

BIOLOGICAL RESOURCES DESCRIPTION AND RECOMMENDATIONS

Meeting Date: September 18, 2023 – Monday

PROJECT: Isbell Single-Family Residence

Project No.: R2011-01126-(3)

Permit No.: RCDP-201500036

APN: 4456-011-095

Address: 25860 Dark Creek Road, Monte Nido, CA 91302

Location: Cold Creek / Malibu Creek Watershed

USGS Quad: Malibu Beach

Project Applicant: Nick Kazem

Project Biologist: Impact Sciences, Inc.

Staff Planner: William Chen

Staff Biologist: Karla Roman

Project Description with respect to Impacts to Biological Resources: ERB reviewed a previous version of the project on March 18, 2013 and found it to be consistent after modifications with the permitted uses and development standards of the 1986 Malibu Local Coastal Plan / Land Use Plan. Subsequent to the 2013 ERB review, the project's approvals expired and a new application was filed, which is subject to the current Local Implementation Program of the Santa Monica Mountains Local Coastal Program.

The 2013 ERB review was conducted based on findings presented in a Biological Constraints Evaluation (BCE) prepared for the project in 2011.¹ The BCE is comparable to a Biological Assessment as it includes descriptions of habitat and vegetation types present on site, potential for occurrence of sensitive species, and recommendations to minimize or avoid impacts to sensitive biological resources. However, since the BCE was prepared prior to adoption of the current LIP, it does not evaluate the project in terms of its impacts to H1, H2, and H3. Therefore, the present analysis addresses the extent of H1, H2, and H3 on the project site and whether the proposed project meets the requirements for Development Standards within those Habitat Category areas, including whether the project meets the current LIP requirement that new development avoids impacts to H1 habitat, except as allowed by Section 22.44.1890.D.8².

¹ Impact Sciences, Inc. 2011. Biological Constraints Evaluation for the Isbell Residential Property, Monte Nido, Los Angeles County, California.

² LIP Section 22.44.1890.D.8 states "A development not permitted in H1 Habitat Buffer may be approved only where all of the following apply:

- a. The project site is on a lawfully created parcel;

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The project parcel is mapped in the LCP as H1 and H3. H1 corresponds to areas identified by National Park Service (NPS) as “California sycamore – coast live oak south coastal woodland/forest”. H3 corresponds to areas identified by NPS as “urban – coast live oak”, defined by NPS as areas where “urban or built-up non-vacant and non-agricultural land use is present with an overstory predominantly composed of *Q. agrifolia*. Some exotic or other native trees may be present.”³

The 2011 BCE mapped vegetation on site as “riparian woodland”, “coast live oak woodland”, and “disturbed”.⁴ As used in the BCE, “riparian woodland” is equivalent to “California sycamore – coast live oak south coastal woodland/forest” mapped by NPS in corresponding areas of the project site adjacent to Cold Creek, which runs along the southern property line. “Coast live oak woodland”, and “disturbed” vegetation types mapped in the BCE both correspond to NPS-mapped urban – coast live oak, adjacent to existing development and subject to periodic vegetation thinning for protection from fire.

Planning staff verified in June 2023 that the distribution of these vegetation types has not changed since 2011, and recommends use of the BCE-identified vegetation types to revise habitat-category mapping on the site. This revision would result in 0.42 acres of H1 and 0.58 acres of H3 on site.

Since the preparation of the BCE in 2011 and initial review by ERB in 2013⁵, the applicant has reduced the size of the residence from 3914 sf to 3005 sf (with a first floor of 1359 sf) and has reconfigured the residence so that it is further away from riparian habitat along the southern edge of the property, while also observing required setbacks from the northern property line and septic leachfields. All direct construction and landscaping impacts would occur within H3 and would amount to 9550 sf of disturbed area. The site plans depict a 50 ft offset from riparian trees, with the exception of two oak trees, where the offset is approximately 45 ft. The proposed residence would therefore be sited less than 100 ft. from H1.

Proposed impervious area is 5600 sf. Previously proposed hardscaping between the residence and the creek has been removed and replaced with gravel to intercept stormwater runoff and prevent its entry into the creek. Fuel Modification Zones have been reduced to a combined width of 100 ft., with irrigated Zones A and B extending to 50' from the residence to minimize impacts to riparian vegetation. Zone C extends to

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- 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 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;
 - 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.”

³ Aerial Information Systems, Inc. 2007. Final USGS-NPS Vegetation Mapping Program, Santa Monica Mountains National Recreation Area Photo Interpretation Report. Prepared for Santa Monica Mountains National Recreation Area.

⁴ Impact Sciences, Inc. 2011. Biological Constraints Evaluation for the Isbell Residential Property, Monte Nido, Los Angeles County, California.

⁵ Impact Sciences, Inc. 2011. Biological Constraints Evaluation for the Isbell Residential Property, Monte Nido, Los Angeles County, California.

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100'. All fuel-modification Zone C and off-site brush thinning activities related to the proposed residence are sited within 200 ft of existing neighboring residences where such activity is already ongoing and therefore would not expand these existing impacts. Considering the proximity of the proposed single-family residence to the existing 13" DBH Oak tree dripline immediately adjacent and to the west, it is expected that the drip line will continue to expand, and the construction of the single-family residence will exert a minor encroachment on the 13" DBH Oak tree once constructed.

Landscape and Fuel Modification: The proposed plant palette includes ornamental cultivars and selections that may escape cultivation or hybridize with nearby wild populations. These include *Arctostaphylos bakeri* 'Louis Edmunds', *Arctostaphylos uva-ursi*, *Salvia clevelandii*, and *Iris douglasiana*.

ERB PROJECT GENERAL RECOMMENDATIONS

1. **Landscaping**—In addition to the requirements of §22.44.1240.B.3 (emphasize “the use of native plant palettes in fuel-modification Zones A and B; use exclusively native plant palettes in Zone C; prohibit invasive non-natives species in all zones), the plant palette shall avoid the use of ornamental cultivars and selections, including those of California native species, that have potential to hybridize with local wild plant populations or escape into adjacent natural habitat areas.
2. **Fuel Modification**
 - a. Retain as many non-sprouting species as possible. These usually have a single trunk. Do not cut off the trunk in pruning, as this kills the plant.
 - b. Choose multiple-trunked, resprouting species for removal over non-sprouters. The remaining multi-trunked shrubs should be pruned in a staggered, clumped pattern on an alternating schedule, allowing 2 – 3 years between prunings for any one clump. Re-sprouting species can be pruned to near ground level.
 - c. It is recommended that locally-indigenous plants thinned for fuel modification be chipped and used as native plant mulch. SMM native plant mulch is not widely available in stores, but is an excellent addition to the landscape to retain soil moisture and reduce growth of invasive weeds.
 - d. Disking and indiscriminate clearing is not allowed in any Fuel Modification Zone.
 - e. For trees to have fuel ladders removed: prune lower branches up to 1/3 of tree height or up to 6 ft. maximum for trees 18 ft. and taller, per County Fire requirements. Consult with LA County Planning (County Planning) or Forestry before pruning protected oaks or native trees.
 - f. Include provisions for irrigation, both permanent for Zones A and B, and temporary for establishment of native plants in Zone C and outside of Fuel Modification Zones.
3. **Permanent Runoff Control/Drainage Plan**—The Applicant shall provide a grading plan and drainage report, including proposed site design and source control best management practices to minimize post-construction runoff and infiltrate at minimum the first 0.75-inches of stormwater. This plan should show all proposed drainage improvements, such as locations of infiltration basins,

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measures to convey runoff from impervious surfaces into permeable areas of the property (e.g., raingardens or bioswales) in a non-erosive manner, measures to maximize the ability of native substrates to retain and infiltrate runoff, and placement of cisterns or rain barrels for stormwater capture.

4. **Glass** should be least reflective or have frit patterns that will promote energy conservation and prevent bird strikes caused by the bird mistaking a reflection of habitat for available flight space, per §22.44.1320.
5. **Lighting** should carefully follow provisions of §22.44.1270 for exterior lighting. Avoid trespass of light into the night sky and onto natural areas both on and off the project parcel(s).
6. **Biological Monitor**—Prior to the issuance of a grading permit, a qualified biologist shall be retained by the Applicant as the lead biological monitor subject to the approval of County Planning. That person shall ensure that impacts to all biological resources are minimized or avoided, and shall conduct (or supervise) pre-grading field surveys for species that may be avoided, affected, or eliminated as a result of grading or any other site preparation activities. The lead biological monitor shall ensure that all surveys are conducted by qualified personnel (e.g., avian biologists for bird surveys, herpetologists for reptile surveys, etc.) and that they possess all necessary permits and memoranda of understanding with the appropriate agencies for the handling of potentially-occurring special-status species. The lead biological monitor shall also ensure that daily monitoring reports (e.g., survey results, protective actions, results of protective actions, adaptive measures, etc.) are prepared, and shall make these monitoring reports available to County Planning and CDFW at their request.
7. **Staking of Grading Limits**—The Applicant’s contractor shall delineate the proposed grading limits of the building site or the extents of the proposed development area, whichever is greater, the driveway, and the extents of the fuel modification zones before any of the measures outlined below are implemented. The contractor shall not remove any native vegetation during staking and shall set the stakes so that they are clearly visible. The locations of the stakes within the fuel modification zones shall be recorded using GPS and provided to the project biologist.
8. **Nesting Bird Survey & Protection Plan**—Initial staging, grubbing, grading, and construction shall be scheduled to occur outside the nesting season of birds as defined by the CDFW, if feasible. Regardless of timing, breeding bird surveys shall be conducted before any activities are scheduled to occur and before installation of any protective fencing (see below), as follows:
 - a. If initial grubbing, grading, and construction activities are scheduled to occur outside CDFW defined nesting season (generally February 1 – August 31), a qualified biologist with experience in conducting breeding bird surveys in the Santa Monica Mountains shall conduct a survey within 7 days prior to and again within 3 days of the date that activities are scheduled to begin. The biologist should focus efforts within the grading area, development area, the fuel modification zones, the driveway area, and areas within 50 ft. of them. The biologist should also survey 300 ft. beyond these areas, as access allows.
 - b. If avoidance of the avian breeding season is not feasible, a qualified biologist with experience in conducting breeding bird surveys in the Santa

Monica Mountains shall conduct weekly bird surveys beginning thirty days prior to the initiation of project activities, to detect protected native birds occurring in suitable nesting habitat that is to be disturbed and (as access to adjacent areas allows) any other such habitat within 500 ft. of the disturbance area. The surveys shall continue on a weekly basis with the last survey being conducted no more than 3 days prior to the initiation of project activities. If a protected native bird is found in suitable nesting habitat, all project activities within 300 ft. of on- and off-site suitable nesting habitat (within 500 ft. for suitable raptor nesting habitat) may be delayed until August 31. Alternatively, the qualified biologist may continue the surveys in order to locate any active nests. If the biologist determines that there are active nests within or adjacent these areas, they should establish appropriate buffer zones, as defined in "c" below.

- c. If an active nest is found, regardless of time of year, project activities within 300 ft. of the nest (within 500 ft. for raptor nests) or as determined by a qualified biological monitor, must be postponed until the nest is vacated and juveniles have fledged and there is no evidence of a second attempt at nesting. Flagging, stakes, or construction fencing shall be used to demarcate the inside boundary of the buffer of 300 ft. (or 500 ft.) between the project activities and the nest. Project personnel, including all contractors working on site, shall be instructed on the sensitivity of the area.
- d. The qualified biologist shall provide County Planning with a brief report summarizing the results of the surveys, as well as a description and assessment of implemented protective measures described above to document compliance with applicable State and Federal laws pertaining to the protection of native birds.
- e. If the qualified biologist determines that a narrower buffer between the project activities and observed active nests is warranted, he/she shall submit a written explanation as to why (e.g., species-specific information; ambient conditions and birds' habituation to them; and the terrain, vegetation, and birds' lines of sight between the project activities and the nest and foraging areas) to County Planning and CDFW. Based on the submitted information, County Planning (in consultation with CDFW) will determine whether to allow a narrower buffer.
 - i. In circumstances when activities are scheduled to occur between an original buffer and a reduced buffer, a qualified biologist should monitor the nest before, during, and after the activities, to determine if it is being affected.
 - ii. The only activities that shall be allowed between the original buffer and the reduced buffer are those that generate noise levels less than 60 dBA as measured at the resource. The biologist shall record noise levels every hour and must have the authority to stop any activities that exceed 60 dBA if they determine that it is affecting, or has the potential to affect the outcome of a nest.
 - iii. The biologist shall send weekly monitoring reports to County Planning and, upon request, to CDFW, documenting the status of

monitored nests, and shall notify County Planning immediately if project activities damage active avian nests.

9. **Temporary wildlife fencing** shall be utilized to reduce the potential for wildlife being harmed by or moving into the work site. The project proponent's contractor shall delineate the grading limits/approved development area and shall fence the area in its entirety with green screen before beginning removal of any vegetation, as follows:
 - a. To install the screen, laborers will remove a 5-foot strip of vegetation at the limits of the grading limits/development area using hand-held tools to allow wildlife, including special status species, a chance to escape and reduce the potential of them being crushed by heavy machinery.
 - b. The green screen shall be partially buried, or fitted with silt fence that is partially buried, in a manner that reduces the potential for wildlife moving back in.
 - c. Laborers installing the fence shall remain within the cut areas and any paths leading to it.
 - d. A biologist shall monitor fence installation so that they can capture and relocate wildlife as necessary, and to ensure that no protected trees or special status plants are impacted during installation.
 - e. The biologist must hold a CDFW Scientific Collectors Permit authorizing handling of invertebrates, reptiles, amphibians, and mammals.
 - f. A gated entrance shall allow ingress and egress. The gates shall remain open until after the project biologist conducts a pre-construction survey and shall be closed only after vegetation is cleared from within the fenced area (see below).
10. **Pre-Construction Biological Resources Survey & Site Clearance**—A pre-construction biological resources survey shall be conducted within the area that is screened and within areas adjacent the driveway the day after screening.
 - a. The project proponent's contractor shall plan to remove vegetation from within the screened area no more than 1 day after completion of the Pre-Construction Biological Resources Survey.
 - b. Laborers shall use hand-held tools to remove the vegetation. Using hand-held tools will allow wildlife, including special-status species, a chance to escape and reduce the potential of them being crushed by heavy machinery.
 - c. A biologist shall monitor vegetation removal so that they can capture and relocate wildlife as necessary.
 - d. The biologist must hold a CDFW Scientific Collectors Permit authorizing handling of invertebrates, reptiles, amphibians, and mammals.
11. **Initial Grubbing & Grading**—Initial grubbing and grading shall occur 3 to 7 days after vegetation has been cleared from the proposed development area/grading limits. The delay between vegetation clearance and the grubbing and grading activities will allow wildlife, including special-status species, a chance to escape and reduce the potential of them being crushed by heavy machinery.
 - a. A biologist shall monitor initial grading and grubbing so that they can capture and relocate wildlife as necessary.
 - b. The biologist must hold a CDFW Scientific Collectors Permit authorizing handling of invertebrates, reptiles, amphibians, and mammals.

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- 12. Initial Fuel Modification**—The site shall only be fuel-modified after the construction phase of the proposed project has been completed or as otherwise directed by the Fire Department.
- a. A qualified biologist shall implement the Nesting Bird Survey & Protection Plan before fuel modification occurs.
 - b. A qualified biologist shall be present during initial fuel modification activities and shall stake the limits of fuel modification and flag any areas or plants to be excluded from fuel modifications.
 - c. The stakes shall remain in place until after fuel modification activities have been completed.
 - d. A qualified biologist shall be present during initial fuel modification activities to ensure that no protected trees or special-status species are damaged by the fuel modification activities.

ADEQUACY OF THE BIOLOGICAL REPORT

The conditions described in the 2011 BCE remain representative of biological resources on the project site; however the vegetation map needs to be updated to depict "riparian woodland" as H1 and the remainder of the site as H3 to conform to Habitat Category mapping standards. In addition, the fuel-modification and landscaping plan should be revised to clearly indicate dimensions of the three Zones (Zone A from 0 – 20', Zone B from 20 – 50', and Zone C from 50 – 100') and to specify which species will be used as alternatives to *Arctostaphylos bakeri* 'Louis Edmunds', *Arctostaphylos uva-ursi*, *Salvia clevelandii*, and *Iris douglasiana*. Lastly, staff recommends a 10-year monitoring period be applied to the project as a condition of approval to monitor the health of the 13" Oak tree and mitigate at 10:1, per LIP requirements, if the tree dies or experiences a reduction in vigor.

These changes may be memorialized with revision or addendum of the report and landscaping plan, to be reviewed and approved by County Planning prior to public hearing for the project.

CONSISTENCY

Considering the reduced size of the project, which is constrained by parcel size and shape, as well as reduced impacts from Fuel Modification Zones, mitigation of stormwater runoff, and avoidance of landscaping within the H1 buffer, Staff recommends a determination that although the project is sited within 100 feet of H1, it meets the necessary criteria to satisfy the requirements of Section 22.44.1890.D.8, and therefore may be determined to be consistent with the provisions of the LIP.

Staff Recommendation: Consistent X Consistent after Modifications & Bio Report Completion
 Inconsistent No decision
