcel fronting a scenic route (County Code Section 22.44.2040 C.1). County Code Section 22.44.2040 A.11.c also restricts the height of retaining walls in Scenic Resource Areas to six feet. Finally, County Code Section 22.44.1910 I restricts building site area for new residential development to 10,000 square feet. Because hardscape, retaining walls, and a portion of the residence are located less than 100 feet from parkland to the south, the building site area would be 11,205 square feet, and seven-foot-high retaining walls are proposed, and the residence would occupy more than 50 percent of the parcel frontage, a variance is required for all deviations from the development standards of the LIP.

6. PROJECT AND SITE PLAN DESCRIPTION.

A. Existing Site Conditions

The Project Site is 0.92 gross acres in size and consists of one legal lot, which is rectangular in shape and consists of generally level terrain. An existing graded pad of approximately 12,000 square feet and drainage structures are located on the northern portion of the of the lot. These were legally developed with CDP No. 5-83-004, which was approved with the underlying tract map in 1987 (Tract Map No. 38931). The southern portion of the lot, corresponding to oak woodland, is mapped as H1 Habitat with the remainder mapped as H3 Habitat in the Santa Monica Mountains Local Coastal Program Land Use Plan (“LUP”). The entirety of the Project Site is within 200 feet of H1 Habitat, which places it within the H1 Habitat Buffer (0-100 feet away) or H1 Quiet Zone (100-200 feet away). Other than the oaks, the Project Site contains mostly native and non-native grasses. There is also State Park land adjacent to the eastern and southern portion of the property.

B. Site Access

The Project Site would be accessed from Piuma Road, a 65-foot-wide public road and designated scenic route, immediately to the north of the Project Site.

C. Site Plan

The applicant proposes the construction of a 5,645-square-foot single-family residence, including a 1,759-square-foot basement, and a 556-square-foot attached garage on the northern portion of the 0.92-acre Project Site. The residence would have a maximum height of 17 feet above grade. A total of 1,612 cubic yards of earth (1,042 cubic yards cut, 570 cubic yards fill, 472 cubic yards export) would be graded. The Project would also include an OWTS, retaining walls on three sides up to seven feet tall, and other appurtenant facilities on a total building site of 11,205 square feet within the existing graded pad. The building would be accessed by a 40-foot-long paved driveway, which would access Piuma Road to the north. Development from brush clearance and fuel modification would also encroach into the protected zones of 14 coast live oaks. The southern portion of the Project Site is mapped as H1 Habitat, which places the entirety of the site within H1 Habitat Buffer (0-100 feet away) or H1 Quiet Zone (100-200 feet away). The residence is proposed for a location on the northern portion of the Project Site, within H1 Habitat Buffer and H1 Quiet Zone. A portion of the residence, as well as hardscape and retaining walls, is located less than 100 feet from parklands to the south. An OWTS seepage pit is proposed south of the residence within H1 Habitat Buffer. The Project Site has a linear street frontage of 171 feet and a linear development frontage of 100 feet.

7. **PUBLIC COMMENTS.** Staff received four phone calls and 12 letters opposing the Project. Issues raised include destruction of sensitive habitat, light pollution, traffic, construction noise, fire hazard, proximity to wildlife, and interference of scenic views from the Backbone Trail.

8. AGENCY RECOMMENDATIONS.

A. County Department of Parks and Recreation: Recommended clearance to public hearing with no conditions through the County's electronic consultation system (EPIC-LA) on September 29, 2020.

B. County Fire Department: Recommended clearance to public hearing with no conditions through EPIC-LA on September 30, 2020.

C. County Department of Public Works: Recommended denial of the Project due to lack of documentation regarding road boundaries, road improvements, lines of sight, and earthmoving details in a letter dated November 5, 2020.

D. County Department of Public Health: Recommended denial of the Project due to lack of information regarding the proposed OWTS and water service in a letter dated October 27, 2020.

E. County Environmental Review Board: Chose to take no action regarding the Project at a meeting held on August 16, 2021. Recommended that it return with a more comprehensive plan and biological assessment, as well as a redesign to be consistent with the LIP.

9. **CEQA DETERMINATION.** No determination has been made regarding the applicability of the California Environmental Quality Act (Public Resources Code section 21000, et seq.) (“CEQA”) to this project. Per State CEQA Guidelines and the Environmental Document Reporting Procedures and Guidelines for the County, a CEQA determination is not required when a project is denied.
10. **PREVIOUS HEARING PROCEEDINGS.** A duly noticed public hearing was held before the Hearing Officer on October 4, 2022, which was continued to November 1, 2022 to allow the Hearing Officer to do a site visit and thoroughly review all documents. At the November 1, 2022 continued public hearing, Regional Planning Staff recommended denial of the Project. The applicant’s representative spoke in favor of the Project. The Hearing Officer indicated her intent to deny the Project and continued the hearing to February 7, 2023 to allow additions and edits to the required denial findings. At the continued hearing on February 7, 2023, the Hearing Officer closed the public hearing and denied the Project. The applicant appealed this denial to the Commission on February 13, 2023 per the provisions of Los Angeles County Code Section 22.44.970.

GENERAL PLAN CONSISTENCY FINDINGS

11. **LAND USE POLICY.** The Commission finds that the Project is not consistent with the LUP. The Rural Land 20 land use designation is intended for single-family residential uses, as well as other resource-dependent uses, on relatively large lots. Although a single-family residence is specifically listed as a principal permitted use under this designation, the Project is not consistent with the policies of the LUP, as described below.
12. **GOALS AND POLICIES.** The Commission finds that the Project would not be consistent with the following policies of the LUP:

Conservation and Open Space Element

Policy CO-41:

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

two uses within H1 habitat, unless such use has first been considered in an LCP amendment that is certified by the Coastal Commission.

Policy CO-51:

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

Policy CO-57:

New non-resource-dependent development shall also provide an additional 100-foot "Quiet Zone" from H1 habitat where feasible (measured from the outer edge of the 100-foot H1 habitat buffer required above). New development is not permitted in the H1 habitat Quiet Zone except resource-dependent uses, non-irrigated fuel modification required by the Fire Department for lawfully-established structures, and the following other uses in very limited circumstances: (1) public works projects required to protect existing public roads when there is no feasible alternative, as long as impacts to H1 habitat and the H1 buffer are avoided to the maximum extent feasible, and unavoidable impacts are minimized and mitigated; (2) an access road to a lawfully-permitted use when there is no other feasible alternative to provide access to public recreation areas or development on a legal parcel, as long as impacts to H1 habitat and H1 buffer are avoided to the maximum extent feasible, and unavoidable impacts are minimized and mitigated; (3) a development on a lawfully-created parcel that is the minimum development necessary to provide a reasonable economic use of the property and where there is no feasible alternative, as long as impacts to H1 habitat and H1 buffer are avoided to the maximum Santa Monica Mountains Local Coastal Program 31 February 2018 Land Use Plan extent feasible, and unavoidable impacts are minimized and mitigated; (4) equestrian pasture outside of the fuel modification zone, consistent with the requirements of the LCP, where the development is sited and designed to ensure that no required fuel modification extends into H1 habitat or H1 buffer, it will not significantly degrade H1 habitat, and will not adversely affect wildlife usage, including movement patterns, of the local area or region. Additionally, if existing fuel modification for the

principal use is located within the Quiet Zone, confined animal facilities may be established within the Quiet Zone on slopes of 3:1 or less only if the facilities will not require fuel modification to extend into H1 habitat or the H1 habitat buffer, and subject to ERB review. Furthermore, public recreational facilities may also be located within this quiet zone, if it is developed and/or disturbed by historic use (e.g., recreational).

CO-63

New development adjoining parklands, where the purpose of the park is to protect the natural environment and SERAs, shall be sited and designed to minimize impacts to habitat and recreational opportunities to the maximum extent feasible. Natural vegetation buffer areas shall be provided around parklands. Buffers shall be of a sufficient size to prevent impacts to parkland resources, but in no case shall they be less than 100 feet in width. Variances or modifications to the required H1 habitat buffer width shall not be granted, except for a permitted use included in Policy CO-56. New development permitted adjacent to parklands shall include open space conservation easements over the habitat areas outside the approved development site to ensure that impacts to the H1 and H2 habitat, H1 habitat buffer, or parkland buffer are avoided.

Policy CO-66

Protection of H1 and H2 habitat and public access shall take priority over other development standards, and where there is any conflict between general/other development standards and the biological resource and/or public access protection provisions, the standards that are most protective of H1 and H2 habitat and public access shall have precedence.

Policy CO-109:

Site and design new development to protect natural features, and minimize removal of natural vegetation.

Policy CO-114:

New development shall be sited and designed to minimize the height and length of manufactured cut and fill slopes, and minimize the height and length of retaining walls. Graded slopes shall blend with the natural contours of the land and shall utilize landform grading.

Policy CO-124:

The Santa Monica Mountains contain scenic resources of regional and national importance. The scenic and visual qualities of these resources shall be protected and, where feasible, enhanced.

Policy CO-125:

Protect public views within Scenic Areas and throughout the Coastal Zone. Places on, along, within, or visible from Scenic Routes, public parklands, public trails, beaches, and state waters that offer scenic vistas of the mountains, canyons, coastline, beaches, and other unique natural features are considered Scenic Resource Areas. Scenic Resource Areas do not include areas that are largely

developed such as existing, predominantly built-out residential subdivisions. Scenic Resource Areas also include the scenic resources identified on Map 3 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.

Policy 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*

Policy CO-128:

New development shall be subordinate to the character of its setting.

Policy CO-131:

Site and design new development to minimize adverse impacts on scenic resources to the maximum extent feasible. If there is no feasible building site location on the proposed project site where development would not be visible, then the development shall be sited and designed to minimize impacts on scenic areas through measures that may include, but not be limited to, siting development in the least visible portion of the site, breaking up the mass of new structures, designing structures to blend into the natural hillside setting, restricting the building maximum size, reducing maximum height, clustering development, minimizing grading, incorporating landscape and building material screening elements, and where appropriate, berming.

Policy CO-133:

New development shall be sited and designed to minimize alteration of natural landforms by:

- a. Conforming to the natural topography.*
- b. Preventing substantial grading or reconfiguration of the project site.*
- c. Eliminating flat building pads on slopes. Building pads on sloping sites shall utilize split-level or stepped-pad designs.*

- d. Requiring that manufactured contours mimic the natural contours.*
- e. Ensuring that graded slopes blend with the existing terrain of the site and surrounding area.*
- f. Minimizing grading permitted outside of the building footprint.*
- g. Clustering structures to minimize site disturbance and to minimize development area.*
- h. Minimizing height and length of cut and fill slopes.*
- i. Minimizing the height and length of retaining walls.*
- j. Cut and fill operations may be balanced on site, where the grading does not substantially alter the existing topography and blends with the surrounding area. Export of cut material may be required to preserve the natural topography.*

Policy CO-147:

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

Land Use Element

Policy LU-33:

Require that new development be compatible with the rural character of the area and the surrounding natural environment.

The Project's large square footage and footprint, including an 11,205-square-foot building site area, would result in development that would extend into the H1 Habitat Buffer and H1 Quiet Zone, as well as fuel modification and brush clearance that would extend into H1 Habitat (oak woodland). The Project's large footprint and square footage result in a design that is not protective of surrounding landforms by failing to preserve H1 Habitat areas in a more natural state. It would also negatively affect adjoining parklands by creating development less than 100 feet away. This would also not be consistent with policies regarding the protection of Scenic Resource Areas. The Project's design, which includes seven-foot-tall retaining walls, when paired with its location less than 100 feet from parklands to the south, its partial view from the Backbone Trail, and its proximity to Piuma Road, a designated scenic route, would result in unnecessary visual impacts to the surrounding area.

ZONING CODE CONSISTENCY FINDINGS

13. **HABITAT CATEGORIES.** The Commission finds that the Project is not consistent with the standard identified in County Code Section 22.44.1890. The Project Site is designated as H1 Habitat and H3 Habitat by the LUP. While all construction would occur within H3 Habitat, impacts from the development would be located within the H1 Quiet Zone and H1 Habitat Buffer. The Project would also result in required fuel modification and brush clearance within H1 Habitat.

Per the requirements of the LIP, no development, except for access driveways and resource-dependent uses, is permitted in H1 Habitat (County Code Section 22.44.1890 C). Because habitable structures are proposed less than 100 feet from H1 Habitat (oak woodland) to the south, fuel modification is required within this area by the approved fuel modification plan. Therefore, the Project design is not compatible with surrounding environmental resources, as it would result in development of H1 Habitat.

Additionally, development is proposed within the H1 Habitat Buffer and H1 Quiet Zone. Per the requirements of the LIP, residential development may only be permitted within an H1 Quiet Zone or H1 Habitat Buffer when all of the following apply:

- a. The Project Site is on a lawfully created parcel;
- b. The development is the minimum necessary to provide the landowner a reasonable economic use of the property, and in no case shall it exceed the maximum standards provided in County Code Sections 22.44.1910 and 22.44.1920;
- c. There is no other feasible alternative building site location that can avoid the H1 Habitat Buffer or H1 Quiet Zone;
- d. The maximum feasible buffer width is provided between the development and the H1 Habitat area;
- e. The development is sited and designed to prevent impacts that would significantly degrade H1 Habitat; and
- f. All feasible mitigation measures have been provided to minimize adverse environmental effects.

The Project proposes a 5,645-square-foot single-family residence. Reducing the square footage of the proposed residence and/or relocating the OWTS would provide a greater buffer between development and the H1 Habitat area. Thus, the development is not the minimum necessary development for the site, as required within an H1 Quiet Zone or H1 Habitat Buffer by the LIP. Therefore, the findings in County Code Sections 22.44.1890 D.8.b and 22.44.1890 E.12.b cannot be met.

14. **PARKLAND BUFFER.** The Commission finds that a Variance is required for new structures less than 100 feet from parklands, per County Code Section 22.44.1900 C. Due to California State Parks open space immediately to the south, a small portion of the residence, as well as hardscape and retaining walls proposed for the Project Site, would extend into the required 100-foot parkland buffer. Because the structure could easily be redesigned to eliminate this encroachment, there are no special characteristics of the lot that require a Variance, nor is it necessary to preserve a substantial property right (see "Variance Findings" below).
15. **SCENIC RESOURCES.** The Commission finds that a variance is required for retaining walls taller than six feet within Scenic Resource Areas, per County Code Section 22.44.2040 A.11. The Project, due to its proximity to parklands, Piuma Road, and the Backbone Trail, is within a Scenic Resource Area. The Project proposes retaining walls up to seven feet tall on three sides. There are no special characteristics of the

Project Site requiring this, and the retaining walls could be terraced or redesigned to comply with these sections of the LIP. Thus, it has not been demonstrated that this variance is necessary due to special characteristics of the lots or to preserve a substantial property right (see "Variance Findings" below).

16. **BUILDING SITE AREA.** The Commission finds that a variance is required for a building site area greater than 10,000 square feet, per County Code Section 22.44.1910 I. The Project proposes a building site area of 11,205 square feet. There are no special characteristics of the Project Site requiring this, and the building site area could be reduced in size to comply with these sections of the LIP. Thus, it has not been demonstrated that this variance is necessary due to special characteristics of the lots or to preserve a substantial property right (see "Variance Findings" below).

COASTAL DEVELOPMENT PERMIT FINDINGS

17. **The Commission finds that the proposed development is not in conformity with the certified local coastal program.** As proposed, the Project would not comply with all applicable development standards for residences in the Santa Monica Mountains Local Coastal Program, which includes the LUP and LIP, specifically those standards related to Scenic Resource Areas, building site area, habitat categories and parkland buffers.
18. **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 Project Site is not located between the ocean and the nearest public road, so coastal access requirements would not be applicable.

VARIANCE FINDINGS

19. **The Commission finds that there are no special circumstances or exceptional characteristics applicable to the property involved, such as size, shape, topography, location, or surroundings, which are not generally applicable to other properties in the same vicinity and under identical zoning classification.** The design of the residence could be modified to avoid encroaching into the required 100-foot parkland buffer. Also, special site characteristics do not necessitate the construction of overheight retaining walls in a Scenic Resource Area, nor do site conditions require a building site area greater than 10,000 square feet. Thus, the property has not been shown to have special circumstances or exceptional characteristics.
20. **The Commission finds that such variance is unnecessary for the preservation of a substantial property right of the applicant such as that possessed by owners of other property in the same vicinity and zone.** The design of the residence could easily be modified to avoid encroaching into the required 100-foot parkland buffer. Also, special site characteristics do not necessitate the construction of overheight structures or retaining walls in a Scenic Resource Area, nor do site conditions require

a building site area greater than 10,000 square feet. Thus, the variance is unnecessary to preserve a substantial property right.

21. **The Commission finds that the granting of the variance will be materially detrimental to the public welfare or be injurious to other property or improvements in the same vicinity and zone.** The proposed residence location would result in greater development near parkland and along a scenic route, including an unnecessarily large building site area and retaining walls, which would detrimentally affect the public welfare and other properties by degrading scenic and biological resources.
22. **The Commission finds that the granting of the variance will be materially detrimental to coastal resources.** The proposed residence location would result in greater development near parkland and along a scenic route, including an unnecessarily large building site area and retaining walls, which would detrimentally affect coastal resources by degrading scenic and biological resources.

ADMINISTRATIVE FINDINGS

23. **HEARING PROCEEDINGS.** A duly noticed appeal hearing was held before the Commission on April 26, 2023. Regional Planning Staff recommended denial of the Project. Testimony was taken both for and against the Project. After a brief discussion, the Commission subsequently closed the public hearing and denied the Project.
24. **LEGAL NOTIFICATION.** The Commission finds that pursuant to Section 22.44.990 of the County Code, 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 the County Department of Regional Planning's ("LA County Planning") website. On March 23, 2023 a total of 115 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 20 notices to those on the courtesy mailing list for The Malibu Zoned District and additional interested parties.
25. **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 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 COMMISSION CONCLUDES THAT:

Regarding the Minor CDP:

- A. The proposed development is not in conformity with the certified local coastal program.

- B. 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.

Regarding the Variance:

- A. There are no special circumstances or exceptional characteristics applicable to the property involved, such as size, shape, topography, location, or surroundings, which are not generally applicable to other properties in the same vicinity and under identical zoning classification.
- B. Such variance is unnecessary for the preservation of a substantial property right of the applicant such as that possessed by owners of other property in the same vicinity and zone.
- C. 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.
- D. The granting of the variance will be materially detrimental to coastal resources.

THEREFORE, THE COMMISSION:

1. Denies **MINOR COASTAL DEVELOPMENT PERMIT NO. RPPL2019003435.**
2. Denies **VARIANCE NO. RPPL2019003436.**

ACTION DATE: April 26, 2023

VOTE: 5-0

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

Dissenting: None

Abstaining: None

Absent: None

MG:RG:TM

4/26/23

c: Zoning Enforcement, Building and Safety

**LOS ANGELES COUNTY
DEPARTMENT OF REGIONAL PLANNING
FINDINGS OF THE REGIONAL PLANNING COMMISSION
AND ORDER
PROJECT NO. 2019-000686-(3)
MINOR COASTAL DEVELOPMENT PERMIT NO. RPPL2019003852
VARIANCE NO. RPPL2019003853**

RECITALS

1. **HEARING DATE(S).** The Los Angeles County (“County”) Regional Planning Commission (“Commission”) conducted a duly noticed public hearing on April 26, 2023 in the matter of Project No. 2019-000686-(3), Minor Coastal Development Permit No. RPPL2019003852 (“CDP”), and Variance No. RPPL2019003853 (“Variance”).
2. **ENTITLEMENT(S) REQUESTED.** The applicant, California Pacific Homes, requests the CDP and Variance to authorize the construction of a 5,886-square-foot single-family residence , a 572-square-foot attached garage, and an onsite wastewater treatment system (“OWTS”) (“Project”) on a 1.84-acre property consisting of two legal lots located on the south side of Piuma Road (Assessor’s Parcel Numbers 4456-038-015 and 4456-038-016) in the Santa Monica Mountains Coastal Zone ("Project Site"). Hardscape, retaining walls, and a portion of the residence would be located less than 100 feet from parkland to the south. A total of 1,580 cubic yards of earth (1,580 cubic yards cut, all exported) would be graded. The Project would result in construction within an H1 Habitat Buffer and fuel modification or brush clearance within the protected zones of 17 oak trees.
3. **ENTITLEMENT(S) REQUIRED.** A CDP is required to construct a single-family residence and an OWTS in the R-C-20 (Rural Coastal—20-Acre Minimum Required Lot Area) Zone pursuant to Los Angeles County Code (“County Code”) Section 22.44.810, and a Minor CDP is required for any project that requires Environmental Review Board (“ERB”) review (County Code Sections 22.44.860 and 22.44.940). The residence would result in development less than 200 feet from H1 Habitat and thus requires ERB review. A Minor CDP is also required for any project that results in the encroachment into the protected zone of any oak tree (County Code Section 22.44.950). As currently proposed, fuel modification or brush clearance would occur within the protected zones of 17 oak trees. As a result, a Minor CDP is required for the Project.

A variance is required for new structures less than 100 feet from parklands, per County Code Section 22.44.1900 C. because hardscape, retaining walls, and a portion of the residence are located less than 100 feet from parkland to the south, a variance is required.

4. **LAND USE DESIGNATION.** The Project Site is located within the RL20 (Rural Land—One dwelling unit/20 acres maximum) land use designation of the Santa Monica Mountains Local Coastal Program Land Use Policy Map, a component of the General Plan.

5. **ZONING.** The Project Site is located in The Malibu Zoned District and is zoned R-C-20. Pursuant to County Code Section 22.44.1750, a single-family residence is a principal permitted use within the R-C Zone. However, County Code Sections 22.44.860, 22.44.940, and 22.44.950 require a Minor CDP for any development that needs ERB review or encroaches into the protected zones of oak trees, as does the Project. A variance is required for new structures less than 100 feet from parklands, per County Code Section 22.44.1900 C. Because hardscape, retaining walls, and a portion of the residence are located less than 100 feet from parkland to the south, a variance is required.

6. **PROJECT AND SITE PLAN DESCRIPTION.**

A. Existing Site Conditions

The Project Site is 1.84 gross acres in size and consists of two legal lots, each 0.92 acres, which are irregular in shape and consist of generally level terrain. Two existing graded pads of approximately 12,000 square feet each and drainage structures are located adjacent to each other on the central portion of the Project Site. These were legally developed with CDP No. 5-83-004, which was approved with the underlying tract map in 1987 (Tract Map No. 38931). The western portion of the Project Site, corresponding to oak woodland, is mapped as H1 Habitat with the remainder mapped as H3 Habitat in the Santa Monica Mountains Local Coastal Program Land Use Plan ("LUP"). The majority of the Project Site is within 200 feet of H1 Habitat, which places it within H1 Habitat Buffer (0-100 feet away) or H1 Quiet Zone (100-200 feet away). Other than the oaks, the Project Site contains mostly native and non-native grasses.

B. Site Access

The Project Site would be accessed from Piuma Road, a 65-foot-wide public road and designated scenic route, immediately to the north of the Project Site.

C. Site Plan

The applicant proposes the construction of a 5,886-square-foot single-family residence, including a 1,455-square-foot basement, and a 572-square-foot attached garage on the central portion of the 1.84-acre Project Site. The residence would have a maximum height of 17 feet, six inches above grade. A total of 1,580 cubic yards of earth (1,580 cubic yards cut, all exported) would be graded. The Project would also include an OWTS, retaining walls, and other appurtenant facilities on a total building site of 19,454 square feet within the two existing graded pads, as well as a small portion of the Project Site between the two that is currently ungraded. The building would be accessed by a 150-foot-long paved circular driveway, which would access Piuma Road to the north. Development from brush clearance and fuel modification would also encroach into the protected zones of 17 coast live oaks. The western portion of the Project Site is mapped as H1 Habitat, which places the majority of the site within H1 Habitat Buffer (0-100 feet away) or H1 Quiet Zone (100-200 feet away). The residence is proposed for a location on the northern central portion of the Project Site, within H1 Habitat Buffer and H1 Quiet Zone. A portion of the residence, as well as hardscape and retaining walls, is

located less than 100 feet from parklands to the south. An OWTS seepage pit is proposed south of the residence within the parkland buffer. The Project is partially visible from the Backbone Trail to the south. The Project Site has a linear street frontage of 435 feet and a linear development frontage of 115 feet.

7. **PUBLIC COMMENTS.** Four phone calls and nine letters of opposition have been received over the course of the hearing process for this Project. Issues raised include destruction of sensitive habitat, light pollution, traffic, construction noise, fire hazard, proximity to wildlife, and interference of scenic views from the Backbone Trail.

8. **AGENCY RECOMMENDATIONS.**

A. County Department of Parks and Recreation: Recommended clearance to public hearing with no conditions through the County's electronic consultation system (EPIC-LA) on September 29, 2020.

B. County Fire Department: Recommended clearance to public hearing with no conditions through EPIC-LA on September 30, 2020.

C. County Department of Public Works: Recommended denial of the Project due to lack of documentation regarding road boundaries, road improvements, lines of sight, and earthmoving details in a letter dated November 5, 2020.

D. County Department of Public Health: Recommended denial of the Project due to lack of information regarding the proposed OWTS and water service in a letter dated October 27, 2020.

E. County Environmental Review Board: Chose to take no action regarding the Project at a meeting held on August 16, 2021. Recommended that it return with a more comprehensive plan and biological assessment, as well as a redesign to be consistent with the Santa Monica Mountains Local Implementation Program ("LIP").

9. **CEQA DETERMINATION.**

No determination has been made regarding the applicability of the California Environmental Quality Act (Public Resources Code section 21000, et seq.) ("CEQA") to this project. Per State CEQA Guidelines and the Environmental Document Reporting Procedures and Guidelines for the County, a CEQA determination is not required when a project is denied.

10. **PREVIOUS HEARING PROCEEDINGS.** A duly noticed public hearing was held before the Hearing Officer on October 4, 2022, which was continued to November 1, 2022 to allow the Hearing Officer to do a site visit and thoroughly review all documents. At the November 1, 2022 continued public hearing, Regional Planning Staff recommended denial of the Project. The applicant's representative spoke in favor of the Project. The Hearing Officer indicated her intent to deny the Project and continued the hearing to February 7, 2023 to allow additions and edits to the required denial findings. At the continued hearing on February 7, 2023, the Hearing Officer closed the

public hearing and denied the Project. The applicant appealed this denial to the Commission on February 13, 2023 per the provisions of Los Angeles County Code Section 22.44.970.

GENERAL PLAN CONSISTENCY FINDINGS

11. **LAND USE POLICY.** The Commission finds that the Project is not consistent with the LUP. The Rural Land 20 land use designation is intended for single-family residential uses, as well as other resource-dependent uses, on relatively large lots. Although a single-family residence is specifically listed as a principal permitted use under this designation, the Project is not consistent with the policies of the LUP, as described below.
12. **GOALS AND POLICIES.** The Commission finds that the Project would not be consistent with the following policies of the LUP:

Conservation and Open Space Element

Policy CO-41:

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

Policy CO-57:

New non-resource-dependent development shall also provide an additional 100-foot "Quiet Zone" from H1 habitat where feasible (measured from the outer edge of the 100-foot H1 habitat buffer required above). New development is not permitted in the H1 habitat Quiet Zone except resource-dependent uses, non-irrigated fuel modification required by the Fire Department for lawfully-established structures, and the following other uses in very limited circumstances: (1) public works projects required to protect existing public roads when there is no feasible alternative, as long as impacts to H1 habitat and the H1 buffer are avoided to the maximum extent feasible, and unavoidable impacts are minimized and mitigated; (2) an access road to a lawfully-permitted use when there is no other feasible alternative to provide access to public recreation areas or development on a legal parcel, as long as

impacts to H1 habitat and H1 buffer are avoided to the maximum extent feasible, and unavoidable impacts are minimized and mitigated; (3) a development on a lawfully-created parcel that is the minimum development necessary to provide a reasonable economic use of the property and where there is no feasible alternative, as long as impacts to H1 habitat and H1 buffer are avoided to the maximum Santa Monica Mountains Local Coastal Program 31 February 2018 Land Use Plan extent feasible, and unavoidable impacts are minimized and mitigated; (4) equestrian pasture outside of the fuel modification zone, consistent with the requirements of the LCP, where the development is sited and designed to ensure that no required fuel modification extends into H1 habitat or H1 buffer, it will not significantly degrade H1 habitat, and will not adversely affect wildlife usage, including movement patterns, of the local area or region. Additionally, if existing fuel modification for the principal use is located within the Quiet Zone, confined animal facilities may be established within the Quiet Zone on slopes of 3:1 or less only if the facilities will not require fuel modification to extend into H1 habitat or the H1 habitat buffer, and subject to ERB review. Furthermore, public recreational facilities may also be located within this quiet zone, if it is developed and/or disturbed by historic use (e.g., recreational).

CO-63

New development adjoining parklands, where the purpose of the park is to protect the natural environment and SERAs, shall be sited and designed to minimize impacts to habitat and recreational opportunities to the maximum extent feasible. Natural vegetation buffer areas shall be provided around parklands. Buffers shall be of a sufficient size to prevent impacts to parkland resources, but in no case shall they be less than 100 feet in width. Variances or modifications to the required H1 habitat buffer width shall not be granted, except for a permitted use included in Policy CO-56. New development permitted adjacent to parklands shall include open space conservation easements over the habitat areas outside the approved development site to ensure that impacts to the H1 and H2 habitat, H1 habitat buffer, or parkland buffer are avoided.

Policy CO-66

Protection of H1 and H2 habitat and public access shall take priority over other development standards, and where there is any conflict between general/other development standards and the biological resource and/or public access protection provisions, the standards that are most protective of H1 and H2 habitat and public access shall have precedence.

Policy CO-109:

Site and design new development to protect natural features, and minimize removal of natural vegetation.

Policy CO-124:

The Santa Monica Mountains contain scenic resources of regional and national importance. The scenic and visual qualities of these resources shall be protected and, where feasible, enhanced.

Policy CO-125:

Protect public views within Scenic Areas and throughout the Coastal Zone. Places on, along, within, or visible from Scenic Routes, public parklands, public trails, beaches, and state waters that offer scenic vistas of the mountains, canyons, coastline, beaches, and other unique natural features are considered Scenic Resource Areas. Scenic Resource Areas do not include areas that are largely developed such as existing, predominantly built-out residential subdivisions. Scenic Resource Areas also include the scenic resources identified on Map 3 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.

Policy 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*

Policy CO-128:

New development shall be subordinate to the character of its setting.

Policy CO-131:

Site and design new development to minimize adverse impacts on scenic resources to the maximum extent feasible. If there is no feasible building site location on the proposed project site where development would not be visible, then the development shall be sited and designed to minimize impacts on scenic areas through measures that may include, but not be limited to, siting development in the least visible portion of the site, breaking up the mass of new structures, designing structures to blend into the natural hillside setting, restricting the building maximum size, reducing maximum height, clustering development, minimizing grading, incorporating landscape and building material screening elements, and where appropriate, berming.

Policy CO-133:

New development shall be sited and designed to minimize alteration of natural landforms by:

- a. Conforming to the natural topography.*
- b. Preventing substantial grading or reconfiguration of the project site.*
- c. Eliminating flat building pads on slopes. Building pads on sloping sites shall utilize split-level or stepped-pad designs.*
- d. Requiring that manufactured contours mimic the natural contours.*
- e. Ensuring that graded slopes blend with the existing terrain of the site and surrounding area.*
- f. Minimizing grading permitted outside of the building footprint.*
- g. Clustering structures to minimize site disturbance and to minimize development area.*
- h. Minimizing height and length of cut and fill slopes.*
- i. Minimizing the height and length of retaining walls.*
- j. Cut and fill operations may be balanced on site, where the grading does not substantially alter the existing topography and blends with the surrounding area. Export of cut material may be required to preserve the natural topography.*

Policy CO-147:

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

Land Use Element

Policy LU-33:

Require that new development be compatible with the rural character of the area and the surrounding natural environment.

The Project's large square footage and footprint would result in development that would extend into the H1 Habitat Buffer and H1 Quiet Zone, as well as fuel modification and brush clearance that would extend into H1 Habitat (oak woodland). The Project's large footprint and square footage result in a design that is not protective of surrounding landforms by failing to preserve H1 Habitat areas in a more natural state. It would also negatively affect adjoining parklands by creating development less than 100 feet away.

ZONING CODE CONSISTENCY FINDINGS

13. HABITAT CATEGORIES. The Commission finds that the Project is not consistent with the standard identified in County Code Section 22.44.1890. The Project Site is designated as H1 Habitat and H3 Habitat by the LUP. While all construction would occur within H3 Habitat, impacts from the development would be located within the H1

Quiet Zone and H1 Habitat Buffer. The Project would also result in required fuel modification and brush clearance within H1 Habitat.

Per the requirements of the LIP, no development, except for access driveways and resource-dependent uses, is permitted in H1 Habitat (County Code Section 22.44.1890 C). Because habitable structures are proposed less than 100 feet from H1 Habitat (oak woodland) to the west, fuel modification is required within this area by the approved fuel modification plan. Therefore, the Project design is not compatible with surrounding environmental resources, as it would result in development of H1 Habitat.

Additionally, development is proposed within H1 Habitat Buffer and H1 Quiet Zone. Per the requirements of the LIP, residential development may only be permitted within an H1 Quiet Zone or H1 Buffer when all of the following apply:

- a. The Project Site is on a lawfully created parcel;
- b. The development is the minimum necessary to provide the landowner a reasonable economic use of the property, and in no case shall it exceed the maximum standards provided in County Code Sections 22.44.1910 and 22.44.1920;
- c. There is no other feasible alternative building site location that can avoid H1 Habitat Buffer or H1 Quiet Zone;
- d. The maximum feasible buffer width is provided between the development and the H1 Habitat area;
- e. The development is sited and designed to prevent impacts that would significantly degrade H1 Habitat; and
- f. All feasible mitigation measures have been provided to minimize adverse environmental effects.

The Project proposes a 5,886-square-foot single-family residence and a 5,418-square-foot circular driveway. Reducing the square footage of the proposed residence and driveway would provide a greater buffer between development and the H1 Habitat area. Thus, the development is not the minimum necessary development for the site, as required within an H1 Quiet Zone or H1 Habitat Buffer by the LIP. Therefore, the findings in County Code Sections 22.44.1890 D.8.b and 22.44.1890 E.12.b cannot be met.

14. **PARKLAND BUFFER.** The Commission finds that a variance is required for new structures less than 100 feet from parklands, per County Code Section 22.44.1900 C. Due to California State Parks open space immediately to the south, a small portion of the residence, as well as hardscape and retaining walls proposed for the Project Site, would extend into the required 100-foot parkland buffer. Because the structure could easily be redesigned to eliminate this encroachment, there are no special characteristics of the lot that require a variance, nor is it necessary to preserve a substantial property right (see "Variance Findings" below).

COASTAL DEVELOPMENT PERMIT FINDINGS

15. **The Commission finds that the proposed development is not in conformity with the certified local coastal program.** As proposed, the Project would not comply with all applicable development standards for residences in the Santa Monica Mountains Local Coastal Program, which includes the LUP and LIP, specifically those standards related to habitat categories, OWTS standards and parkland buffers.
16. **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 Project Site is not located between the ocean and the nearest public road, so coastal access requirements would not be applicable.

VARIANCE FINDINGS

17. **The Commission finds that there are no special circumstances or exceptional characteristics applicable to the property involved, such as size, shape, topography, location, or surroundings, which are not generally applicable to other properties in the same vicinity and under identical zoning classification.** The design of the residence could easily be modified to avoid encroaching into the required 100-foot parkland buffer. Thus, the property has not been shown to have special circumstances or exceptional characteristics.
18. **The Commission finds that such variance is unnecessary for the preservation of a substantial property right of the applicant such as that possessed by owners of other property in the same vicinity and zone.** The design of the residence could easily be modified to avoid encroaching into the required 100-foot parkland buffer. Thus, the variance is unnecessary to preserve a substantial property right.
19. **The Commission finds that the granting of the variance will be materially detrimental to the public welfare or be injurious to other property or improvements in the same vicinity and zone.** The proposed residence location would result in greater development near to parkland, which would detrimentally affect the public welfare and other properties by degrading scenic and biological resources.
20. **The Commission finds that the granting of the variance will be materially detrimental to coastal resources.** The proposed residence location would result in greater development near to parkland, which would detrimentally affect coastal resources by degrading scenic and biological resources.

ADMINISTRATIVE FINDINGS

21. **HEARING PROCEEDINGS.** A duly noticed appeal hearing was held before the Commission on April 26, 2023. Regional Planning Staff recommended denial of the Project. Testimony was taken both for and against the Project. After a brief discussion, the Commission subsequently closed the public hearing and denied the Project.

22. LEGAL NOTIFICATION. The Commission finds that pursuant to Section 22.44.990 of the County Code, 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 March 23, 2023, a total of 115 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 20 notices to those on the courtesy mailing list for The Malibu Zoned District and additional interested parties.

23. 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 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 COMMISSION CONCLUDES THAT:

Regarding the Minor CDP:

- A. The proposed development is not in conformity with the certified local coastal program.
- B. 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.

Regarding the Variance:

- A. There are no special circumstances or exceptional characteristics applicable to the property involved, such as size, shape, topography, location, or surroundings, which are not generally applicable to other properties in the same vicinity and under identical zoning classification.
- B. Such variance is unnecessary for the preservation of a substantial property right of the applicant such as that possessed by owners of other property in the same vicinity and zone.
- C. 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.
- D. The granting of the variance will be materially detrimental to coastal resources.

THEREFORE, THE COMMISSION:

- 1. Denies **MINOR COASTAL DEVELOPMENT PERMIT NO. RPPL2019003852.**
- 2. Denies **VARIANCE NO. RPPL2019003853.**

ACTION DATE: April 26, 2023

VOTE: 5-0

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

Dissenting: None

Abstaining: None

Absent: None

MG:RG:TM

4/26/23

c: Zoning Enforcement, Building and Safety

**LOS ANGELES COUNTY
DEPARTMENT OF REGIONAL PLANNING
FINDINGS OF THE REGIONAL PLANNING COMMISSION
AND ORDER
PROJECT NO. 2019-000686-(3)
MINOR COASTAL DEVELOPMENT PERMIT NO. RPPL2019003854
VARIANCE NO. RPPL2019003855**

RECITALS

1. **HEARING DATE(S).** The Los Angeles County (“County”) Regional Planning Commission (“Commission”) conducted a duly noticed public hearing on April 26, 2023 in the matter of Project No. 2019-000686-(3), Minor Coastal Development Permit No. RPPL2019003854 (“CDP”), and Variance No. RPPL2019003855 (“Variance”).
2. **ENTITLEMENT(S) REQUESTED.** The applicant, California Pacific Homes, requests the CDP and Variance to authorize the construction of a 4,241-square-foot single-family residence and an onsite wastewater treatment system (“OWTS”) (“Project”) on a 1.3-acre property located on the south side of Piuma Road (Assessor’s Parcel Number 4456-038-017) in the Santa Monica Mountains Coastal Zone (“Project Site”). Hardscape, retaining walls, and a portion of the residence would be located less than 100 feet from parkland to the south. A total of 1,498 cubic yards of earth (1,498 cubic yards cut, all exported) would be graded. The Project would result in development within H1 Habitat, the H1 Habitat Buffer, and the H1 Quiet Zone and fuel modification or brush clearance within the protected zones of 16 oak trees.
3. **ENTITLEMENT(S) REQUIRED.** A CDP is required to construct a single-family residence and an OWTS in the R-C-20 (Rural Coastal—20-Acre Minimum Required Lot Area) Zone pursuant to Los Angeles County Code (“County Code”) Section 22.44.810, and a Minor CDP is required for any project that requires Environmental Review Board (“ERB”) review (County Code Sections 22.44.860 and 22.44.940). The residence would result in development less than 200 feet from H1 Habitat and thus requires ERB review. A Minor CDP is also required for any project that results in the encroachment into the protected zone of any oak tree (County Code Section 22.44.950). As currently proposed, fuel modification or brush clearance would occur within the protected zones of 16 oak trees. As a result, a Minor CDP is required for the Project.

A variance is required for new structures less than 100 feet from parklands, per County Code Section 22.44.1900 C. A variance is also required for construction of an OWTS seepage pit or leach field within 150 feet of an riparian canopy, per County Code Section 22.44.1340 B.3.c. Hardscape, retaining walls, and a portion of the residence are located less than 100 feet from parkland to the south and an OWTS seepage pit is proposed less than 150 feet from riparian canopy to the northeast. A variance is required for any new or improved driveway exceeding 300 feet in length (County Code Section 22.44.1920 C), while the Project proposes a 386-foot-long driveway. Finally, County Code Section 22.44.1910 I restricts building site area for new residential development to 10,000 square feet, while the proposed building site area is 10,200

square feet. A variance is required for all deviations from the development standards of the Santa Monica Mountains Local Implementation Program (“LIP”).

4. **LAND USE DESIGNATION.** The Project Site is located within the RL20 (Rural Land—One dwelling unit/20 acres maximum) land use designation of the Santa Monica Mountains Local Coastal Program Land Use Policy Map, a component of the General Plan.
5. **ZONING.** The Project Site is located in The Malibu Zoned District and is zoned R-C-20. Pursuant to County Code Section 22.44.1750, a single-family residence is a principal permitted use within the R-C Zone. However, County Code Sections 22.44.860, 22.44.940, and 22.44.950 require a Minor CDP for any development that needs ERB review or encroaches into the protected zones of oak trees, as does the Project. A variance is required for new structures less than 100 feet from parklands, per County Code Section 22.44.1900 C. A variance is also required for construction of an OWTS seepage pit or leach field within 150 feet of a riparian canopy, per County Code Section 22.44.1340 B.3.c. A variance is required for any new or improved driveway exceeding 300 feet in length (County Code Section 22.44.1920 C). Finally, County Code Section 22.44.1910 I restricts the building site area for new residential development to 10,000 square feet. Because hardscape, retaining walls, and a portion of the residence are located less than 100 feet from parkland to the south, an OWTS seepage pit is proposed less than 150 feet from riparian canopy to the northeast, the proposed building site area would exceed 10,000 square feet, and the proposed driveway is longer than 300 feet, a variance is required for all deviations from the development standards of the LIP.

6. PROJECT AND SITE PLAN DESCRIPTION.

A. Existing Site Conditions

The Project Site is 1.3 gross acres in size and consists of one legal lot, which is irregular in shape and consists of generally level terrain on the central portion of the lot and steep north-to-south upward slopes on its northern and southern portions. An existing graded pad of approximately 12,000 square feet and drainage structures are located on the central portion of the lot. These were legally developed with CDP No. 5-83-004, which was approved with the underlying tract map in 1987 (Tract Map No. 38931). The entirety of the lot is mapped as H3 Habitat in the Santa Monica Mountains Local Coastal Program Land Use Plan (“LUP”). The majority of the Project Site is within 200 feet of H1 Habitat to the northeast, which places it within the H1 Habitat Buffer (0-100 feet away) or H1 Quiet Zone (100-200 feet away). Other than the oaks, the Project Site contains mostly native and non-native grasses, shrubs, and non-native trees. The Project Site is partially visible from the Backbone Trail.

B. Site Access

The Project Site would be accessed from Piuma Road, a 65-foot-wide public road and designated scenic route, immediately to the north of the Project Site.

C. Site Plan

The applicant proposes the construction of a 4,241-square-foot single-family residence and a 744-square-foot attached garage on the central portion of the 1.3-acre Project Site. The residence would have a maximum height of 16 feet above grade. A total of 1,498 cubic yards of earth (1,498 cubic yards cut, all exported) would be graded. The Project would also include an OWTS, retaining walls, and other appurtenant facilities on a total building site of 10,200 square feet—which includes non-exempt portions of the driveway—within the existing graded pad. The building would be accessed by a 386-foot-long paved driveway, which would access Piuma Road to the north. Development from brush clearance and fuel modification would also encroach into the protected zones of 16 coast live oaks. While the entirety of the Project Site is mapped as H3 Habitat, the majority of the site is within the H1 Habitat Buffer (0-100 feet away) or H1 Quiet Zone (100-200 feet away) due to the presence of oak woodland and riparian canopy to the northeast. The residence is proposed for a location on the central portion of the Project Site, within the H1 Quiet Zone. A portion of the residence, as well as hardscape and retaining walls, is located less than 100 feet from parklands to the south. An OWTS seepage pit is proposed north of the residence within the H1 Habitat Buffer. The Project is partially visible from the Backbone Trail to the south. The Project Site has a linear street frontage of 165 feet and a linear development frontage of 75 feet.

7. PUBLIC COMMENTS. Four phone calls and nine letters of opposition have been received over the course of the hearing process for this Project. Issues raised include destruction of sensitive habitat, light pollution, traffic, construction noise, fire hazard, proximity to wildlife, and interference of scenic views from the Backbone Trail.

8. AGENCY RECOMMENDATIONS.

A. County Department of Parks and Recreation: Recommended clearance to public hearing with no conditions through the County's electronic consultation system (EPIC-LA) on September 29, 2020.

B. County Fire Department: Recommended clearance to public hearing with no conditions through EPIC-LA on September 30, 2020.

C. County Department of Public Works: Recommended denial of the Project due to lack of documentation regarding road boundaries, road improvements, lines of sight, and earthmoving details in a letter dated November 10, 2020.

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E. County Environmental Review Board: Chose to take no action regarding the Project at a meeting held on August 16, 2021. Recommended that it return with a more comprehensive plan and biological assessment, as well as a redesign to be consistent with the LIP.

9. **CEQA DETERMINATION.** No determination has been made regarding the applicability of the California Environmental Quality Act (Public Resources Code section 21000, et seq.) (“CEQA”) to this project. Per State CEQA Guidelines and the Environmental Document Reporting Procedures and Guidelines for the County, a CEQA determination is not required when a project is denied.
10. **PREVIOUS HEARING PROCEEDINGS.** A duly noticed public hearing was held before the Hearing Officer on October 4, 2022, which was continued to November 1, 2022 to allow the Hearing Officer to do a site visit and thoroughly review all documents. At the November 1, 2022 continued public hearing, Regional Planning Staff recommended denial of the Project. The applicant’s representative spoke in favor of the Project. The Hearing Officer indicated her intent to deny the Project and continued the hearing to February 7, 2023 to allow additions and edits to the required denial findings. At the continued hearing on February 7, 2023, the Hearing Officer closed the public hearing and denied the Project. The applicant appealed this denial to the Commission on February 13, 2023 per the provisions of Los Angeles County Code Section 22.44.970.

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12. **GOALS AND POLICIES.** The Commission finds that the Project would not be consistent with the following policies of the LUP:

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Policy CO-41:

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

two uses within H1 habitat, unless such use has first been considered in an LCP amendment that is certified by the Coastal Commission.

Policy CO-51:

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

Policy CO-57:

New non-resource-dependent development shall also provide an additional 100-foot "Quiet Zone" from H1 habitat where feasible (measured from the outer edge of the 100-foot H1 habitat buffer required above). New development is not permitted in the H1 habitat Quiet Zone except resource-dependent uses, non-irrigated fuel modification required by the Fire Department for lawfully-established structures, and the following other uses in very limited circumstances: (1) public works projects required to protect existing public roads when there is no feasible alternative, as long as impacts to H1 habitat and the H1 buffer are avoided to the maximum extent feasible, and unavoidable impacts are minimized and mitigated; (2) an access road to a lawfully-permitted use when there is no other feasible alternative to provide access to public recreation areas or development on a legal parcel, as long as impacts to H1 habitat and H1 buffer are avoided to the maximum extent feasible, and unavoidable impacts are minimized and mitigated; (3) a development on a lawfully-created parcel that is the minimum development necessary to provide a reasonable economic use of the property and where there is no feasible alternative, as long as impacts to H1 habitat and H1 buffer are avoided to the maximum Santa Monica Mountains Local Coastal Program 31 February 2018 Land Use Plan extent feasible, and unavoidable impacts are minimized and mitigated; (4) equestrian pasture outside of the fuel modification zone, consistent with the requirements of the LCP, where the development is sited and designed to ensure that no required fuel modification extends into H1 habitat or H1 buffer, it will not significantly degrade H1 habitat, and will not adversely affect wildlife usage, including movement patterns, of the local area or region. Additionally, if existing fuel modification for the

principal use is located within the Quiet Zone, confined animal facilities may be established within the Quiet Zone on slopes of 3:1 or less only if the facilities will not require fuel modification to extend into H1 habitat or the H1 habitat buffer, and subject to ERB review. Furthermore, public recreational facilities may also be located within this quiet zone, if it is developed and/or disturbed by historic use (e.g., recreational).

CO-63

New development adjoining parklands, where the purpose of the park is to protect the natural environment and SERAs, shall be sited and designed to minimize impacts to habitat and recreational opportunities to the maximum extent feasible. Natural vegetation buffer areas shall be provided around parklands. Buffers shall be of a sufficient size to prevent impacts to parkland resources, but in no case shall they be less than 100 feet in width. Variances or modifications to the required H1 habitat buffer width shall not be granted, except for a permitted use included in Policy CO-56. New development permitted adjacent to parklands shall include open space conservation easements over the habitat areas outside the approved development site to ensure that impacts to the H1 and H2 habitat, H1 habitat buffer, or parkland buffer are avoided.

Policy CO-66

Protection of H1 and H2 habitat and public access shall take priority over other development standards, and where there is any conflict between general/other development standards and the biological resource and/or public access protection provisions, the standards that are most protective of H1 and H2 habitat and public access shall have precedence.

Policy CO-109:

Site and design new development to protect natural features, and minimize removal of natural vegetation.

Policy CO-124:

The Santa Monica Mountains contain scenic resources of regional and national importance. The scenic and visual qualities of these resources shall be protected and, where feasible, enhanced.

Policy CO-125:

Protect public views within Scenic Areas and throughout the Coastal Zone. Places on, along, within, or visible from Scenic Routes, public parklands, public trails, beaches, and state waters that offer scenic vistas of the mountains, canyons, coastline, beaches, and other unique natural features are considered Scenic Resource Areas. Scenic Resource Areas do not include areas that are largely developed such as existing, predominantly built-out residential subdivisions. Scenic Resource Areas also include the scenic resources identified on Map 3 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.

Policy 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*

Policy CO-128:

New development shall be subordinate to the character of its setting.

Policy CO-131:

Site and design new development to minimize adverse impacts on scenic resources to the maximum extent feasible. If there is no feasible building site location on the proposed project site where development would not be visible, then the development shall be sited and designed to minimize impacts on scenic areas through measures that may include, but not be limited to, siting development in the least visible portion of the site, breaking up the mass of new structures, designing structures to blend into the natural hillside setting, restricting the building maximum size, reducing maximum height, clustering development, minimizing grading, incorporating landscape and building material screening elements, and where appropriate, berming.

Policy CO-133:

New development shall be sited and designed to minimize alteration of natural landforms by:

- a. Conforming to the natural topography.*
- b. Preventing substantial grading or reconfiguration of the project site.*
- c. Eliminating flat building pads on slopes. Building pads on sloping sites shall utilize split-level or stepped-pad designs.*
- d. Requiring that manufactured contours mimic the natural contours.*
- e. Ensuring that graded slopes blend with the existing terrain of the site and surrounding area.*
- f. Minimizing grading permitted outside of the building footprint.*
- g. Clustering structures to minimize site disturbance and to minimize development area.*

- h. Minimizing height and length of cut and fill slopes.*
- i. Minimizing the height and length of retaining walls.*
- j. Cut and fill operations may be balanced on site, where the grading does not substantially alter the existing topography and blends with the surrounding area. Export of cut material may be required to preserve the natural topography.*

Policy CO-147:

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

Land Use Element

Policy LU-33:

Require that new development be compatible with the rural character of the area and the surrounding natural environment.

The Project's large square footage and 10,200-square-foot building site area would result in development that would extend into the H1 Habitat Buffer and H1 Quiet Zone, as well as fuel modification and brush clearance that would extend into H1 Habitat (oak woodland and riparian canopy). The Project's large footprint and square footage result in a design that is not protective of surrounding landforms by failing to preserve H1 Habitat areas in a more natural state. It would also negatively affect adjoining parklands by creating development less than 100 feet away. This would also not be consistent with policies regarding the protection of Scenic Resource Areas. The Project's design, which includes a driveway more than 300 feet long, when paired with its location less than 100 feet from parklands to the south, its partial view from the Backbone Trail, and its proximity to Piuma Road, a designated scenic route, would result in unnecessary visual impacts to the surrounding area.

ZONING CODE CONSISTENCY FINDINGS

13. **HABITAT CATEGORIES.** The Commission finds that the Project is not consistent with the standard identified in County Code Section 22.44.1890. The Project Site is designated as H3 Habitat by the LUP. While all construction would occur within H3 Habitat, impacts from the development would be located within the H1 Quiet Zone and H1 Habitat Buffer. The Project would also result in required brush clearance within H1 Habitat.

Per the requirements of the LIP, no development, except for access driveways and resource-dependent uses, is permitted in H1 Habitat (County Code Section 22.44.1890 C). Because habitable structures are proposed less than 200 feet from H1 Habitat (oak woodland and riparian canopy) to the northeast, brush clearance will be required within H1 Habitat by the County Agricultural Commissioner. Therefore, the

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

Additionally, development is proposed within H1 Habitat Buffer and the H1 Quiet Zone. Per the requirements of the LIP, residential development may only be permitted within an H1 Quiet Zone or H1 Habitat Buffer when all of the following apply:

- a. The Project Site is on a lawfully created parcel;
- b. The development is the minimum necessary to provide the landowner a reasonable economic use of the property, and in no case shall it exceed the maximum standards provided in County Code Sections 22.44.1910 and 22.44.1920;
- c. There is no other feasible alternative building site location that can avoid the H1 Habitat Buffer or H1 Quiet Zone;
- d. The maximum feasible buffer width is provided between the development and the H1 Habitat area;
- e. The development is sited and designed to prevent impacts that would significantly degrade H1 Habitat; and
- f. All feasible mitigation measures have been provided to minimize adverse environmental effects.

The Project proposes a 4,241-square-foot single-family residence. Reducing the square footage of the proposed residence and/or relocating the OWTS would provide a greater buffer between development and the H1 Habitat area. Thus, the development is not the minimum necessary development for the site, as required within an H1 Quiet Zone or H1 Habitat Buffer by the LIP. Therefore, the findings in County Code Sections 22.44.1890 D.8.b and 22.44.1890 E.12.b cannot be met.

14. OWTS STANDARDS. The Commission finds the LIP specifically prohibits OWTS seepage pits or leach fields to be placed within 150 feet from the edge of riparian canopy or a streambed (County Code Section 22.44.1340 B.3.c). There are locations on the Project Site more than 150 feet from riparian canopy to the northeast, and the applicant has not provided documentation that these alternative locations are unsuitable for OWTS seepage pits. Thus, it has not been demonstrated that this variance is necessary due to special characteristics of the lots or to preserve a substantial property right (see "Variance Findings" below).

15. PARKLAND BUFFER. The Commission finds that a variance is required for new structures less than 100 feet from parklands, per County Code Section 22.44.1900 C. Due to California State Parks open space immediately to the south, a small portion of the residence, as well as hardscape and retaining walls proposed for the Project Site, would extend into the required 100-foot parkland buffer. Because the structure could easily be redesigned to eliminate this encroachment, there are no special characteristics of the lot that require a variance, nor is it necessary to preserve a substantial property right (see "Variance Findings" below).

16. **ACCESS ROAD.** The Commission finds that a variance is required for a new driveway or access road longer than 300 feet, per County Code Section 22.44.1920 C. The proposed driveway for the Project would have a length of 386 feet. No evidence has been provided to show that this is the minimum driveway necessary to access the Project Site. Thus, there are no special characteristics of the lot that require a variance, nor is it necessary to preserve a substantial property right (see “Variance Findings” below).
17. **BUILDING SITE AREA.** The Commission finds that a variance is required for a building site area greater than 10,000 square feet, per County Code Section 22.44.1910 I. The Project proposes a building site area of 10,200 square feet. There are no special characteristics of the Project Site requiring this, and the building site area could be reduced in size to comply with these sections of the LIP. Thus, it has not been demonstrated that this variance is necessary due to special characteristics of the lots or to preserve a substantial property right (see “Variance Findings” below).

COASTAL DEVELOPMENT PERMIT FINDINGS

18. **The Commission finds that the proposed development is not in conformity with the certified local coastal program.** As proposed, the Project would not comply with all applicable development standards for residences in the Santa Monica Mountains Local Coastal Program, which includes the LUP and LIP, specifically those standards related to habitat categories, OWTS standards, driveway length, building site area, and parkland buffers.
19. **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 Project Site is not located between the ocean and the nearest public road, so coastal access requirements would not be applicable.

VARIANCE FINDINGS

20. **The Commission finds that there are no special circumstances or exceptional characteristics applicable to the property involved, such as size, shape, topography, location, or surroundings, which are not generally applicable to other properties in the same vicinity and under identical zoning classification.** The design of the residence could easily be modified to avoid encroaching into the required 100-foot parkland buffer, lessen the building site area, and reduce the length of the access driveway. It has also not been demonstrated that OWTS seepage pits cannot be placed in a location more than 150 feet from riparian canopy. Thus, the property has not been shown to have special circumstances or exceptional characteristics.
21. **The Commission finds that such variance is unnecessary for the preservation of a substantial property right of the applicant such as that possessed by owners of other property in the same vicinity and zone.** The design of the residence could

easily be modified to avoid encroaching into the required 100-foot parkland buffer, lessen the building site area, and reduce the length of the access driveway. It has also not been demonstrated that OWTS seepage pits cannot be placed in a location more than 150 feet from riparian canopy. Thus, the Variance is unnecessary to preserve a substantial property right.

- 22. The Commission finds that the granting of the variance will be materially detrimental to the public welfare or be injurious to other property or improvements in the same vicinity and zone.** The proposed residence location would result in greater development near to riparian canopy and parkland, which would detrimentally affect the public welfare and other properties by degrading scenic and biological resources.
- 23. The Commission finds that the granting of the variance will be materially detrimental to coastal resources.** The proposed residence location would result in greater development near riparian canopy and parkland, which would detrimentally affect coastal resources by degrading scenic and biological resources.

ADMINISTRATIVE FINDINGS

- 24. HEARING PROCEEDINGS.** A duly noticed appeal hearing was held before the Commission on April 26, 2023. Regional Planning Staff recommended denial of the Project. Testimony was taken both for and against the Project. After a brief discussion, the Commission subsequently closed the public hearing and denied the Project.
- 25. LEGAL NOTIFICATION.** The Commission finds that pursuant to Section 22.44.990 of the County Code, 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 the County Department of Regional Planning's ("LA County Planning") website. On March 23, 2023, a total of 115 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 20 notices to those on the courtesy mailing list for The Malibu Zoned District and additional interested parties.
- 26. 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 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 COMMISSION CONCLUDES THAT:

Regarding the Minor CDP:

- A. The proposed development is not in conformity with the certified local coastal program.

- B. 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.

Regarding the Variance:

- A. There are no special circumstances or exceptional characteristics applicable to the property involved, such as size, shape, topography, location, or surroundings, which are not generally applicable to other properties in the same vicinity and under identical zoning classification.
- B. Such variance is unnecessary for the preservation of a substantial property right of the applicant such as that possessed by owners of other property in the same vicinity and zone.
- C. 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.
- D. The granting of the variance will be materially detrimental to coastal resources.

THEREFORE, THE COMMISSION:

1. Denies **MINOR COASTAL DEVELOPMENT PERMIT NO. RPPL2019003854.**
2. Denies **VARIANCE NO. RPPL2019003855.**

ACTION DATE: April 26, 2023

VOTE: 5-0

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

Dissenting: None

Abstaining: None

Absent: None

MG:RG:TM
4/26/23

c: Zoning Enforcement, Building and Safety

**LOS ANGELES COUNTY
DEPARTMENT OF REGIONAL PLANNING
FINDINGS OF THE REGIONAL PLANNING COMMISSION
AND ORDER
PROJECT NO. 2019-000686-(3)
MINOR COASTAL DEVELOPMENT PERMIT NO. RPPL2019004230
VARIANCE NO. RPPL2019004231**

RECITALS

1. **HEARING DATE(S).** The Los Angeles County (“County”) Regional Planning Commission (“Commission”) conducted a duly noticed public hearing on April 26, 2023 in the matter of Project No. 2019-000686-(3), Minor Coastal Development Permit No. RPPL2019004230 (“CDP”), and Variance No. RPPL2019004231 (“Variance”).
2. **ENTITLEMENT(S) REQUESTED.** The applicant, California Pacific Homes, requests the CDP and Variance to authorize the construction of a 4,015-square-foot single-family residence, a 450-square-foot guest house, and an onsite wastewater treatment system (“OWTS”) (“Project”) on a 1.13-acre property located on the south side of Piuma Road (Assessor’s Parcel Number 4456-038-018) in the Santa Monica Mountains Coastal Zone (“Project Site”). Hardscape, retaining walls, and most of the residence would be located less than 100 feet from parkland to the south. The guest house would share the OWTS with the main residence, and an OWTS seepage pit would be located less than 150 feet from riparian canopy to the west. A total of 515 cubic yards of earth (515 cubic yards cut, all exported) would be graded. The Project would result in development within H1 Habitat, the H1 Habitat Buffer, and H1 Quiet Zone and fuel modification or brush clearance within the protected zones of nine oak trees.
3. **ENTITLEMENT(S) REQUIRED.** A CDP is required to construct a single-family residence and an OWTS in the R-C-20 (Rural Coastal—20-Acre Minimum Required Lot Area) Zone pursuant to Los Angeles County Code (“County Code”) Section 22.44.810, and a Minor CDP is required for any project that requires Environmental Review Board (“ERB”) review (County Code Sections 22.44.860 and 22.44.940). The residence would result in development less than 200 feet from H1 Habitat and thus requires ERB review. A Minor CDP is also required for any project that results in the encroachment into the protected zone of any oak tree (County Code Section 22.44.950). As currently proposed, fuel modification or brush clearance would occur within the protected zones of nine oak trees. As a result, a Minor CDP is required for the Project.

A variance is required for new structures less than 100 feet from parklands, per County Code Section 22.44.1900 C. A variance is also required for any new or improved driveway exceeding 300 feet in length (County Code Section 22.44.1920 C), while the Project proposes a 350-foot-long driveway. Finally, a variance is required for construction of an OWTS seepage pit or leach field within 150 feet of a riparian canopy (County Code Section 22.44.1340 B.3.c) or to permit a habitable accessory structure that shares an OWTS with the main residence (County Code Section 22.44.1370 D.8).

Because hardscape, retaining walls, and much of the residence are located less than 100 feet from parkland to the south, the guest house would share an OWTS with the main residence, the driveway would be over 300 feet long, and an OWTS seepage pit is proposed less than 150 feet from riparian canopy to the west, a variance is required for all the deviations from the Santa Monica Mountains Local Implementation Program (“LIP”).

4. **LAND USE DESIGNATION.** The Project Site is located within the RL20 (Rural Land—One dwelling unit/20 acres maximum) land use designation of the Santa Monica Mountains Local Coastal Program Land Use Policy Map, a component of the General Plan.
5. **ZONING.** The Project Site is located in The Malibu Zoned District and is zoned R-C-20. Pursuant to County Code Section 22.44.1750, a single-family residence is a principal permitted use within the R-C Zone. However, County Code Sections 22.44.860, 22.44.940, and 22.44.950 require a Minor CDP for any development that needs ERB review or encroaches into the protected zones of oak trees, as does the Project. A variance is required for new structures less than 100 feet from parklands, per County Code Section 22.44.1900 C. A variance is also required for any new or improved driveway exceeding 300 feet in length (County Code Section 22.44.1920 C), while the Project proposes a 350-foot-long driveway. Finally, a variance is also required for construction of an OWTS seepage pit or leach field within 150 feet of a riparian canopy (County Code Section 22.44.1340 B.3.c), or to permit a habitable accessory structure that shares an OWTS with the main residence (County Code Section 22.44.1370 D.8). Because hardscape, retaining walls, and a portion of the residence are located less than 100 feet from parkland to the south, a habitable accessory structure would share an OWTS with the main residence, and an OWTS seepage pit is proposed less than 150 feet from riparian canopy to the west, a variance is required for all deviations from the development standards of the LIP.
6. **PROJECT AND SITE PLAN DESCRIPTION.**

A. Existing Site Conditions

The Project Site is 1.13 gross acres in size and consists of one legal lot, which is irregular in shape and consists of generally level terrain on the central portion of the lot, steep upward slopes on its southern portion, and steep downward slopes on its western portion. An existing graded pad of approximately 12,000 square feet and drainage structures are located on the central portion of the lot. These were legally developed with CDP No. 5-83-004, which was approved with the underlying tract map in 1987 (Tract Map No. 38931). The westernmost portion of the lot is mapped as H1 Habitat (oak woodland and riparian canopy), with the remainder mapped as H3 Habitat in the Santa Monica Mountains Local Coastal Program Land Use Plan (“LUP”). The vast majority of the Project Site is within 200 feet of H1 Habitat to the west, which places it within the H1 Habitat Buffer (0-100 feet away) or H1 Quiet Zone (100-200 feet away). Other than the oaks, the Project Site contains mostly native and non-native grasses, shrubs, and non-native trees.

B. Site Access

The Project Site would be accessed from Piuma Road, a 65-foot-wide public road and designated scenic route, immediately to the north of the Project Site.

C. Site Plan

The applicant proposes the construction of a 4,015-square-foot single-family residence, a 450-square-foot guest house, and a 582-square-foot attached garage on the central portion of the 1.13-acre Project Site. The residence would have a maximum height of 17 feet, six inches above grade. A total of 515 cubic yards of earth (515 cubic yards cut, all exported) would be graded. The Project would also include one OWTS, retaining walls, and other appurtenant facilities on a total building site of 9,978 square feet within the existing graded pad. The building would be accessed by a 350-foot-long paved driveway, which would access Piuma Road to the north. Development from brush clearance and fuel modification would also encroach into the protected zones of nine coast live oaks. The westernmost portion of the lot is mapped as H1 Habitat (oak woodland and riparian canopy) while the remainder of the Project Site is mapped as H3 Habitat, and the vast majority of the site is within the H1 Habitat Buffer (0-100 feet away) or H1 Quiet Zone (100-200 feet away). The residence and guest house are proposed for a location on the central portion of the Project Site, within the H1 Habitat Buffer and H1 Quiet Zone. Most of the residence, as well as hardscape and retaining walls, is located less than 100 feet from parklands to the south. An OWTS seepage pit is proposed south of the residence within the parkland buffer, as well as less than 150 feet from riparian canopy to the west. The Project is partially visible from the Backbone Trail to the south. The Project Site has a linear street frontage of 327 feet and a linear development frontage of 116 feet.

7. PUBLIC COMMENTS. Four phone calls and nine letters of opposition have been received over the course of the hearing process for this Project. Issues raised include destruction of sensitive habitat, light pollution, traffic, construction noise, fire hazard, proximity to wildlife, and interference of scenic views from the Backbone Trail.

8. AGENCY RECOMMENDATIONS.

A. County Department of Parks and Recreation: Recommended clearance to public hearing with no conditions through the County's electronic consultation system (EPIC-LA) on September 29, 2020.

B. County Fire Department: Recommended clearance to public hearing with no conditions through EPIC-LA on September 30, 2020.

C. County Department of Public Works: Recommended denial of the Project due to lack of documentation regarding road boundaries, road improvements, lines of sight, and earthmoving details in a letter dated November 10, 2020.

- D. County Department of Public Health: Recommended denial of the Project due to the sharing of an OWTS between a single-family residence and habitable accessory structure in a letter dated October 27, 2020.
- E. County Environmental Review Board: Chose to take no action regarding the Project at a meeting held on August 16, 2021. Recommended that it return with a more comprehensive plan and biological assessment, as well as a redesign to be consistent with the LIP.
9. **CEQA DETERMINATION.** No determination has been made regarding the applicability of the California Environmental Quality Act (Public Resources Code section 21000, et seq.) (“CEQA”) to this project. Per State CEQA Guidelines and the Environmental Document Reporting Procedures and Guidelines for the County, a CEQA determination is not required when a project is denied.
10. **PREVIOUS HEARING PROCEEDINGS.** A duly noticed public hearing was held before the Hearing Officer on October 4, 2022, which was continued to November 1, 2022 to allow the Hearing Officer to do a site visit and thoroughly review all documents. At the November 1, 2022 continued public hearing, Regional Planning Staff recommended denial of the Project. The applicant’s representative spoke in favor of the Project. The Hearing Officer indicated her intent to deny the Project and continued the hearing to February 7, 2023 to allow additions and edits to the required denial findings. At the continued hearing on February 7, 2023, the Hearing Officer closed the public hearing and denied the Project. The applicant appealed this denial to the Commission on February 13, 2023 per the provisions of Los Angeles County Code Section 22.44.970.

GENERAL PLAN CONSISTENCY FINDINGS

11. **LAND USE POLICY.** The Commission finds that the Project is not consistent with the LUP. The Rural Land 20 land use designation is intended for single-family residential uses, as well as other resource-dependent uses, on relatively large lots. Although a single-family residence is specifically listed as a principal permitted use under this designation, the Project is not consistent with the policies of the LUP, as described below.
12. **GOALS AND POLICIES.** The Commission finds that the Project would not be consistent with the following policies of the LUP:

Conservation and Open Space Element

Policy CO-41:

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

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

Policy CO-57:

New non-resource-dependent development shall also provide an additional 100-foot "Quiet Zone" from H1 habitat where feasible (measured from the outer edge of the 100-foot H1 habitat buffer required above). New development is not permitted in the H1 habitat Quiet Zone except resource-dependent uses, non-irrigated fuel modification required by the Fire Department for lawfully-established structures, and the following other uses in very limited circumstances: (1) public works projects required to protect existing public roads when there is no feasible alternative, as long as impacts to H1 habitat and the H1 buffer are avoided to the maximum extent feasible, and unavoidable impacts are minimized and mitigated; (2) an access road to a lawfully-permitted use when there is no other feasible alternative to provide access to public recreation areas or development on a legal parcel, as long as impacts to H1 habitat and H1 buffer are avoided to the maximum extent feasible, and unavoidable impacts are minimized and mitigated; (3) a development on a lawfully-created parcel that is the minimum development necessary to provide a reasonable economic use of the property and where there is no feasible alternative, as long as impacts to H1 habitat and H1 buffer are avoided to the maximum Santa Monica Mountains Local Coastal Program 31 February 2018 Land Use Plan extent feasible, and unavoidable impacts are minimized and mitigated; (4) equestrian pasture outside of the fuel modification zone, consistent with the requirements of the LCP, where the development is sited and designed to ensure that no required fuel modification extends into H1 habitat or H1 buffer, it will not significantly degrade H1 habitat, and will not adversely affect wildlife usage, including movement patterns, of the local area or region. Additionally, if existing fuel modification for the principal use is located within the Quiet Zone, confined animal facilities may be established within the Quiet Zone on slopes of 3:1 or less only if the facilities will not require fuel modification to extend into H1 habitat or the H1 habitat buffer, and subject to ERB review. Furthermore, public recreational facilities may also be located within this quiet zone, if it is developed and/or disturbed by historic use (e.g., recreational).

Policy CO-63

New development adjoining parklands, where the purpose of the park is to protect the natural environment and SERAs, shall be sited and designed to minimize impacts to habitat and recreational opportunities to the maximum extent feasible. Natural vegetation buffer areas shall be provided around parklands. Buffers shall be of a sufficient size to prevent impacts to parkland resources, but in no case shall

they be less than 100 feet in width. Variances or modifications to the required H1 habitat buffer width shall not be granted, except for a permitted use included in Policy CO-56. New development permitted adjacent to parklands shall include open space conservation easements over the habitat areas outside the approved development site to ensure that impacts to the H1 and H2 habitat, H1 habitat buffer, or parkland buffer are avoided.

Policy CO-66

Protection of H1 and H2 habitat and public access shall take priority over other development standards, and where there is any conflict between general/other development standards and the biological resource and/or public access protection provisions, the standards that are most protective of H1 and H2 habitat and public access shall have precedence.

Policy CO-109:

Site and design new development to protect natural features, and minimize removal of natural vegetation.

Policy CO-124:

The Santa Monica Mountains contain scenic resources of regional and national importance. The scenic and visual qualities of these resources shall be protected and, where feasible, enhanced.

Policy CO-125:

Protect public views within Scenic Areas and throughout the Coastal Zone. Places on, along, within, or visible from Scenic Routes, public parklands, public trails, beaches, and state waters that offer scenic vistas of the mountains, canyons, coastline, beaches, and other unique natural features are considered Scenic Resource Areas. Scenic Resource Areas do not include areas that are largely developed such as existing, predominantly built-out residential subdivisions. Scenic Resource Areas also include the scenic resources identified on Map 3 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.

Policy 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*

Policy CO-128:

New development shall be subordinate to the character of its setting.

Policy CO-131:

Site and design new development to minimize adverse impacts on scenic resources to the maximum extent feasible. If there is no feasible building site location on the proposed project site where development would not be visible, then the development shall be sited and designed to minimize impacts on scenic areas through measures that may include, but not be limited to, siting development in the least visible portion of the site, breaking up the mass of new structures, designing structures to blend into the natural hillside setting, restricting the building maximum size, reducing maximum height, clustering development, minimizing grading, incorporating landscape and building material screening elements, and where appropriate, berming.

Policy CO-133:

New development shall be sited and designed to minimize alteration of natural landforms by:

- a. Conforming to the natural topography.*
- b. Preventing substantial grading or reconfiguration of the project site.*
- c. Eliminating flat building pads on slopes. Building pads on sloping sites shall utilize split-level or stepped-pad designs.*
- d. Requiring that manufactured contours mimic the natural contours.*
- e. Ensuring that graded slopes blend with the existing terrain of the site and surrounding area.*
- f. Minimizing grading permitted outside of the building footprint.*
- g. Clustering structures to minimize site disturbance and to minimize development area.*
- h. Minimizing height and length of cut and fill slopes.*
- i. Minimizing the height and length of retaining walls.*
- j. Cut and fill operations may be balanced on site, where the grading does not substantially alter the existing topography and blends with the surrounding area. Export of cut material may be required to preserve the natural topography.*

Policy CO-147:

Limit the height of structures above existing grade to minimize impacts to visual resources. Within scenic areas, the maximum allowable height shall be 18 feet above existing or finished grade, whichever is lower. Chimneys, rooftop solar equipment and non-visually obstructing rooftop antennas may be permitted to

extend above the allowable height of the structure, but shall not extend more than six feet above the maximum allowable height.

Land Use Element

Policy LU-33:

Require that new development be compatible with the rural character of the area and the surrounding natural environment.

The Project's large square footage and footprint would result in development that would extend into the H1 Habitat Buffer and H1 Quiet Zone, as well as fuel modification and brush clearance that would extend into H1 Habitat (oak woodland and riparian canopy). The Project's large footprint and square footage result in a design that is not protective of surrounding landforms by failing to preserve H1 Habitat areas in a more natural state. It would also negatively affect adjoining parklands by creating development less than 100 feet away. This would also not be consistent with policies regarding the protection of Scenic Resource Areas. The Project's design, which includes a driveway more than 300 feet long, when paired with its location less than 100 feet from parklands to the south, its partial view from the Backbone Trail, and its proximity to Piuma Road, a designated scenic route, would result in unnecessary visual impacts to the surrounding area.

ZONING CODE CONSISTENCY FINDINGS

13. HABITAT CATEGORIES. The Commission finds that the Project Site is designated as H1 Habitat and H3 Habitat by the LUP. While all construction would occur within H3 Habitat, impacts from the development would be located within the H1 Quiet Zone and H1 Habitat Buffer. The Project would also result in required fuel modification and brush clearance within H1 Habitat.

Per the requirements of the LIP, no development, except for access driveways and resource-dependent uses, is permitted in H1 Habitat (County Code Section 22.44.1890 C). Because habitable structures are proposed less than 200 feet from H1 Habitat (oak woodland and riparian canopy) to the west, fuel modification is required within this area by the approved fuel modification plan. Therefore, the Project design is not compatible with surrounding environmental resources, as it would result in development of H1 Habitat.

Additionally, development is proposed within the H1 Habitat Buffer and H1 Quiet Zone. Per the requirements of the LIP, residential development may only be permitted within an H1 Quiet Zone or H1 Habitat Buffer when all of the following apply:

- a. The Project Site is on a lawfully created parcel;
- b. The development is the minimum necessary to provide the landowner a reasonable economic use of the property, and in no case shall it exceed the maximum standards provided in County Code Sections 22.44.1910 and 22.44.1920;

- c. There is no other feasible alternative building site location that can avoid the H1 Habitat Buffer or H1 Quiet Zone;
- d. The maximum feasible buffer width is provided between the development and the H1 Habitat area;
- e. The development is sited and designed to prevent impacts that would significantly degrade H1 Habitat; and
- f. All feasible mitigation measures have been provided to minimize adverse environmental effects.

The Project proposes a 4,015-square-foot single-family residence and a 450-square-foot guest house. Reducing the square footage of the proposed residence and/or eliminating the guest house would provide a greater buffer between development and the H1 Habitat area. Thus, the development is not the minimum necessary development for the site, as required within an H1 Quiet Zone or H1 Habitat Buffer by the LIP. Therefore, the findings in County Code Sections 22.44.1890 D.8.b and 22.44.1890 E.12.b cannot be met.

14. **OWTS STANDARDS.** The Commission finds that the LIP specifically prohibits OWTS seepage pits or leach fields to be placed within 150 feet from the edge of riparian canopy or a streambed (County Code Section 22.44.1340 B.3.c). There are locations on the Project Site more than 150 feet from riparian canopy to the west, and the applicant has not provided documentation that these alternative locations are unsuitable for OWTS seepage pits. Thus, it has not been demonstrated that this variance is necessary due to special characteristics of the lots or to preserve a substantial property right (see “Variance Findings” below).
15. **HABITABLE ACCESSORY STRUCTURES.** The Commission finds that habitable accessory structures are required to have an OWTS separate from the main residence (County Code Section 22.44.1370 D.8). The Department of Public Health's Environmental Health Division, which is responsible for the review of OWTS, has not approved any arrangements for the sharing of an OWTS by both structures. It has also not been demonstrated that the placement of two separate OWTS on the Project Site is infeasible, nor would it be necessary to allow reasonable economic use of the property. Because a single-family residence alone would provide a reasonable economic use, it cannot be demonstrated that a variance is necessary to preserve a substantial property right (see “Variance Findings” below).
16. **PARKLAND BUFFER.** The Commission finds that a variance is required for new structures less than 100 feet from parklands, per County Code Section 22.44.1900 C. Due to California State Parks open space immediately to the south, a large portion of the residence, as well as an OWTS, hardscape, and retaining walls proposed for the Project Site would extend into the required 100-foot parkland buffer. The structure could be reduced in size to lessen this encroachment, and there is no evidence that the OWTS must be located within the required buffer. Thus, there are no special characteristics of the lot that require a variance, nor is it necessary to preserve a substantial property right (see “Variance Findings” below).

17. **ACCESS ROAD.** The Commission finds that a variance is required for a new driveway or access road longer than 300 feet, per County Code Section 22.44.1920 C. The proposed driveway for the Project would have a length of 350 feet. No evidence has been provided to show that this is the minimum driveway necessary to access the Project Site. Thus, there are no special characteristics of the lot that require a variance, nor is it necessary to preserve a substantial property right (see "Variance Findings" below).

COASTAL DEVELOPMENT PERMIT FINDINGS

18. **The Commission finds that the proposed development is not in conformity with the certified local coastal program.** As proposed, the Project would not comply with all applicable development standards for residences in the Santa Monica Mountains Local Coastal Program, which includes the LUP and LIP, specifically those standards related to habitat categories, OWTS standards, habitable accessory structures, driveway lengths, and parkland buffers.

19. **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 Project Site is not located between the ocean and the nearest public road, so coastal access requirements would not be applicable.

VARIANCE FINDINGS

20. **The Commission finds that there are no special circumstances or exceptional characteristics applicable to the property involved, such as size, shape, topography, location, or surroundings, which are not generally applicable to other properties in the same vicinity and under identical zoning classification.** The design of the residence could be modified to lessen the encroachment into the required 100-foot parkland buffer and the length of the access driveway. It has also not been demonstrated that OWTS seepage pits cannot be placed in a location more than 150 feet from riparian canopy, and the proposed habitable accessory structure is not necessary to allow for a reasonable economic use of the property. Thus, the property has not been shown to have special circumstances or exceptional characteristics.

21. **The Commission finds that such variance is unnecessary for the preservation of a substantial property right of the applicant such as that possessed by owners of other property in the same vicinity and zone.** The design of the residence could be modified to lessen the encroachment into the required 100-foot parkland buffer and the length of the access driveway. It has also not been demonstrated that OWTS seepage pits cannot be placed in a location more than 150 feet from riparian canopy, and the proposed habitable accessory structure is not necessary to allow for a reasonable economic use of the property. Thus, the variance is unnecessary to preserve a substantial property right.

22. **The Commission finds that the granting of the variance will be materially detrimental to the public welfare or be injurious to other property or improvements in the same vicinity and zone.** The proposed residence location would result in greater development near to riparian canopy and parkland, which would detrimentally affect the public welfare and other properties by degrading scenic and biological resources.
23. **The Commission finds that the granting of the variance will be materially detrimental to coastal resources.** The proposed residence location would result in greater development near to riparian canopy and parkland, which would detrimentally affect coastal resources by degrading scenic and biological resources.

ADMINISTRATIVE FINDINGS

24. **HEARING PROCEEDINGS.** A duly noticed appeal hearing was held before the Commission on April 26, 2023. Regional Planning Staff recommended denial of the Project. Testimony was taken both for and against the Project. After a brief discussion, the Commission subsequently closed the public hearing and denied the Project.
25. **LEGAL NOTIFICATION.** The Commission finds that pursuant to Section 22.44.990 of the County Code, 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 the County Department of Regional Planning's ("LA County Planning") website. On March 23, 2023, a total of 115 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 20 notices to those on the courtesy mailing list for The Malibu Zoned District and additional interested parties.
26. **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 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 COMMISSION CONCLUDES THAT:

Regarding the Minor CDP:

- A. The proposed development is not in conformity with the certified local coastal program.
- B. 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.

Regarding the Variance:

- A. There are no special circumstances or exceptional characteristics applicable to the property involved, such as size, shape, topography, location, or surroundings, which are not generally applicable to other properties in the same vicinity and under identical zoning classification.
- B. Such variance is unnecessary for the preservation of a substantial property right of the applicant such as that possessed by owners of other property in the same vicinity and zone.
- C. 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.
- D. The granting of the variance will be materially detrimental to coastal resources.

THEREFORE, THE COMMISSION:

- 1. Denies **MINOR COASTAL DEVELOPMENT PERMIT NO. RPPL2019004230.**
- 2. Denies **VARIANCE NO. RPPL2019004231.**

ACTION DATE: April 26, 2023

VOTE: 5-0

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

Dissenting: None

Abstaining: None

Absent: None

MG:RG:TM

4/26/23

c: Zoning Enforcement, Building and Safety

**LOS ANGELES COUNTY
DEPARTMENT OF REGIONAL PLANNING
FINDINGS OF THE REGIONAL PLANNING COMMISSION
AND ORDER
PROJECT NO. 2019-000686-(3)
MINOR COASTAL DEVELOPMENT PERMIT NO. RPPL2019004232**

RECITALS

1. **HEARING DATE(S).** The Los Angeles County (“County”) Regional Planning Commission (“Commission”) conducted a duly noticed public hearing on April 26, 2023 in the matter of Project No. 2019-000686-(3), Minor Coastal Development Permit No. RPPL2019004232 (“CDP”).
2. **ENTITLEMENT(S) REQUESTED.** The applicant, California Pacific Homes, requests the CDP to authorize the construction of a 4,320-square-foot, 28-foot-tall single-family residence and an onsite wastewater treatment system (“OWTS”) (“Project”) on a 1.07-acre property located on the south side of Piuma Road (Assessor’s Parcel Number 4456-038-019) in the Santa Monica Mountains Coastal Zone (“Project Site”). A total of 709 cubic yards of earth (709 cubic yards cut, all exported) would be graded. The Project would result in development within H1 Habitat, the H1 Habitat Buffer, and the H1 Quiet Zone and fuel modification or brush clearance within the protected zones of 15 oak trees.
3. **ENTITLEMENT(S) REQUIRED.** A CDP is required to construct a single-family residence and an OWTS in the R-C-20 (Rural Coastal—20-Acre Minimum Required Lot Area) Zone pursuant to Los Angeles County Code (“County Code”) Section 22.44.810, and a Minor CDP is required for any project that requires Environmental Review Board (“ERB”) review (County Code Sections 22.44.860 and 22.44.940). The residence would result in development less than 200 feet from H1 Habitat and thus requires ERB review. A Minor CDP is also required for any project that results in the encroachment into the protected zone of any oak tree (County Code Section 22.44.950). As currently proposed, fuel modification or brush clearance would occur within the protected zones of 15 oak trees. As a result, a Minor CDP is required for the Project.

A variance is required for structural heights exceeding 18 feet above grade within a Scenic Resource Area (County Code Section 22.44.1250 C). As proposed, the Project would have a maximum height of 28 feet above grade. Although a variance is required to permit this design feature, no variance has been requested for the Project.

4. **LAND USE DESIGNATION.** The Project Site is located within the RL20 (Rural Land—One dwelling unit/20 acres maximum) land use designation of the Santa Monica Mountains Local Coastal Program Land Use Policy Map, a component of the General Plan.
5. **ZONING.** The Project Site is located in The Malibu Zoned District and is zoned R-C-20. Pursuant to County Code Section 22.44.1750, a single-family residence is a

principal permitted use within the R-C Zone. However, County Code Sections 22.44.860, 22.44.940, and 22.44.950 require a Minor CDP for any development that needs ERB review or encroaches into the protected zones of oak trees, as does the Project. County Code Section 22.44.1250 requires a variance for any structure exceeding 18 feet in height in a Scenic Resource Area. Although the Project proposes a structure with a height of 28 feet above grade, no variance application has been made.

6. PROJECT AND SITE PLAN DESCRIPTION.

A. Existing Site Conditions

The Project Site is 1.07 gross acres in size and consists of one legal lot, which is irregular in shape and consists of generally level terrain on the southern portion of the lot and downward slopes on its northern and eastern portions. An existing graded pad of approximately 12,000 square feet and drainage structures are located on the southern portion of the of the lot. These were legally developed with CDP No. 5-83-004, which was approved with the underlying tract map in 1987 (Tract Map No. 38931). The Project Site is mapped as H3 Habitat in the Santa Monica Mountains Local Coastal Program Land Use Plan ("LUP"). The vast majority of the Project Site is within 200 feet of H1 Habitat to the southwest, which places it within the H1 Habitat Buffer (0-100 feet away) or H1 Quiet Zone (100-200 feet away). Other than the oaks, the Project Site contains mostly native and non-native grasses, shrubs, and non-native trees.

B. Site Access

The Project Site would be accessed from Piuma Road, a 65-foot-wide public road and designated scenic route, immediately to the north of the Project Site.

C. Site Plan

The applicant proposes the construction of a 4,320-square-foot single-family residence, and a 567-square-foot attached garage on the southern portion of the 1.07-acre Project Site. The residence would have a maximum height of 28 feet above grade. A total of 709 cubic yards of earth (709 cubic yards cut, all exported) would be graded. The Project would also include an OWTS, retaining walls, and other appurtenant facilities on a total building site of 9,719 square feet within the existing graded pad. The building would be accessed by a 291-foot-long paved driveway, which would access Piuma Road to the north. Development from brush clearance and fuel modification would also encroach into the protected zones of 15 coast live oaks. The entirety of the Project Site is mapped as H3 Habitat, although most of the site is within the H1 Habitat Buffer (0-100 feet away) or H1 Quiet Zone (100-200 feet away). The residence is proposed for a location on the southern portion of the Project Site, within the H1 Habitat Buffer and H1 Quiet Zone. An OWTS seepage pit is proposed north of the residence, within the H1 Quiet Zone. The Project is partially visible from the Backbone Trail to the south. The Project Site has a linear street frontage of 115 feet and a linear development frontage of 57 feet.

7. PUBLIC COMMENTS. Four phone calls and nine letters of opposition have been received over the course of the hearing process for this Project. Issues raised include

destruction of sensitive habitat, light pollution, traffic, construction noise, fire hazard, proximity to wildlife, and interference of scenic views from the Backbone Trail.

8. AGENCY RECOMMENDATIONS.

- A. County Department of Parks and Recreation: Recommended clearance to public hearing with no conditions through the County's electronic consultation system (EPIC-LA) on September 29, 2020.
- B. County Fire Department: Recommended clearance to public hearing with no conditions through EPIC-LA on September 30, 2020.
- C. County Department of Public Works: Recommended denial of the Project due to lack of documentation regarding road boundaries, road improvements, lines of sight, and earthmoving details in a letter dated November 2, 2020.
- D. County Department of Public Health: Recommended denial of the Project due to lack of information regarding the proposed OWTS and water service in a letter dated October 27, 2020.
- E. County Environmental Review Board: Chose to take no action regarding the Project at a meeting held on August 16, 2021. Recommended that it return with a more comprehensive plan and biological assessment, as well as a redesign to be consistent with the Santa Monica Mountains Local Implementation Program ("LIP").

9. **CEQA DETERMINATION.** No determination has been made regarding the applicability of the California Environmental Quality Act (Public Resources Code section 21000, et seq.) ("CEQA") to this project. Per State CEQA Guidelines and the Environmental Document Reporting Procedures and Guidelines for the County, a CEQA determination is not required when a project is denied.

10. **PREVIOUS HEARING PROCEEDINGS.** A duly noticed public hearing was held before the Hearing Officer on October 4, 2022, which was continued to November 1, 2022 to allow the Hearing Officer to do a site visit and thoroughly review all documents. At the November 1, 2022 continued public hearing, Regional Planning Staff recommended denial of the Project. The applicant's representative spoke in favor of the Project. The Hearing Officer indicated her intent to deny the Project and continued the hearing to February 7, 2023 to allow additions and edits to the required denial findings. At the continued hearing on February 7, 2023, the Hearing Officer closed the public hearing and denied the Project. The applicant appealed this denial to the Commission on February 13, 2023 per the provisions of Los Angeles County Code Section 22.44.970.

GENERAL PLAN CONSISTENCY FINDINGS

11. **LAND USE POLICY.** The Commission finds that the Project is not consistent with the LUP. The Rural Land 20 land use designation is intended for single-family residential

uses, as well as other resource-dependent uses, on relatively large lots. Although a single-family residence is specifically listed as a principal permitted use under this designation, the Project is not consistent with the policies of the LUP, as described below.

- 12. GOALS AND POLICIES.** The Commission finds that the Project would not be consistent with the following policies of the LUP:

Conservation and Open Space Element

Policy CO-41:

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

Policy CO-57:

New non-resource-dependent development shall also provide an additional 100-foot "Quiet Zone" from H1 habitat where feasible (measured from the outer edge of the 100-foot H1 habitat buffer required above). New development is not permitted in the H1 habitat Quiet Zone except resource-dependent uses, non-irrigated fuel modification required by the Fire Department for lawfully-established structures, and the following other uses in very limited circumstances: (1) public works projects required to protect existing public roads when there is no feasible alternative, as long as impacts to H1 habitat and the H1 buffer are avoided to the maximum extent feasible, and unavoidable impacts are minimized and mitigated; (2) an access road to a lawfully-permitted use when there is no other feasible alternative to provide access to public recreation areas or development on a legal parcel, as long as impacts to H1 habitat and H1 buffer are avoided to the maximum extent feasible, and unavoidable impacts are minimized and mitigated; (3) a development on a lawfully-created parcel that is the minimum development necessary to provide a reasonable economic use of the property and where there is no feasible alternative, as long as impacts to H1 habitat and H1 buffer are avoided to the maximum Santa Monica Mountains Local Coastal Program 31 February 2018 Land Use Plan extent feasible, and unavoidable impacts are minimized and mitigated; (4) equestrian pasture outside of the fuel modification zone, consistent with the requirements of

the LCP, where the development is sited and designed to ensure that no required fuel modification extends into H1 habitat or H1 buffer, it will not significantly degrade H1 habitat, and will not adversely affect wildlife usage, including movement patterns, of the local area or region. Additionally, if existing fuel modification for the principal use is located within the Quiet Zone, confined animal facilities may be established within the Quiet Zone on slopes of 3:1 or less only if the facilities will not require fuel modification to extend into H1 habitat or the H1 habitat buffer, and subject to ERB review. Furthermore, public recreational facilities may also be located within this quiet zone, if it is developed and/or disturbed by historic use (e.g., recreational).

Policy CO-66

Protection of H1 and H2 habitat and public access shall take priority over other development standards, and where there is any conflict between general/other development standards and the biological resource and/or public access protection provisions, the standards that are most protective of H1 and H2 habitat and public access shall have precedence.

Policy CO-109:

Site and design new development to protect natural features, and minimize removal of natural vegetation.

Policy CO-124:

The Santa Monica Mountains contain scenic resources of regional and national importance. The scenic and visual qualities of these resources shall be protected and, where feasible, enhanced.

Policy CO-125:

Protect public views within Scenic Areas and throughout the Coastal Zone. Places on, along, within, or visible from Scenic Routes, public parklands, public trails, beaches, and state waters that offer scenic vistas of the mountains, canyons, coastline, beaches, and other unique natural features are considered Scenic Resource Areas. Scenic Resource Areas do not include areas that are largely developed such as existing, predominantly built-out residential subdivisions. Scenic Resource Areas also include the scenic resources identified on Map 3 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.

Policy 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*

Policy CO-128:

New development shall be subordinate to the character of its setting.

Policy CO-131:

Site and design new development to minimize adverse impacts on scenic resources to the maximum extent feasible. If there is no feasible building site location on the proposed project site where development would not be visible, then the development shall be sited and designed to minimize impacts on scenic areas through measures that may include, but not be limited to, siting development in the least visible portion of the site, breaking up the mass of new structures, designing structures to blend into the natural hillside setting, restricting the building maximum size, reducing maximum height, clustering development, minimizing grading, incorporating landscape and building material screening elements, and where appropriate, berming.

Policy CO-133:

New development shall be sited and designed to minimize alteration of natural landforms by:

- a. Conforming to the natural topography.*
- b. Preventing substantial grading or reconfiguration of the project site.*
- c. Eliminating flat building pads on slopes. Building pads on sloping sites shall utilize split-level or stepped-pad designs.*
- d. Requiring that manufactured contours mimic the natural contours.*
- e. Ensuring that graded slopes blend with the existing terrain of the site and surrounding area.*
- f. Minimizing grading permitted outside of the building footprint.*
- g. Clustering structures to minimize site disturbance and to minimize development area.*
- h. Minimizing height and length of cut and fill slopes.*
- i. Minimizing the height and length of retaining walls.*
- j. Cut and fill operations may be balanced on site, where the grading does not substantially alter the existing topography and blends with the surrounding area. Export of cut material may be required to preserve the natural topography.*

Policy CO-147:

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

Land Use Element

Policy LU-33:

Require that new development be compatible with the rural character of the area and the surrounding natural environment.

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

ZONING CODE CONSISTENCY FINDINGS

13. HABITAT CATEGORIES. The Commission finds that the Project Site is designated as H1 Habitat and H3 Habitat by the LUP. While all construction would occur within H3 Habitat, impacts from the development would be located within the H1 Quiet Zone and H1 Habitat Buffer. The Project would also result in required fuel modification and brush clearance within H1 Habitat.

Per the requirements of the LIP, no development, except for access driveways and resource-dependent uses, is permitted in H1 Habitat (County Code Section 22.44.1890 C). Because habitable structures are proposed less than 100 feet from H1 Habitat (oak woodland and riparian canopy) to the southwest, brush clearance will be required within H1 Habitat by the County Agricultural Commissioner. Therefore, the Project design is not compatible with surrounding environmental resources, as it would result in development of H1 Habitat.

Additionally, development is proposed within the H1 Habitat Buffer and H1 Quiet Zone. Per the requirements of the LIP, residential development may only be permitted within an H1 Quiet Zone or H1 Habitat Buffer when all of the following apply:

- a. The Project Site is on a lawfully created parcel;
- b. The development is the minimum necessary to provide the landowner a reasonable economic use of the property, and in no case shall it exceed the

- maximum standards provided in County Code Sections 22.44.1910 and 22.44.1920;
- c. There is no other feasible alternative building site location that can avoid the H1 Habitat Buffer or H1 Quiet Zone;
 - d. The maximum feasible buffer width is provided between the development and the H1 Habitat area;
 - e. The development is sited and designed to prevent impacts that would significantly degrade H1 Habitat; and
 - f. All feasible mitigation measures have been provided to minimize adverse environmental effects.

The Project proposes a 4,320-square-foot single-family residence. Reducing the square footage of the proposed residence would provide a greater buffer between development and the H1 Habitat area. Thus, the development is not the minimum necessary development for the site, as required within an H1 Quiet Zone or H1 Habitat Buffer by the LIP. Therefore, the findings in County Code Sections 22.44.1890.D.8.b and 22.44.1890.E.12.b cannot be met.

14. **SCENIC RESOURCES.** The Commission finds that a variance is required for structures greater than 18 feet above grade in a Scenic Resource Area, per County Code Section 22.44.1250 C. The Project, due to its proximity to parklands, Piuma Road, and the Backbone Trail, is within a Scenic Resource Area. The residence would have a maximum structural height of 28 feet. No variance has been requested, and thus the Project would not comply with this section of the LIP.

COASTAL DEVELOPMENT PERMIT FINDINGS

15. **The Commission finds that the proposed development is not in conformity with the certified local coastal program.** As proposed, the Project would not comply with all applicable development standards for residences in the Santa Monica Mountains Local Coastal Program, which includes the LUP and LIP, specifically those standards related to Scenic Resource Areas and habitat categories.
16. **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 Project Site is not located between the ocean and the nearest public road, so coastal access requirements would not be applicable.

ADMINISTRATIVE FINDINGS

17. **HEARING PROCEEDINGS.** A duly noticed appeal hearing was held before the Commission on April 26, 2023. Regional Planning Staff recommended denial of the Project. Testimony was taken both for and against the Project. After a brief discussion, the Commission subsequently closed the public hearing and denied the Project.

18. LEGAL NOTIFICATION. The Commission finds that pursuant to Section 22.44.990 of the County Code, 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 the County Department of Regional Planning's ("LA County Planning") website. On March 23, 2023, a total of 115 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 20 notices to those on the courtesy mailing list for The Malibu Zoned District and additional interested parties.

19. 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 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 COMMISSION CONCLUDES THAT:

- A. The proposed development is not in conformity with the certified local coastal program.
- B. 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.

THEREFORE, THE COMMISSION:

- 1. Denies **MINOR COASTAL DEVELOPMENT PERMIT NO. RPPL2019004232.**

ACTION DATE: April 26, 2023

VOTE: 5-0

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

Dissenting: None

Abstaining: None

Absent: None

MG:RG:TM

4/26/23

c: Zoning Enforcement, Building and Safety

**LOS ANGELES COUNTY
DEPARTMENT OF REGIONAL PLANNING
FINDINGS OF THE REGIONAL PLANNING COMMISSION
AND ORDER
PROJECT NO. 2019-000686-(3)
MINOR COASTAL DEVELOPMENT PERMIT NO. RPPL2019004674
VARIANCE NO. RPPL2019004675**

RECITALS

1. **HEARING DATE(S).** The Los Angeles County (“County”) Regional Planning Commission (“Commission”) conducted a duly noticed public hearing on April 26, 2023 in the matter of Project No. 2019-000686-(3), Minor Coastal Development Permit No. RPPL2019004674 (“CDP”), and Variance No. RPPL2019004675 (“Variance”).
2. **ENTITLEMENT(S) REQUESTED.** The applicant, California Pacific Homes, requests the CDP and Variance to authorize the construction of a 4,488-square-foot single-family residence and an onsite wastewater treatment system (“OWTS”) (“Project”) on a 1.06-acre property located on the south side of Piuma Road (Assessor’s Parcel Number 4456-038-020) in the Santa Monica Mountains Coastal Zone (“Project Site”). An OWTS seepage pit would be located less than 50 feet from an oak tree and less than 150 feet from a streambed. Structures greater than 18 feet above grade and retaining walls more than six feet tall within a Scenic Resource Area are also proposed. A total of 992 cubic yards of earth (992 cubic yards cut, all exported) would be graded. The Project would result in development within H1 Habitat, the H1 Habitat Buffer, and the H1 Quiet Zone and fuel modification or brush clearance within the protected zones of 33 oak trees.
3. **ENTITLEMENT(S) REQUIRED.** A CDP is required to construct a single-family residence and an OWTS in the R-C-20 (Rural Coastal—20-Acre Minimum Required Lot Area) Zone pursuant to Los Angeles County Code (“County Code”) Section 22.44.810, and a Minor CDP is required for any project that requires Environmental Review Board (“ERB”) review (County Code Sections 22.44.860 and 22.44.940). The residence would result in development less than 200 feet from H1 Habitat and thus requires ERB review. A Minor CDP is also required for any project that results in the encroachment into the protected zone of any oak tree (County Code Section 22.44.950). As currently proposed, fuel modification or brush clearance would occur within the protected zones of 33 oak trees. As a result, a Minor CDP is required for the Project.

A variance is required for construction of an OWTS seepage pit or leach field within 50 feet of an oak tree or within 150 feet of a riparian canopy, per County Code Section 22.44.1340 B.3.c. An OWTS seepage pit is proposed less than 50 feet from an oak tree and less than 150 feet from a riparian canopy and the residence would occupy more than 50 percent of the parcel frontage, a variance is required. In addition, because the Project is located within a Scenic Resource Area, structures are allowed a maximum height of 18 feet above grade (County Code Section 22.44.1250 C). As proposed, the Project would have a maximum height of 23 feet, 8.5 inches above

grade. County Code Section 22.44.2040 A.11.c also restricts the height of retaining walls in Scenic Resource Areas to six feet, while the Project proposes 12-foot-high retaining walls. Finally, County Code Section 22.44.1910 I restricts the building site area for new residential development to 10,000 square feet, while the proposed building site area is 10,383 square feet. A variance is required for all these deviations from the Santa Monica Mountains Local Implementation Program (“LIP”) development standards.

4. **LAND USE DESIGNATION.** The Project Site is located within the RL20 (Rural Land—One dwelling unit/20 acres maximum) land use designation of the Santa Monica Mountains Local Coastal Program Land Use Policy Map, a component of the General Plan.
5. **ZONING.** The Project Site is located in The Malibu Zoned District and is zoned R-C-20. Pursuant to County Code Section 22.44.1750, a single-family residence is a principal permitted use within the R-C Zone. However, County Code Sections 22.44.860, 22.44.940, and 22.44.950 require a Minor CDP for any development that needs ERB review or encroaches into the protected zones of oak trees, as does the Project. A variance is required for construction of an OWTS seepage pit or leach field within 50 feet of an oak tree or within 150 feet of a riparian canopy, per County Code Section 22.44.1340 B.3.c. County Code Sections 22.44.1250 and 22.44.2040 also require variances for structures exceeding 18 feet in height and developing retaining walls over six feet high in a Scenic Resource Area, respectively. Finally, County Code Section 22.44.1910 I restricts the building site area for new residential development to 10,000 square feet. Because an OWTS seepage pit is proposed less than 50 feet from an oak tree and less than 150 feet from a riparian canopy, the residence would occupy more than 50 percent of the parcel frontage and exceed 18 feet in height, retaining walls taller than six feet are proposed, and the Project would have a building site area of more than 10,000 square feet, a variance is required for all these deviations.
6. **PROJECT AND SITE PLAN DESCRIPTION.**

A. Existing Site Conditions

The Project Site is 1.06 gross acres in size and consists of one legal lot, which is generally rectangular in shape and consists of generally level terrain on the northern portion of the lot and downward slopes on its southern and western portions. An existing graded pad of approximately 12,000 square feet and drainage structures are located on the northern portion of the of the lot. These were legally developed with CDP No. 5-83-004, which was approved with the underlying tract map in 1987 (Tract Map No. 38931). The southwestern portion of the lot is mapped as H1 Habitat (oak woodland and riparian canopy), with the remainder mapped as H3 Habitat in the Santa Monica Mountains Local Coastal Program Land Use Plan (“LUP”). The entirety of the Project Site is within 200 feet of H1 Habitat to the west, which places it within the H1 Habitat Buffer (0-100 feet away) or H1 Quiet Zone (100-200 feet away). Other than the oaks, the Project Site contains mostly native and non-native grasses, shrubs, and native and non-native trees.

B. Site Access

The Project Site would be accessed from Piuma Road, a 65-foot-wide public road and designated scenic route, immediately to the north of the Project Site.

C. Site Plan

The applicant proposes the construction of a 4,488-square-foot single-family residence, including an 875-square-foot basement, and a 605-square-foot attached garage on the northern portion of the 1.06-acre Project Site. The residence would have a maximum height of 23 feet, 8.5 inches above grade. A total of 992 cubic yards of earth (992 cubic yards cut, all exported) would be graded. The Project would also include an OWTS, retaining walls up to 12 feet in height, and other appurtenant facilities on a total building site of 10,383 square feet—which includes nonexempt driveway areas—within the existing graded pad. The building would be accessed by a 77-foot-long paved driveway, which would access Piuma Road to the north. Development from brush clearance and fuel modification would also encroach into the protected zones of 33 coast live oaks. The southwestern portion of the of the Project Site is mapped as H1 Habitat (oak woodland and riparian canopy) while the remainder of the Project Site is mapped as H3 Habitat, and the entirety of the site is within the H1 Habitat Buffer (0-100 feet away) or H1 Quiet Zone (100-200 feet away). The residence is proposed for a location on the northern portion of the Project Site, within the H1 Habitat Buffer and H1 Quiet Zone. An OWTS seepage pit is proposed northeast of the residence within the H1 Quiet Zone and less than 50 feet from an oak tree, as well as less than 150 feet from the riparian canopy to the southwest. The Project is partially visible from the Backbone Trail to the south. The Project Site has a linear street frontage of 188 feet and a linear development frontage of 94 feet.

7. **PUBLIC COMMENTS.** Four phone calls and nine letters of opposition have been received over the course of the hearing process for this Project. Issues raised include destruction of sensitive habitat, light pollution, traffic, construction noise, fire hazard, proximity to wildlife, and interference of scenic views from the Backbone Trail.

8. AGENCY RECOMMENDATIONS.

- A. County Department of Parks and Recreation: Recommended clearance to public hearing with no conditions through the County's electronic consultation system (EPIC-LA) on September 29, 2020.
- B. County Fire Department: Recommended clearance to public hearing with no conditions through EPIC-LA on September 30, 2020.
- C. County Department of Public Works: Recommended denial of the Project due to lack of documentation regarding road boundaries, road improvements, lines of sight, and earthmoving details in a letter dated February 3, 2021.
- D. County Department of Public Health: Recommended denial of the Project due to lack of information regarding the proposed OWTS and water service in a letter dated October 27, 2020.

E. County Environmental Review Board: Chose to take no action regarding the Project at a meeting held on August 16, 2021. Recommended that it return with a more comprehensive plan and biological assessment, as well as a redesign to be consistent with the LIP.

9. **CEQA DETERMINATION.** No determination has been made regarding the applicability of the California Environmental Quality Act (Public Resources Code section 21000, et seq.) (“CEQA”) to this project. Per State CEQA Guidelines and the Environmental Document Reporting Procedures and Guidelines for the County, a CEQA determination is not required when a project is denied.
10. **PREVIOUS HEARING PROCEEDINGS.** A duly noticed public hearing was held before the Hearing Officer on October 4, 2022, which was continued to November 1, 2022 to allow the Hearing Officer to do a site visit and thoroughly review all documents. At the November 1, 2022 continued public hearing, Regional Planning Staff recommended denial of the Project. The applicant’s representative spoke in favor of the Project. The Hearing Officer indicated her intent to deny the Project and continued the hearing to February 7, 2023 to allow additions and edits to the required denial findings. At the continued hearing on February 7, 2023, the Hearing Officer closed the public hearing and denied the Project. The applicant appealed this denial to the Commission on February 13, 2023 per the provisions of Los Angeles County Code Section 22.44.970.

GENERAL PLAN CONSISTENCY FINDINGS

11. **LAND USE POLICY.** The Commission finds that the Project is not consistent with the LUP. The Rural Land 20 land use designation is intended for single-family residential uses, as well as other resource-dependent uses, on relatively large lots. Although a single-family residence is specifically listed as a principal permitted use under this designation, the Project is not consistent with the policies of the LUP, as described below.
12. **GOALS AND POLICIES.** The Commission finds that the Project would not be consistent with the following policies of the LUP:

Conservation and Open Space Element

Policy CO-41:

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

parcel, as long as impacts to H1 habitat are avoided to the maximum extent feasible, and unavoidable impacts are minimized and mitigated. Any new development approved for one of these two uses within woodland or savannah habitat shall protect native trees in accordance with Policy CO-99. The County shall not approve the development of any non-resource dependent use other than these two uses within H1 habitat, unless such use has first been considered in an LCP amendment that is certified by the Coastal Commission.

Policy CO-51:

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

Policy CO-57:

New non-resource-dependent development shall also provide an additional 100-foot "Quiet Zone" from H1 habitat where feasible (measured from the outer edge of the 100-foot H1 habitat buffer required above). New development is not permitted in the H1 habitat Quiet Zone except resource-dependent uses, non-irrigated fuel modification required by the Fire Department for lawfully-established structures, and the following other uses in very limited circumstances: (1) public works projects required to protect existing public roads when there is no feasible alternative, as long as impacts to H1 habitat and the H1 buffer are avoided to the maximum extent feasible, and unavoidable impacts are minimized and mitigated; (2) an access road to a lawfully-permitted use when there is no other feasible alternative to provide access to public recreation areas or development on a legal parcel, as long as impacts to H1 habitat and H1 buffer are avoided to the maximum extent feasible, and unavoidable impacts are minimized and mitigated; (3) a development on a lawfully-created parcel that is the minimum development necessary to provide a reasonable economic use of the property and where there is no feasible alternative, as long as impacts to H1 habitat and H1 buffer are avoided to the maximum Santa Monica Mountains Local Coastal Program 31 February 2018 Land Use Plan extent feasible, and unavoidable impacts are minimized and mitigated; (4) equestrian

pasture outside of the fuel modification zone, consistent with the requirements of the LCP, where the development is sited and designed to ensure that no required fuel modification extends into H1 habitat or H1 buffer, it will not significantly degrade H1 habitat, and will not adversely affect wildlife usage, including movement patterns, of the local area or region. Additionally, if existing fuel modification for the principal use is located within the Quiet Zone, confined animal facilities may be established within the Quiet Zone on slopes of 3:1 or less only if the facilities will not require fuel modification to extend into H1 habitat or the H1 habitat buffer, and subject to ERB review. Furthermore, public recreational facilities may also be located within this quiet zone, if it is developed and/or disturbed by historic use (e.g., recreational).

Policy CO-66:

Protection of H1 and H2 habitat and public access shall take priority over other development standards, and where there is any conflict between general/other development standards and the biological resource and/or public access protection provisions, the standards that are most protective of H1 and H2 habitat and public access shall have precedence.

Policy CO-109:

Site and design new development to protect natural features, and minimize removal of natural vegetation.

Policy CO-114:

New development shall be sited and designed to minimize the height and length of manufactured cut and fill slopes, and minimize the height and length of retaining walls. Graded slopes shall blend with the natural contours of the land and shall utilize landform grading.

Policy CO-124:

The Santa Monica Mountains contain scenic resources of regional and national importance. The scenic and visual qualities of these resources shall be protected and, where feasible, enhanced.

Policy CO-125:

Protect public views within Scenic Areas and throughout the Coastal Zone. Places on, along, within, or visible from Scenic Routes, public parklands, public trails, beaches, and state waters that offer scenic vistas of the mountains, canyons, coastline, beaches, and other unique natural features are considered Scenic Resource Areas. Scenic Resource Areas do not include areas that are largely developed such as existing, predominantly built-out residential subdivisions. Scenic Resource Areas also include the scenic resources identified on Map 3 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.

Policy 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*

Policy CO-128:

New development shall be subordinate to the character of its setting.

Policy CO-131:

Site and design new development to minimize adverse impacts on scenic resources to the maximum extent feasible. If there is no feasible building site location on the proposed project site where development would not be visible, then the development shall be sited and designed to minimize impacts on scenic areas through measures that may include, but not be limited to, siting development in the least visible portion of the site, breaking up the mass of new structures, designing structures to blend into the natural hillside setting, restricting the building maximum size, reducing maximum height, clustering development, minimizing grading, incorporating landscape and building material screening elements, and where appropriate, berming.

Policy CO-133:

New development shall be sited and designed to minimize alteration of natural landforms by:

- a. Conforming to the natural topography.*
- b. Preventing substantial grading or reconfiguration of the project site.*
- c. Eliminating flat building pads on slopes. Building pads on sloping sites shall utilize split-level or stepped-pad designs.*
- d. Requiring that manufactured contours mimic the natural contours.*
- e. Ensuring that graded slopes blend with the existing terrain of the site and surrounding area.*
- f. Minimizing grading permitted outside of the building footprint.*
- g. Clustering structures to minimize site disturbance and to minimize development area.*

- h. Minimizing height and length of cut and fill slopes.*
- i. Minimizing the height and length of retaining walls.*
- j. Cut and fill operations may be balanced on site, where the grading does not substantially alter the existing topography and blends with the surrounding area. Export of cut material may be required to preserve the natural topography.*

Policy CO-147:

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

Land Use Element

Policy LU-33:

Require that new development be compatible with the rural character of the area and the surrounding natural environment.

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

ZONING CODE CONSISTENCY FINDINGS

- 13. HABITAT CATEGORIES.** The Commission finds that the Project is not consistent with the standard identified in County Code Section 22.44.1890. The Project Site is designated as H3 Habitat by the LUP. While all construction would occur within H3 Habitat, impacts from the development would be located within the H1 Quiet Zone and H1 Habitat Buffer. The Project would also result in required fuel modification and brush clearance within H1 Habitat.

Per the requirements of the LIP, no development, except for access driveways and resource-dependent uses, is permitted in H1 Habitat (County Code Section 22.44.1890 C). Because habitable structures are proposed less than 200 feet from H1 Habitat (oak woodland and riparian canopy) to the west, fuel modification is required within this area by the approved fuel modification plan. Therefore, the Project design is not compatible with surrounding environmental resources, as it would result in development of H1 Habitat.

Additionally, development is proposed within the H1 Habitat Buffer and H1 Quiet Zone. Per the requirements of the LIP, residential development may only be permitted within an H1 Quiet Zone or H1 Habitat Buffer when all of the following apply:

- a. The Project Site is on a lawfully created parcel;
- b. The development is the minimum necessary to provide the landowner a reasonable economic use of the property, and in no case shall it exceed the maximum standards provided in County Code Sections 22.44.1910 and 22.44.1920;
- c. There is no other feasible alternative building site location that can avoid the H1 Habitat Buffer or H1 Quiet Zone;
- d. The maximum feasible buffer width is provided between the development and the H1 Habitat area;
- e. The development is sited and designed to prevent impacts that would significantly degrade H1 Habitat; and
- f. All feasible mitigation measures have been provided to minimize adverse environmental effects.

The Project proposes a 4,488-square-foot single-family residence. Reducing the square footage of the proposed residence would provide a greater buffer between development and the H1 Habitat area. Thus, the development is not the minimum necessary development for the site, as required within an H1 Quiet Zone or H1 Habitat Buffer by the LIP. Therefore, the findings in County Code Sections 22.44.1890 D.8.b and 22.44.1890 E.12.b cannot be met.

14. OWTS STANDARDS. The Commission finds that the LIP specifically prohibits OWTS seepage pits or leach fields to be placed within 50 feet of the canopy of an oak tree or within 150 feet of a riparian canopy or streambed (County Code Section 22.44.1340 B.3.c). While the entirety of the Project Site is within 150 feet of riparian canopy, there are locations on the Project Site more 50 feet from any oak tree, and the applicant has not provided documentation that these alternative locations are unsuitable for OWTS seepage pits. Thus, it has not been demonstrated that this variance is necessary due to special characteristics of the lots or to preserve a substantial property right (see “Variance Findings” below).

15. SCENIC RESOURCES. The Commission finds that a variance is required for structures greater than 18 feet above grade and retaining walls taller than six feet within Scenic Resource Areas, per County Code Sections 22.44.1250 C and 22.44.2040 A.11.c, respectively. The Project, due to its proximity to parklands, Piuma Road, and the Backbone Trail, is within a Scenic Resource Area. The residence would have a maximum structural height of 23 feet, 8.5 inches and 12-foot-tall retaining walls. There are no special characteristics of the Project Site requiring this, and the overheight structures could be redesigned to comply with these sections of the LIP. Thus, it has not been demonstrated that this variance is necessary due to special characteristics of the lots or to preserve a substantial property right (see “Variance Findings” below).

16. **BUILDING SITE AREA.** The Commission finds that a variance is required for a building site area greater than 10,000 square feet, per County Code Section 22.44.1910 I. The Project proposes a building site area of 10,383 square feet. There are no special characteristics of the Project Site requiring this, and the building site area could be reduced in size to comply with these sections of the LIP. Thus, it has not been demonstrated that this variance is necessary due to special characteristics of the lots or to preserve a substantial property right (see “Variance Findings” below).

COASTAL DEVELOPMENT PERMIT FINDINGS

17. **The Commission finds that the proposed development is not in conformity with the certified local coastal program.** As proposed, the Project would not comply with all applicable development standards for residences in the Santa Monica Mountains Local Coastal Program, which includes the LUP and LIP, specifically those standards related to habitat categories, Scenic Resource Areas, building site area, and OWTS standards.

18. **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 Project Site is not located between the ocean and the nearest public road, so coastal access requirements would not be applicable.

VARIANCE FINDINGS

19. **The Commission finds that there are no special circumstances or exceptional characteristics applicable to the property involved, such as size, shape, topography, location, or surroundings, which are not generally applicable to other properties in the same vicinity and under identical zoning classification.** It has not been demonstrated that OWTS seepage pits cannot be placed in a location more than 50 feet from an oak tree. Also, special site characteristics do not necessitate the construction of overheight structures or retaining walls in a Scenic Resource Area, nor do site conditions require a building site area greater than 10,000 square feet. Thus, the property has not been shown to have special circumstances or exceptional characteristics.

20. **The Commission finds that such variance is unnecessary for the preservation of a substantial property right of the applicant such as that possessed by owners of other property in the same vicinity and zone.** It has not been demonstrated that OWTS seepage pits cannot be placed in a location more than 50 feet from an oak tree. Also, special site characteristics do not necessitate the construction of overheight structures or retaining walls in a Scenic Resource Area, nor do site conditions require a building site area greater than 10,000 square feet. Thus, the Variance is unnecessary to preserve a substantial property right.

21. **The Commission finds that the granting of the variance will be materially detrimental to the public welfare or be injurious to other property or**

improvements in the same vicinity and zone. The proposed residence location would result in greater development near to oak trees and along a scenic route, which would detrimentally affect the public welfare and other properties by degrading scenic and biological resources.

22. **The Commission finds that the granting of the variance will be materially detrimental to coastal resources.** The proposed residence location would result in greater development near to oak trees and the construction of an overheight residence and retaining walls in a Scenic Resource Area, which would detrimentally affect coastal resources by degrading scenic and biological resources.

ADMINISTRATIVE FINDINGS

23. **HEARING PROCEEDINGS.** A duly noticed appeal hearing was held before the Commission on April 26, 2023. Regional Planning Staff recommended denial of the Project. Testimony was taken both for and against the Project. After a brief discussion, the Commission subsequently closed the public hearing and denied the Project.

24. **LEGAL NOTIFICATION.** The Commission finds that pursuant to Section 22.44.990 of the County Code, 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 the County Department of Regional Planning's ("LA County Planning") website. On March 23, 2023, a total of 115 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 20 notices to those on the courtesy mailing list for The Malibu Zoned District and additional interested parties.

25. **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 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 COMMISSION CONCLUDES THAT:

Regarding the Minor CDP:

- A. The proposed development is not in conformity with the certified local coastal program.
- B. 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.

Regarding the Variance:

- A. There are no special circumstances or exceptional characteristics applicable to the property involved, such as size, shape, topography, location, or surroundings, which are not generally applicable to other properties in the same vicinity and under identical zoning classification.
- B. Such variance is unnecessary for the preservation of a substantial property right of the applicant such as that possessed by owners of other property in the same vicinity and zone.
- C. 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.
- D. The granting of the variance will be materially detrimental to coastal resources.

THEREFORE, THE COMMISSION:

- 1. Denies **MINOR COASTAL DEVELOPMENT PERMIT NO. RPPL2019004674.**
- 2. Denies **VARIANCE NO. RPPL2019004675.**

ACTION DATE: April 26, 2023

VOTE: 5-0

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

Dissenting: None

Abstaining: None

Absent: None

MG:RG:TM

4/26/23

c: Zoning Enforcement, Building and Safety

**LOS ANGELES COUNTY
DEPARTMENT OF REGIONAL PLANNING
FINDINGS OF THE REGIONAL PLANNING COMMISSION
AND ORDER
PROJECT NO. 2019-000686-(3)
MINOR COASTAL DEVELOPMENT PERMIT NO. RPPL2019004677**

RECITALS

1. **HEARING DATE(S).** The Los Angeles County (“County”) Regional Planning Commission (“Commission”) conducted a duly noticed public hearing on April 26, 2023 in the matter of Project No. 2019-000686-(3), Minor Coastal Development Permit No. RPPL2019004677 (“CDP”).
2. **ENTITLEMENT(S) REQUESTED.** The applicant, California Pacific Homes, requests the CDP to authorize the construction of a 4,675-square-foot single-family residence and an onsite wastewater treatment system (“OWTS”) (“Project”) on a 1.12-acre property located on the south side of Piuma Road (Assessor’s Parcel Number 4456-038-021) in the Santa Monica Mountains Coastal Zone (“Project Site”). A total of 1,206 cubic yards of earth (995 cubic yards cut, 211 cubic yards fill, 784 cubic yards export) would be graded. The Project would result in development within H1 Habitat, the H1 Habitat Buffer, and the H1 Quiet Zone and fuel modification or brush clearance within the protected zones of 19 oak trees.
3. **ENTITLEMENT(S) REQUIRED.** A CDP is required to construct a single-family residence and an OWTS in the R-C-20 (Rural Coastal—20-Acre Minimum Required Lot Area) Zone pursuant to Los Angeles County Code (“County Code”) Section 22.44.810, and a Minor CDP is required for any project that requires Environmental Review Board (“ERB”) review (County Code Sections 22.44.860 and 22.44.940). The residence would result in development less than 200 feet from H1 Habitat and thus requires ERB review. A Minor CDP is also required for any project that results in the encroachment into the protected zone of any oak tree (County Code Section 22.44.950). As currently proposed, fuel modification or brush clearance would occur within the protected zones of 19 oak trees. As a result, a Minor CDP is required for the Project.

A variance is required for new structures less than 100 feet from parklands, per County Code Section 22.44.1900 C. New structures are proposed less than 100 feet from California State Parks open space to the south. A variance is also required for any new or improved driveway exceeding 300 feet in length (County Code Section 22.44.1920 C), while the Project proposes a 350-foot-long driveway. In addition, because the Project is located within a Scenic Resource Area, structures are allowed a maximum height of 18 feet above grade (County Code Section 22.44.1250 C). As proposed, the Project would have a maximum height of 23 feet, 10 inches above grade. County Code Section 22.44.2040 A.11.c also restricts the height of retaining walls in Scenic Resource Areas to six feet, while the Project proposes eight-foot-high retaining walls. Although variances are required to permit all of these design features, the applicant has not submitted a variance application for the Project.

4. **LAND USE DESIGNATION.** The Project Site is located within the RL20 (Rural Land— One dwelling unit/20 acres maximum) land use designation of the Santa Monica Mountains Local Coastal Program Land Use Policy Map, a component of the General Plan.
5. **ZONING.** The Project Site is located in The Malibu Zoned District and is zoned R-C-20. Pursuant to County Code Section 22.44.1750, a single-family residence is a principal permitted use within the R-C Zone. However, County Code Sections 22.44.860, 22.44.940, and 22.44.950 require a Minor CDP for any development that needs ERB review or encroaches into the protected zone of oak trees, as does the Project. County Code Sections 22.44.1250, 22.44.1900, 22.44.1920, and 22.44.2040 also require variances for exceeding 18 feet in height in a Scenic Resource Area, developing within 100 feet of parklands, a driveway exceeding 300 feet in length, and developing retaining walls over six feet high in a Scenic Resource Area, respectively. Although the Project proposes all of these design features, the applicant has not submitted a variance application for the Project.

6. PROJECT AND SITE PLAN DESCRIPTION.

A. Existing Site Conditions

The Project Site is 1.12 gross acres in size and consists of one legal lot, which is irregular in shape and consists of generally level terrain on the western portion of the lot and downward slopes on its eastern portion. A drainage, flowing from southeast to northwest, crosses the eastern portion of the Project Site. An existing graded pad of approximately 12,000 square feet and drainage structures are located on the western portion of the of the lot. These were legally developed with CDP No. 5-83-004, which was approved with the underlying tract map in 1987 (Tract Map No. 38931). The easternmost portion of the lot is mapped as H1 Habitat (oak woodland and riparian canopy), with the remainder mapped as H3 Habitat in the Santa Monica Mountains Local Coastal Program Land Use Plan (“LUP”). The entirety of the Project Site is within 200 feet of H1 Habitat to the east, which places it within the H1 Habitat Buffer (0-100 feet away) or H1 Quiet Zone (100-200 feet away). Other than the oaks, the Project Site contains mostly native and non-native grasses, shrubs, and native and non-native trees.

B. Site Access

The Project Site would be accessed from Piuma Road, a 65-foot-wide public road and designated scenic route, immediately to the north of the Project Site.

C. Site Plan

The applicant proposes the construction of a 4,675-square-foot single-family residence, including a 1,135-square-foot basement, and a 644-square-foot attached garage on the western portion of the 1.12-acre Project Site. The residence would have a maximum height of 23 feet, 10 inches above grade. A total of 1,206 cubic yards of earth (995 cubic yards cut, 211 cubic yards fill, 784 cubic yards export) would be graded. The Project would also include an OWTS, retaining walls, and other appurtenant facilities on a total building site of approximately 8,647

square feet within the existing graded pad. The building would be accessed by a 350-foot-long paved driveway, which would access Piuma Road to the north. Development from brush clearance and fuel modification would also encroach into the protected zones of 19 coast live oaks. The easternmost portion of the of the Project Site is mapped as H1 Habitat (oak woodland and riparian canopy) while the remainder of the Project Site is mapped as H3 Habitat, and the entirety of the Project Site is within the H1 Habitat Buffer (0-100 feet away) or H1 Quiet Zone (100-200 feet away). The residence is proposed for a location on the western portion of the Project Site, within the H1 Habitat Buffer and H1 Quiet Zone. An OWTS seepage pit is proposed west of the residence, within the H1 Quiet Zone. Most of the residence, as well as the OWTS, hardscape, and retaining walls, is located less than 100 feet from parklands to the south. The Project is partially visible from the Backbone Trail to the south. The Project Site has a linear street frontage of 331 feet and a linear development frontage of 90 feet.

7. **PUBLIC COMMENTS.** Four phone calls and nine letters of opposition have been received over the course of the hearing process for this Project. Issues raised include destruction of sensitive habitat, light pollution, traffic, construction noise, fire hazard, proximity to wildlife, and interference of scenic views from the Backbone Trail.
8. **AGENCY RECOMMENDATIONS.**
 - A. County Department of Parks and Recreation: Recommended clearance to public hearing with no conditions through the County's electronic consultation system (EPIC-LA) on September 29, 2020.
 - B. County Fire Department: Recommended clearance to public hearing with no conditions through EPIC-LA on September 30, 2020.
 - C. County Department of Public Works: Recommended denial of the Project due to lack of documentation regarding road boundaries, road improvements, lines of sight, and earthmoving details in a letter dated November 10, 2020.
 - D. County Department of Public Health: Recommended denial of the Project due to lack of information regarding the proposed OWTS and water service in a letter dated October 27, 2020.
 - E. County Environmental Review Board: Chose to take no action regarding the Project at a meeting held on August 16, 2021. Recommended that it return with a more comprehensive plan and biological assessment, as well as a redesign to be consistent with the LIP.
9. **CEQA DETERMINATION.** No determination has been made regarding the applicability of the California Environmental Quality Act (Public Resources Code section 21000, et seq.) ("CEQA") to this project. Per State CEQA Guidelines and the Environmental Document Reporting Procedures and Guidelines for the County, a CEQA determination is not required when a project is denied.

10. PREVIOUS HEARING PROCEEDINGS. A duly noticed public hearing was held before the Hearing Officer on October 4, 2022, which was continued to November 1, 2022 to allow the Hearing Officer to do a site visit and thoroughly review all documents. At the November 1, 2022 continued public hearing, Regional Planning Staff recommended denial of the Project. The applicant's representative spoke in favor of the Project. The Hearing Officer indicated her intent to deny the Project and continued the hearing to February 7, 2023 to allow additions and edits to the required denial findings. At the continued hearing on February 7, 2023, the Hearing Officer closed the public hearing and denied the Project. The applicant appealed this denial to the Commission on February 13, 2023 per the provisions of Los Angeles County Code Section 22.44.970.

GENERAL PLAN CONSISTENCY FINDINGS

11. LAND USE POLICY. The Commission finds that the Project is not consistent with the LUP. The Rural Land 20 land use designation is intended for single-family residential uses, as well as other resource-dependent uses, on relatively large lots. Although a single-family residence is specifically listed as a principal permitted use under this designation, the Project is not consistent with the policies of the LUP, as described below.

12. GOALS AND POLICIES. The Commission finds that the Project would not be consistent with the following policies of the LUP:

Conservation and Open Space Element

Policy CO-41:

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

Policy CO-57:

New non-resource-dependent development shall also provide an additional 100-foot "Quiet Zone" from H1 habitat where feasible (measured from the outer edge of the 100-foot H1 habitat buffer required above). New development is not permitted

in the H1 habitat Quiet Zone except resource-dependent uses, non-irrigated fuel modification required by the Fire Department for lawfully-established structures, and the following other uses in very limited circumstances: (1) public works projects required to protect existing public roads when there is no feasible alternative, as long as impacts to H1 habitat and the H1 buffer are avoided to the maximum extent feasible, and unavoidable impacts are minimized and mitigated; (2) an access road to a lawfully-permitted use when there is no other feasible alternative to provide access to public recreation areas or development on a legal parcel, as long as impacts to H1 habitat and H1 buffer are avoided to the maximum extent feasible, and unavoidable impacts are minimized and mitigated; (3) a development on a lawfully-created parcel that is the minimum development necessary to provide a reasonable economic use of the property and where there is no feasible alternative, as long as impacts to H1 habitat and H1 buffer are avoided to the maximum Santa Monica Mountains Local Coastal Program 31 February 2018 Land Use Plan extent feasible, and unavoidable impacts are minimized and mitigated; (4) equestrian pasture outside of the fuel modification zone, consistent with the requirements of the LCP, where the development is sited and designed to ensure that no required fuel modification extends into H1 habitat or H1 buffer, it will not significantly degrade H1 habitat, and will not adversely affect wildlife usage, including movement patterns, of the local area or region. Additionally, if existing fuel modification for the principal use is located within the Quiet Zone, confined animal facilities may be established within the Quiet Zone on slopes of 3:1 or less only if the facilities will not require fuel modification to extend into H1 habitat or the H1 habitat buffer, and subject to ERB review. Furthermore, public recreational facilities may also be located within this quiet zone, if it is developed and/or disturbed by historic use (e.g., recreational).

Policy CO-63

New development adjoining parklands, where the purpose of the park is to protect the natural environment and SERAs, shall be sited and designed to minimize impacts to habitat and recreational opportunities to the maximum extent feasible. Natural vegetation buffer areas shall be provided around parklands. Buffers shall be of a sufficient size to prevent impacts to parkland resources, but in no case shall they be less than 100 feet in width. Variances or modifications to the required H1 habitat buffer width shall not be granted, except for a permitted use included in Policy CO-56. New development permitted adjacent to parklands shall include open space conservation easements over the habitat areas outside the approved development site to ensure that impacts to the H1 and H2 habitat, H1 habitat buffer, or parkland buffer are avoided.

Policy CO-66

Protection of H1 and H2 habitat and public access shall take priority over other development standards, and where there is any conflict between general/other development standards and the biological resource and/or public access protection provisions, the standards that are most protective of H1 and H2 habitat and public access shall have precedence.

Policy CO-109:

Site and design new development to protect natural features, and minimize removal of natural vegetation.

Policy CO-114:

New development shall be sited and designed to minimize the height and length of manufactured cut and fill slopes, and minimize the height and length of retaining walls. Graded slopes shall blend with the natural contours of the land and shall utilize landform grading.

Policy CO-124:

The Santa Monica Mountains contain scenic resources of regional and national importance. The scenic and visual qualities of these resources shall be protected and, where feasible, enhanced.

Policy CO-125:

Protect public views within Scenic Areas and throughout the Coastal Zone. Places on, along, within, or visible from Scenic Routes, public parklands, public trails, beaches, and state waters that offer scenic vistas of the mountains, canyons, coastline, beaches, and other unique natural features are considered Scenic Resource Areas. Scenic Resource Areas do not include areas that are largely developed such as existing, predominantly built-out residential subdivisions. Scenic Resource Areas also include the scenic resources identified on Map 3 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.

Policy 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*

Policy CO-128:

New development shall be subordinate to the character of its setting.

Policy CO-131:

Site and design new development to minimize adverse impacts on scenic resources to the maximum extent feasible. If there is no feasible building site location on the proposed project site where development would not be visible, then the development shall be sited and designed to minimize impacts on scenic areas through measures that may include, but not be limited to, siting development in the least visible portion of the site, breaking up the mass of new structures, designing structures to blend into the natural hillside setting, restricting the building maximum size, reducing maximum height, clustering development, minimizing grading, incorporating landscape and building material screening elements, and where appropriate, berming.

Policy CO-133:

New development shall be sited and designed to minimize alteration of natural landforms by:

- a. Conforming to the natural topography.*
- b. Preventing substantial grading or reconfiguration of the project site.*
- c. Eliminating flat building pads on slopes. Building pads on sloping sites shall utilize split-level or stepped-pad designs.*
- d. Requiring that manufactured contours mimic the natural contours.*
- e. Ensuring that graded slopes blend with the existing terrain of the site and surrounding area.*
- f. Minimizing grading permitted outside of the building footprint.*
- g. Clustering structures to minimize site disturbance and to minimize development area.*
- h. Minimizing height and length of cut and fill slopes.*
- i. Minimizing the height and length of retaining walls.*
- j. Cut and fill operations may be balanced on site, where the grading does not substantially alter the existing topography and blends with the surrounding area. Export of cut material may be required to preserve the natural topography.*

Policy CO-147:

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

Land Use Element

Policy LU-33:

Require that new development be compatible with the rural character of the area and the surrounding natural environment.

The Project's large square footage and footprint would result in development that would extend into the H1 Habitat Buffer and H1 Quiet Zone, as well as fuel modification and brush clearance that would extend into H1 Habitat (oak woodland and riparian canopy). The Project's design, as well as its location less than 100 feet from parklands to the south, result in a design that is not protective of surrounding landforms by failing to preserve H1 habitat areas in a more natural state. This would also not be consistent with policies regarding the protection of Scenic Resource Areas. The Project's design, when paired with its location less than 100 feet from parklands to the south, its partial view from the Backbone Trail, and its proximity to Piuma Road, a designated scenic route, would result in unnecessary visual impacts to the surrounding area.

ZONING CODE CONSISTENCY FINDINGS

13. HABITAT CATEGORIES. The Commission finds that the Project Site is designated as H1 Habitat and H3 Habitat by the LUP. While all construction would occur within H3 Habitat, impacts from the development would be located within the H1 Quiet Zone and H1 Habitat Buffer. The Project would also result in required fuel modification and brush clearance within H1 Habitat.

Per the requirements of the LIP, no development, except for access driveways and resource-dependent uses, is permitted in H1 Habitat (County Code Section 22.44.1890 C). Because habitable structures are proposed less than 100 feet from H1 Habitat (oak woodland and riparian canopy) to the east, fuel modification is required within this area by the approved fuel modification plan. Therefore, the Project design is not compatible with surrounding environmental resources, as it would result in development of H1 Habitat.

Additionally, development is proposed within the H1 Habitat Buffer and H1 Quiet Zone. Per the requirements of the LIP, residential development may only be permitted within an H1 Quiet Zone or H1 Habitat Buffer when all of the following apply:

- a. The Project Site is on a lawfully created parcel;
- b. The development is the minimum necessary to provide the landowner a reasonable economic use of the property, and in no case shall it exceed the maximum standards provided in County Code Sections 22.44.1910 and 22.44.1920;
- c. There is no other feasible alternative building site location that can avoid the H1 Habitat Buffer or H1 Quiet Zone;
- d. The maximum feasible buffer width is provided between the development and the H1 Habitat area;
- e. The development is sited and designed to prevent impacts that would significantly degrade H1 Habitat; and
- f. All feasible mitigation measures have been provided to minimize adverse environmental effects.

The Project proposes a 4,675-square-foot single-family residence. Reducing the square footage of the proposed residence would provide a greater buffer between development and the H1 Habitat area. Thus, the development is not the minimum necessary development for the site, as required within an H1 Quiet Zone or H1 Habitat Buffer by the LIP. Therefore, the findings in County Code Sections 22.44.1890 D.8.b and 22.44.1890 E.12.b cannot be met.

14. **PARKLAND BUFFER.** The Commission finds that a variance is required for new structures less than 100 feet from parklands, per County Code Section 22.44.1900 C. Due to California State Parks open space immediately to the south, a large portion of the residence, as well as hardscape and retaining walls proposed for the Project Site would extend into the required 100-foot parkland buffer. The applicant has not submitted a variance application, and thus the Project would not comply with this section of the LIP.
15. **SCENIC RESOURCES.** The Commission finds that a variance is required for structures greater than 18 feet above grade and retaining walls taller than six feet within Scenic Resource Areas, per County Code Sections 22.44.1250 C and 22.44.2040 A.11.c, respectively. The Project, due to its proximity to parklands, Piuma Road, and the Backbone Trail, is within a Scenic Resource Area. The residence would have a maximum structural height of 23 feet, 10 inches and eight-foot-tall retaining walls. No variance has been requested, and thus the Project would not comply with these sections of the LIP.
16. **ACCESS ROAD.** The Commission finds that a variance is required for a new driveway or access road longer than 300 feet, per County Code Section 22.44.1920 C. The proposed driveway for the Project would have a length of 350 feet. No variance has been requested, and thus the Project would not comply with this section of the LIP.

COASTAL DEVELOPMENT PERMIT FINDINGS

17. **The Commission finds that the proposed development is not in conformity with the certified local coastal program.** As proposed, the Project would not comply with all applicable development standards for residences in the Santa Monica Mountains Local Coastal Program, which includes the LUP and LIP, specifically those standards related to habitat categories, Scenic Resource Areas, and parkland buffers.
18. **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 Project Site is not located between the ocean and the nearest public road, so coastal access requirements would not be applicable.

ADMINISTRATIVE FINDINGS

19. **HEARING PROCEEDINGS.** A duly noticed appeal hearing was held before the Commission on April 26, 2023. Regional Planning Staff recommended denial of the

Project. Testimony was taken both for and against the Project. After a brief discussion, the Commission subsequently closed the public hearing and denied the Project.

20. LEGAL NOTIFICATION. The Commission finds that pursuant to Section 22.44.990 of the County Code, 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 the County Department of Regional Planning's ("LA County Planning") website. On March 23, 2023, a total of 115 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 20 notices to those on the courtesy mailing list for The Malibu Zoned District and additional interested parties.

21. 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 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 COMMISSION CONCLUDES THAT:

- A. The proposed development is not in conformity with the certified local coastal program.
- B. 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.

THEREFORE, THE COMMISSION:

- 1. Denies **MINOR COASTAL DEVELOPMENT PERMIT NO. RPPL2019004677.**

ACTION DATE: April 26, 2023

VOTE: 5-0

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

Dissenting: None

Abstaining: None

Absent: None

MG:RG:TM

4/26/23

c: Zoning Enforcement, Building and Safety

**LOS ANGELES COUNTY
DEPARTMENT OF REGIONAL PLANNING
FINDINGS OF THE REGIONAL PLANNING COMMISSION
AND ORDER
PROJECT NO. 2019-000686-(3)
MINOR COASTAL DEVELOPMENT PERMIT NO. RPPL2019004678**

RECITALS

1. **HEARING DATE(S).** The Los Angeles County (“County”) Regional Planning Commission (“Commission”) conducted a duly noticed public hearing on April 26, 2023 in the matter of Project No. 2019-000686-(3), Minor Coastal Development Permit No. RPPL2019004678 (“CDP”).
2. **ENTITLEMENT(S) REQUESTED.** The applicant, California Pacific Homes, requests the CDP to authorize the construction of a 4,309-square-foot single-family residence and an onsite wastewater treatment system (“OWTS”) (“Project”) on a 1.25-acre property located on the south side of Piuma Road (Assessor’s Parcel Number 4456-038-022) in the Santa Monica Mountains Coastal Zone (“Project Site”). A total of 676 cubic yards of earth (676 cubic yards cut, all exported) would be graded. The Project would result in development within H1 Habitat, H1 Habitat Buffer, and H1 Quiet Zone and fuel modification or brush clearance within the protected zones of 44 oak trees. Seepage pits for an OWTS are proposed on an adjacent lot immediately to the south (Assessor’s Parcel Number 4456-038-019).
3. **ENTITLEMENT(S) REQUIRED.** A CDP is required to construct a single-family residence and an OWTS in the R-C-20 (Rural Coastal—20-Acre Minimum Required Lot Area) Zone pursuant to Los Angeles County Code (“County Code”) Section 22.44.810, and a Minor CDP is required for any project that requires Environmental Review Board (“ERB”) review (County Code Sections 22.44.860 and 22.44.940). The residence would result in development less than 200 feet from H1 Habitat and thus requires ERB review. A Minor CDP is also required for any project that results in the encroachment into the protected zone of any oak tree (County Code Section 22.44.950). As currently proposed, fuel modification or brush clearance would occur within the protected zones of 44 oak trees. As a result, a Minor CDP is required for the Project.
4. **LAND USE DESIGNATION.** The Project Site is located within the RL20 (Rural Land—One dwelling unit/20 acres maximum) land use designation of the Santa Monica Mountains Local Coastal Program Land Use Policy Map, a component of the General Plan.
5. **ZONING.** The Project Site is located in The Malibu Zoned District and is zoned R-C-20. Pursuant to County Code Section 22.44.1750, a single-family residence is a principal permitted use within the R-C Zone. However, County Code Sections 22.44.860, 22.44.940, and 22.44.950 require a Minor CDP for any development that needs ERB review or encroaches into the protected zones of oak trees, as does the Project.

6. PROJECT AND SITE PLAN DESCRIPTION.

A. Existing Site Conditions

The Project Site is 1.25 gross acres in size and consists of one legal lot, which is generally rectangular in shape and consists of generally level terrain on the southern portion of the lot and downward slopes on its northern portion. An existing graded pad of approximately 12,000 square feet and drainage structures are located on the southern portion of the of the lot. These were legally developed with CDP No. 5-83-004, which was approved with the underlying tract map in 1987 (Tract Map No. 38931). The northern and central portions of the lot are mapped as H1 Habitat (riparian zone), with the remainder mapped as H3 Habitat in the Santa Monica Mountains Local Coastal Program Land Use Plan ("LUP"). The entirety of the Project Site is within 100 feet of H1 Habitat to the west, which places it within the H1 Habitat Buffer (0-100 feet away). Other than the oaks, the Project Site contains mostly native and non-native grasses, shrubs, and native and non-native trees.

B. Site Access

The Project Site would be accessed from Piuma Road, a 65-foot-wide public road and designated scenic route, immediately to the north of the Project Site.

C. Site Plan

The applicant proposes the construction of a 4,309-square-foot single-family residence, including a 722-square-foot basement, and a 614-square-foot attached garage on the southern portion of the 1.25-acre Project Site. The residence would have a maximum height of 18 feet above grade. A total of 676 cubic yards of earth (676 cubic yards cut, all exported) would be graded. The Project would also include hardscape, retaining walls, and other appurtenant facilities on a total building site of 7,721 square feet within the existing graded pad. The building would be accessed by a 270-foot-long paved driveway, which would access Piuma Road to the north. Development from brush clearance and fuel modification would also encroach into the protected zones of 44 coast live oaks. The northern and central portions of the Project Site are mapped as H1 Habitat, which places the entirety of the site within the H1 Habitat Buffer (0-100 feet away). The residence is proposed for a location on the southern portion of the Project Site within the H1 Habitat Buffer. Seepage pits for an OWTS are proposed on an adjacent lot immediately to the south. The Project is partially visible from the Backbone Trail to the south. The Project Site has a linear street frontage of 214 feet and a linear development frontage of 90 feet.

- 7. PUBLIC COMMENTS.** Four phone calls and nine letters of opposition have been received over the course of the hearing process for this Project. Issues raised include destruction of sensitive habitat, light pollution, traffic, construction noise, fire hazard, proximity to wildlife, and interference of scenic views from the Backbone Trail.

8. AGENCY RECOMMENDATIONS.

- A. County Department of Parks and Recreation: Recommended clearance to public hearing with no conditions through the County's electronic consultation system (EPIC-LA) on September 29, 2020.
- B. County Fire Department: Recommended clearance to public hearing with no conditions through EPIC-LA on September 30, 2020.
- C. County Department of Public Works: Recommended denial of the Project due to lack of documentation regarding road boundaries, road improvements, lines of sight, and earthmoving details in a letter dated November 10, 2020.
- D. County Department of Public Health: Recommended denial of the Project due to the location of OWTS seepage pits on a separate lot in a letter dated October 27, 2020.
- E. County Environmental Review Board: Chose to take no action regarding the Project at a meeting held on August 16, 2021. Recommended that it return with a comprehensive plan and biological assessment, as well as a redesign to be more consistent with the LIP.

9. **CEQA DETERMINATION.** No determination has been made regarding the applicability of the California Environmental Quality Act (Public Resources Code section 21000, et seq.) ("CEQA") to this project. Per State CEQA Guidelines and the Environmental Document Reporting Procedures and Guidelines for the County, a CEQA determination is not required when a project is denied.

10. **PREVIOUS HEARING PROCEEDINGS.** A duly noticed public hearing was held before the Hearing Officer on October 4, 2022, which was continued to November 1, 2022 to allow the Hearing Officer to do a site visit and thoroughly review all documents. At the November 1, 2022 continued public hearing, Regional Planning Staff recommended denial of the Project. The applicant's representative spoke in favor of the Project. The Hearing Officer indicated her intent to deny the Project and continued the hearing to February 7, 2023 to allow additions and edits to the required denial findings. At the continued hearing on February 7, 2023, the Hearing Officer closed the public hearing and denied the Project. The applicant appealed this denial to the Commission on February 13, 2023 per the provisions of Los Angeles County Code Section 22.44.970.

GENERAL PLAN CONSISTENCY FINDINGS

11. **LAND USE POLICY.** The Commission finds that the Project is not consistent with the LUP. The Rural Land 20 land use designation is intended for single-family residential uses, as well as other resource-dependent uses, on relatively large lots. Although a single-family residence is specifically listed as a principal permitted use under this designation, the Project is not consistent with the policies of the LUP, as described below.

12. GOALS AND POLICIES. The Commission finds that the Project would not be consistent with the following policies of the LUP:

Conservation and Open Space Element

Policy CO-41:

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

Policy CO-57:

New non-resource-dependent development shall also provide an additional 100-foot "Quiet Zone" from H1 habitat where feasible (measured from the outer edge of the 100-foot H1 habitat buffer required above). New development is not permitted in the H1 habitat Quiet Zone except resource-dependent uses, non-irrigated fuel modification required by the Fire Department for lawfully-established structures, and the following other uses in very limited circumstances: (1) public works projects required to protect existing public roads when there is no feasible alternative, as long as impacts to H1 habitat and the H1 buffer are avoided to the maximum extent feasible, and unavoidable impacts are minimized and mitigated; (2) an access road to a lawfully-permitted use when there is no other feasible alternative to provide access to public recreation areas or development on a legal parcel, as long as impacts to H1 habitat and H1 buffer are avoided to the maximum extent feasible, and unavoidable impacts are minimized and mitigated; (3) a development on a lawfully-created parcel that is the minimum development necessary to provide a reasonable economic use of the property and where there is no feasible alternative, as long as impacts to H1 habitat and H1 buffer are avoided to the maximum Santa Monica Mountains Local Coastal Program 31 February 2018 Land Use Plan extent feasible, and unavoidable impacts are minimized and mitigated; (4) equestrian pasture outside of the fuel modification zone, consistent with the requirements of the LCP, where the development is sited and designed to ensure that no required fuel modification extends into H1 habitat or H1 buffer, it will not significantly degrade H1 habitat, and will not adversely affect wildlife usage, including movement patterns, of the local area or region. Additionally, if existing fuel modification for the principal use is located within the Quiet Zone, confined animal facilities may be

established within the Quiet Zone on slopes of 3:1 or less only if the facilities will not require fuel modification to extend into H1 habitat or the H1 habitat buffer, and subject to ERB review. Furthermore, public recreational facilities may also be located within this quiet zone, if it is developed and/or disturbed by historic use (e.g., recreational).

Policy CO-66

Protection of H1 and H2 habitat and public access shall take priority over other development standards, and where there is any conflict between general/other development standards and the biological resource and/or public access protection provisions, the standards that are most protective of H1 and H2 habitat and public access shall have precedence.

Policy CO-109:

Site and design new development to protect natural features, and minimize removal of natural vegetation.

Policy CO-124:

The Santa Monica Mountains contain scenic resources of regional and national importance. The scenic and visual qualities of these resources shall be protected and, where feasible, enhanced.

Policy CO-125:

Protect public views within Scenic Areas and throughout the Coastal Zone. Places on, along, within, or visible from Scenic Routes, public parklands, public trails, beaches, and state waters that offer scenic vistas of the mountains, canyons, coastline, beaches, and other unique natural features are considered Scenic Resource Areas. Scenic Resource Areas do not include areas that are largely developed such as existing, predominantly built-out residential subdivisions. Scenic Resource Areas also include the scenic resources identified on Map 3 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.

Policy 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*

Policy CO-128:

New development shall be subordinate to the character of its setting.

Policy CO-131:

Site and design new development to minimize adverse impacts on scenic resources to the maximum extent feasible. If there is no feasible building site location on the proposed project site where development would not be visible, then the development shall be sited and designed to minimize impacts on scenic areas through measures that may include, but not be limited to, siting development in the least visible portion of the site, breaking up the mass of new structures, designing structures to blend into the natural hillside setting, restricting the building maximum size, reducing maximum height, clustering development, minimizing grading, incorporating landscape and building material screening elements, and where appropriate, berming.

Policy CO-133:

New development shall be sited and designed to minimize alteration of natural landforms by:

- a. Conforming to the natural topography.*
- b. Preventing substantial grading or reconfiguration of the project site.*
- c. Eliminating flat building pads on slopes. Building pads on sloping sites shall utilize split-level or stepped-pad designs.*
- d. Requiring that manufactured contours mimic the natural contours.*
- e. Ensuring that graded slopes blend with the existing terrain of the site and surrounding area.*
- f. Minimizing grading permitted outside of the building footprint.*
- g. Clustering structures to minimize site disturbance and to minimize development area.*
- h. Minimizing height and length of cut and fill slopes.*
- i. Minimizing the height and length of retaining walls.*
- j. Cut and fill operations may be balanced on site, where the grading does not substantially alter the existing topography and blends with the surrounding area. Export of cut material may be required to preserve the natural topography.*

Policy CO-147:

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

Land Use Element

Policy LU-33:

Require that new development be compatible with the rural character of the area and the surrounding natural environment.

The Project's large square footage and footprint would result in development that would extend into the H1 Habitat and H1 Habitat Buffer. The Project's large footprint and square footage result in a design that is not protective of surrounding landforms by failing to preserve H1 Habitat areas in a more natural state. This would also not be consistent with policies regarding the protection of Scenic Resource Areas. The Project's design, when paired with its location less than 100 feet from parklands to the south, its partial view from the Backbone Trail, and its proximity to Piuma Road, a designated scenic route, would result in unnecessary visual impacts to the surrounding area.

ZONING CODE CONSISTENCY FINDINGS

13. HABITAT CATEGORIES. The Commission finds that the Project Site is designated as H1 Habitat and H3 Habitat by the LUP. Construction would occur within mapped H1 Habitat and H3 Habitat and impacts from the development would be located within the H1 Habitat and H1 Habitat Buffer.

Per the requirements of the LIP, no development, except for access driveways and resource-dependent uses, is permitted in H1 Habitat (County Code Section 22.44.1890 C). Habitable structures are proposed within H1 Habitat (riparian zone) and the H1 Habitat Buffer. Therefore, the Project design is not compatible with surrounding environmental resources, as it would result in development of H1 Habitat.

Additionally, development is proposed within the H1 Habitat Buffer and H1 Quiet Zone. Per the requirements of the LIP, residential development may only be permitted within an H1 Quiet Zone or H1 Habitat Buffer when all of the following apply:

- a. The Project Site is on a lawfully created parcel;
- b. The development is the minimum necessary to provide the landowner a reasonable economic use of the property, and in no case shall it exceed the maximum standards provided in County Code Sections 22.44.1910 and 22.44.1920;
- c. There is no other feasible alternative building site location that can avoid the H1 Habitat Buffer or H1 Quiet Zone;
- d. The maximum feasible buffer width is provided between the development and the H1 Habitat area;
- e. The development is sited and designed to prevent impacts that would significantly degrade H1 Habitat; and
- f. All feasible mitigation measures have been provided to minimize adverse environmental effects.

The Project proposes a 4,309-square-foot single-family residence. Reducing the square footage of the proposed residence and relocating it outside of H1 Habitat would increase the buffer between the Project and H1 Habitat. Thus, the development is not the minimum necessary development for the site, as required within an H1 Quiet Zone or H1 Habitat Buffer by the LIP. Therefore, the findings in County Code Sections 22.44.1890 D.8.b and 22.44.1890 E.12.b cannot be met.

14. **OWTS STANDARDS.** The Commission finds that the Project would not meet County OWTS standards, as its seepage pits are proposed on an adjacent lot to the south. The County Department of Public Health will not approve any portion of an OWTS on a separate lot from the structure it serves.

COASTAL DEVELOPMENT PERMIT FINDINGS

15. **The Commission finds that the proposed development is not in conformity with the certified local coastal program.** As proposed, the Project would not comply with all applicable development standards for residences in the Santa Monica Mountains Local Coastal Program, which includes the LUP and LIP, specifically those standards related to habitat categories.
16. **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 Project Site is not located between the ocean and the nearest public road, so coastal access requirements would not be applicable.

ADMINISTRATIVE FINDINGS

17. **HEARING PROCEEDINGS.** A duly noticed appeal hearing was held before the Commission on April 26, 2023. Regional Planning Staff recommended denial of the Project. Testimony was taken both for and against the Project. After a brief discussion, the Commission subsequently closed the public hearing and denied the Project.
18. **LEGAL NOTIFICATION.** The Commission finds that pursuant to Section 22.44.990 of the County Code, 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 the County Department of Regional Planning's ("LA County Planning") website. On March 23, 2023, a total of 115 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 20 notices to those on the courtesy mailing list for The Malibu Zoned District and additional interested parties.
19. **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 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 COMMISSION CONCLUDES THAT:

- A. The proposed development is not in conformity with the certified local coastal program.
- B. 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.

THEREFORE, THE COMMISSION:

1. Denies **MINOR COASTAL DEVELOPMENT PERMIT NO. RPPL2019004678**.

ACTION DATE: April 26, 2023

VOTE: 5-0

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

Dissenting: None

Abstaining: None

Absent: None

MG:RG:TM

4/26/23

c: Zoning Enforcement, Building and Safety