

REPORT TO THE HEARING OFFICER

DATE ISSUED: August 15, 2024
HEARING DATE: August 27, 2024 AGENDA ITEM: 3
PROJECT NUMBER: PRJ2020-002339-(3)
PERMIT NUMBER(S): Minor Coastal Development Permit
RPPL2020007308
SUPERVISORIAL DISTRICT: 3
PROJECT LOCATION: 3045 Tuna Canyon Road, Malibu
OWNER: Leigh Herzig
APPLICANT: Leigh Herzig
CASE PLANNER: Tyler Montgomery, Principal Regional Planner
Tmontgomery@planning.lacounty.gov

RECOMMENDATION

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

LA County Planning staff (“Staff”) recommends **APPROVAL** of the requested one-year time extension for Project No. 2020-002339-(3), Minor Coastal Development Permit No. RPPL2020007308.

Staff recommends the following motion:

I, THE HEARING OFFICER, APPROVE THE TIME EXTENSION REQUEST FOR MINOR COASTAL DEVELOPMENT NO. RPPL2020007308.

PROJECT DESCRIPTION

A. Entitlement(s) Requested

Leigh Herzig (“Permittee”) requests a one-year time extension for the use of Minor Coastal Development Permit No. RPPL2020007308, to construct additions to, and accessory structures for, an existing 1,917-square-foot single family residence, including a 1,248-square-foot expansion of the main residence, a 255-square-foot garage, a swimming pool, a 243-square-foot pool house, a 403-square-foot accessory recreation room, repaving and widening an existing 200-foot driveway, and a new onsite wastewater treatment system (“Project”) on a 3.8-acre property located at 3045 Tuna Canyon Road, unincorporated Malibu in the Santa Monica Mountains Coastal Zone. The Project was

approved by the Hearing Officer on October 4, 2022 with an approval expiration date of October 18, 2024. A single one-year time extension may be granted per the provisions of Project Condition No. 10. Per this condition, the Permittee requested a one-year time extension and paid the applicable fee on July 16, 2024. The Permittee asserts that additional time is necessary to begin construction due to delays in the review of the Project by other County agencies. If approved, the new permit expiration date would be October 18, 2025.

For questions or additional information, please contact Tyler Montgomery at tmontgomery@planning.lacounty.gov.

Report

Reviewed By:

Rob Glaser

Robert Glaser, Supervising Regional Planner

Report

Approved By:

M. Glaser

Mitch Glaser, Assistant Administrator

LIST OF ATTACHED EXHIBITS	
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EXHIBIT A	RPPL2020007308 Findings & Conditions (10/05/22)
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October 5, 2022

Leigh Herzig
3045 Tuna Canyon Rd.
Malibu, CA 90265

PROJECT NO. PRJ2020-002339-(3)
MINOR COASTAL DEVELOPMENT PERMIT NO. RPPL2020007308
3045 TUNA CANYON ROAD, MALIBU (APN 4448-007-067)

Dear Applicant:

Hearing Officer Gina Natoli, by her action of **October 4, 2022**, has approved the above-referenced project. Enclosed are the Hearing Officer's Findings and Conditions of Approval. Please carefully review each condition. This approval is not effective until the appeal period has ended and the required documents and applicable fees are submitted to LA County Planning (see enclosed Affidavit of Acceptance Instructions).

Appeals: The applicant or any other interested persons may appeal the Hearing Officer's decision. The appeal period for this project will end at 5:00 p.m. on **October 18, 2022**. Appeals must be submitted to appeal@planning.lacounty.gov before the end of the appeal period.

Upon completion of the appeal period, the notarized Affidavit of Acceptance and any applicable fees must be submitted to the planner assigned to your case. Please make an appointment to ensure that processing will be completed in a timely manner. Failure to submit these documents and applicable fees within 60 days will result in a referral to Zoning Enforcement for further action.

In addition, any applicable California Environmental Quality Act fees for the Department of Fish and Wildlife shall be paid, and a Notice of Determination, if applicable, must be filed with the County Clerk according to the instructions with the enclosed Affidavit of Acceptance. A Notice of Exemption, if applicable, may also be filed according to the instructions in the enclosed Affidavit of Acceptance.

Leigh Herzig
October 5, 2022
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For questions or for additional information, please contact Tyler Montgomery of the Coastal Development Services Section at (213) 974-0051, or TMontgomery@planning.lacounty.gov.

Sincerely,

AMY J. BODEK, AICP
Director of Regional Planning

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

Robert Glaser, Supervising Regional Planner
Coastal Development Services Section

RG:TM

Enclosures: Findings, Conditions of Approval, Affidavit of Acceptance (Permittee's Completion)

c: DPW (Building and Safety)
Zoning Enforcement
Coastal Commission (Ventura Office)

**LOS ANGELES COUNTY
DEPARTMENT OF REGIONAL PLANNING
FINDINGS OF THE HEARING OFFICER
AND ORDER
PROJECT NO. PRJ2020-002339-(3)
MINOR COASTAL DEVELOPMENT PERMIT NO. RPPL2020007308**

RECITALS

1. **HEARING DATE(S).** The Los Angeles County (“County”) Hearing Officer conducted a duly noticed public hearing on July 5, 2022, September 6, 2022, and October 4, 2022 in the matter of Project No. PRJ2020-002339-(3), consisting of Minor Coastal Development Permit No. RPPL2020007308 (“Minor CDP”).
2. **ENTITLEMENT(S) REQUESTED.** The permittee, Leigh Herzig ("permittee"), requests the Minor CDP to replace and widen an existing 200-foot-long driveway and construct improvements and accessory structures for an existing 1,917-square-foot single-family residence, including a swimming pool, a 248-square-foot pool house, a 516-square-foot accessory recreation room, and a new onsite wastewater treatment system (“OWTS”) (“Project”) on a 3.8-acre property located at 3045 Tuna Canyon Road, unincorporated Malibu, in the Santa Monica Mountains Coastal Zone ("Project Site").
3. **ENTITLEMENT(S) REQUIRED.** The Minor CDP is a request to construct accessory structures and improvements, including a pool house, to an existing single-family residence in the R-C-20 Zone pursuant to Los Angeles County Code ("County Code") Section 22.44.810. Per the requirements of the Santa Monica Mountains Local Implementation Program (“LIP”) a Minor CDP is required for any project that results in grading of more than 50 cubic yards and less than 5,000 cubic yards of earth (County Code Section 22.44.1260). A Minor CDP is also required for any project requiring review by the Environmental Review Board (“ERB”) (County Code Section 22.44.940). Because the Project proposes 468 cubic yards of grading (467 cubic yards cut, one cubic yard fill, 466 cubic yards export) and is within 200 feet of designated H2 Habitat, a Minor CDP is required. Because a pool house is not listed as a principal permitted use in the R-C Zone, the Project has the potential to be appealed to the California Coastal Commission ("Coastal Commission"), per the provisions of the LIP (County Code Section 22.44.1050).
4. **LAND USE DESIGNATION.** The Project Site is located within the Rural Land 20 land use designation of the Santa Monica Mountains Local Coastal Program Land Use Policy Map (“LUP”).
5. **ZONING.** The Project Site is located in the Malibu Zoned District and is currently zoned R-C-20. Pursuant to County Code Section 22.44.1750, a single-family residence and its accessory structures are the principal permitted use within the R-C Zone, and a pool house is listed as an additional permitted use. However, County Code Section 22.44.1620 requires a Minor CDP for any development that proposes between 50 and 5,000 cubic yards of grading, as does the Project. Because a pool house is not

the principal permitted use in the R-C Zone, the Project has the potential to be appealed to the Coastal Commission, per the provisions of the LIP (County Code Section 22.44.1050).

6. PROJECT AND SITE PLAN DESCRIPTION.

A. Existing Site Conditions

The Project Site is 3.8 acres and is irregular in shape. The eastern portion of the Project Site is relatively level with an existing 1,917-square-foot, one-story single-family residence and an undeveloped graded area immediately to the south. The western portion of the Project Site is undeveloped and consists of grasses, shrubs, and some trees, sloping steeply downward at grades exceeding 50 percent. A drainage course runs from east to west through the northwestern portion of the Project Site, more than 300 feet from proposed development. The Project Site contains H1, H2, and H3 Habitat, although all proposed development—including fuel modification—would occur within H3 Habitat per the recommended ERB mapping. The Project Site has a view of the Pacific Ocean to the west.

B. Site Access

The Project Site is immediately west of Tuna Canyon Road, a 70-foot-wide public road and designated scenic route and is accessed by a 200-foot-long paved driveway, which would be replaced and widened to 15 feet as part of the Project.

C. Site Plan

The permittee proposes improvements and accessory structures associated with an existing 1,917-square-foot single-family residence. The residence is located on the eastern portion of a 3.8-acre lot, immediately adjacent to Tuna Canyon Road. A new swimming pool, a 516-square-foot detached recreation room, a 248-square-foot pool house, a new OWTS, as well as stairs and hardscape would also be constructed on a previously graded area approximately 40 feet to the south of the existing residence. The Project would result in a total building site of 9,851 square feet. The detached recreation room would have no plumbing or interior partitions, and the pool house would have no interior partitions other than those for a half-bathroom. The swimming pool would have an area of 880 square feet (40 feet by 22 feet). The Project would result in a total of 468 cubic yards of grading—467 cubic yards cut, one cubic yard fill, 466 cubic yards to be exported. The residence and accessory structures would have a maximum height of 18 feet above grade. A 200-foot-long driveway providing access to the Project Site would be replaced and widened to 15 feet. The proposed development and all fuel modification are located completely within mapped H3 Habitat of the LUP per the recommended ERB mapping.

7. **PUBLIC COMMENTS.** Los Angeles County Department of Regional Planning (“LA County Planning”) Staff received one letter of concern regarding the project from an anonymous resident. The letter dated June 17, 2022, states that the proposed structures are near the sensitive Tuna Canyon Park area, which is a protected scenic resource in the Coastal Zone. The commenter states that placement of the structures in such a prominent position on the Project Site, 20 feet from the front property line,

would block public views and benefit only one property owner with nonessential accessory structures.

8. AGENCY RECOMMENDATIONS.

- A. The County Department of Parks and Recreation, in a letter dated November 12, 2020, recommended that the project proceed to public hearing without conditions.
- B. The County Department of Public Health, in a letter dated December 4, 2020, recommended that the Project proceed to public hearing with the condition that the Project receive post-Coastal approval. This has been added as a required condition of approval.
- C. The County Fire Department, in a letter dated January 14, 2021, recommended that the Project proceed to public hearing without conditions.
- D. The County Department of Public Works, in a letter dated February 4, 2021, recommended that the Project proceed to public hearing, and that it would require building and/or grading permit applications prior to the start of construction.
- E. The Coastal Commission, in a letter dated June 29, 2022, requested that Project design alternatives be considered in order to avoid development of H2 Habitat and disruption of scenic views from Tuna Canyon Road. The Project was subsequently redesigned so that impacts to H2 Habitat were eliminated and the pool house and accessory office/recreation room was moved approximately 60 feet closer to the residence, away from Tuna Canyon Road. The Coastal Commission also requested that findings be added regarding maximum linear frontage on a scenic route and the appealability of the Project to the Coastal Commission, as well as a condition allowing them to review the proposed wording of any conservation easement before its acceptance by the County. These have been added as findings and conditions of approval.

9. CEQA DETERMINATION.

This Project qualifies for a Categorical Exemption (Class 3 Exemption, New Construction or Conversion of Small Structures and Class 4 Exemption, Minor Alterations to Land) under the California Environmental Quality Act (CEQA) and the County Environmental Document Reporting Procedures and Guidelines.

Pursuant to section 15303 of the State CEQA Guidelines, the Class 3 Categorical Exemption includes a single-family residence, accessory structures and associated infrastructure. The Project qualifies for a Class 3 Exemption because the Project includes a proposal to construct an addition to a single-family residence, a garage, accessory structures, associated infrastructure, and a widened access driveway.

Pursuant to section 15304(i) of the State CEQA Guidelines, the Class 4 Categorical Exemption includes alterations in the condition of land, water, and/or vegetation which

do not involve removal of healthy, mature, scenic trees except for forestry and agricultural purposes. Pursuant to the County Environmental Document Reporting Procedures and Guidelines, the Class 4 Categorical Exemption includes grading on land of 10 percent or lesser slope which is involved with one single-family residence and accessory uses. The Project qualifies for a Class 4 Categorical Exemption because the Project includes 468 cubic yards of grading, new landscaping, and fuel management activities associated with additions and accessory structures for an existing single-family residence.

Section 15300.2 of the State CEQA Guidelines discusses how projects located within particularly sensitive environments may have a significant impact on the environment and are therefore not eligible for certain CEQA exemptions, including the Class 3 and Class 4 Categorical Exemptions cited herein. Exceptions to the exemptions include project impacts to an environmental resource of hazardous or critical concern where officially designated, precisely mapped, and adopted pursuant to law by federal, state, or local agencies. Exceptions to the exemptions also include project activities which will have a significant effect on the environment due to unusual circumstances. Additionally, an exception to the exemption applies where a project may result in damage to scenic resources. However, the proposed Project is not subject to an exception to the CEQA exemptions as the biological inventory and environmental assessment of the area of project disturbance do not indicate the presence of sensitive biological resources that would be impacted by implementation and operation of the Project, as described in detail below.

The permittee completed a biological assessment that was reviewed by the LA County Planning Staff Biologist (“Staff Biologist”) and the ERB. The Staff Biologist conducted a site visit and confirmed that the Project Site was appropriately mapped and agreed with the contents of the biological inventory. The biological inventory describes that the Project Site does not contain any environmental resources of hazardous or critical concern; does not contain any plants or animals listed as federal, state, or locally sensitive; and is not considered a particularly sensitive environment. The Project is located within an area with H3 Habitat, which according to the LIP, includes native vegetation communities that have been significantly disturbed or removed as part of lawfully established development and fuel modification areas around existing development. The area subject to the Project’s fuel modification is H3 Habitat and the proposed building site area is within H3 Habitat per the recommended ERB mapping. The Project, due to its maximum height of 12 feet above grade, is not expected to impact scenic resources such as the designated scenic route. Other exceptions involving cumulative impact, hazardous waste sites, and historic resources would not apply. Thus, the Project is categorically exempt from CEQA.

GENERAL PLAN CONSISTENCY FINDINGS

10. **LAND USE POLICY.** The Hearing Officer finds that the Project is consistent with the goals and policies of the LUP because the Rural Land 20 land use designation is intended for appropriately sized single-family residential uses on large lots. A single-

family residence and its accessory structures are a permitted use under this designation.

11. **GOALS AND POLICIES.** The Hearing Officer finds that the Project would be consistent with the following policies of the LUP:

Conservation and Open Space Element

Policy CO-108:

Site and design new development to minimize the amount of grading and the alteration of natural landforms.

Policy CO-109:

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

The Project would utilize the most level portion of the Project Site immediately adjacent to the existing single-family residence and Tuna Canyon Road. This will avoid the need to disturb natural vegetation or grade large amounts of earth to construct a driveway and other improvements further down the slope. The entirety of the developed area and fuel modification is designated as H3 (disturbed) Habitat per the recommended ERB mapping.

Land Use Element

Policy LU-33:

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

Policy LU-38:

Limit structure heights to ensure protection of scenic resources and compatibility with surrounding settings.

The Project Site is visible from Tuna Canyon Road, a designated scenic route, and thus is located in a Scenic Resource Area ("SRA"). The maximum height in the Coastal Zone within an SRA is 18 feet above grade, which is the maximum height of the existing residence. The 12-foot-tall design is appropriate for the Project Site, as it minimizes the viewshed disturbance and is similar to many nearby homes. The Project Site is also at a significantly higher elevation than the section of Tuna Canyon Road to the north of the property, which results in a lack of ocean views from this vantage. As a result, the structures would only interfere with drivers' views immediately adjacent to the Project Site. The accessory structures have been clustered close to the existing residence to the greatest extent feasible, resulting in the preservation of scenic views from Tuna Canyon Road. The Project would also comply with the LIP limitations on building site area.

ZONING CODE CONSISTENCY FINDINGS

12. **PERMITTED USE IN ZONE.** The Hearing Officer finds that the Project is consistent with the R-C-20 zoning classification as a single-family residence and its accessory uses is a principal permitted use in such zone with a CDP pursuant to County Code Section 22.44.1750. A pool house is listed as an additional permitted use with a CDP per the same section. Section 22.44.1620 of the County Code requires a Minor CDP for projects proposing between 50 and 5,000 cubic yards of grading. Since 468 cubic yards of grading is proposed, a Minor CDP is required.
13. **REQUIRED YARDS.** The Hearing Officer finds that the Project is consistent with the standards identified in County Code Sections 22.44.1375 and 22.44.1750, as the Project would meet all required setback standards, including the 20-foot front-yard setback, for all structures.
14. **HEIGHT.** The Hearing Officer finds that the Project is consistent with the standard identified in County Code Section 22.44.1250. Because the Project is within an SRA, it is limited to a maximum height of 18 feet above grade.
15. **COLORS/MATERIALS.** The Hearing Officer finds that the Project would utilize construction materials that are appropriate for the surrounding area. Roofing materials are not glossy or reflective, and siding materials, including wood, stucco, and concrete, would utilize earth tones and no bright or white colors pursuant to County Code Section 22.44.1320.
16. **PARKING.** The Hearing Officer finds that the Project is consistent with the standard identified in County Code Section 22.44.1410. Because the Project Site is greater than one acre in size and is not within a Rural Village, no covered parking spaces are required, although a one-car garage would be constructed as part of the Project.
17. **VEGETATION REMOVAL.** The Hearing Officer finds that the Project is consistent with the vegetation removal methods requirements identified in County Code Section 22.44.1240. The requested Minor CDP is conditioned to prohibit the use of discing or other methods of clearance to bare earth within fuel modification areas, consistent with these requirements. The site plan associated with the Project depicts vegetation removal occurring only in areas where the single-family residence and detached garage will be located and within the associated fuel modification and brush clearance zones. The Project is also designed to ensure that the building site area is located on a portion of the Project Site clustered close to existing development and within H3 Habitat areas already disturbed by existing fuel modification activities, per the recommended ERB mapping, consistent with these requirements.
18. **BIOLOGICAL RESOURCES.** The Hearing Officer finds that the Project is consistent with the biological resources requirements of County Code Section 22.44.1800. et. seq. The permittee's biological analysis was reviewed by the Staff Biologist and the ERB, who found the Project, with conditions, to be consistent with local biological resources. These modifications would include retaining of a biological monitor, a best management practices plan, the screening of the site and staking of grading,

preparation of surveys and restoration plans for nesting birds, bats, and native trees, and runoff control measures. At its meeting on August 16, 2021, the ERB found that the Project, as modified, would not have an impact on biological resources. All of the ERB's recommended modifications have been included within the Project's draft conditions of approval.

19. **GRADING REQUIREMENTS.** The Hearing Officer finds that the Project is consistent with the applicable grading requirements identified in County Code Section 22.44.1260. The Project is proposing 468 total cubic yards of grading, consisting of 467 cubic yards cut, 1 cubic yard fill, and 466 cubic yards export. Because grading would occur within a level, previously graded area, and the Project is appropriately conditioned to restrict grading from initiating during the defined rainy season, it is consistent with this requirement.
20. **EXTERIOR LIGHTING.** The Hearing Officer finds that the Project is consistent with the applicable exterior lighting requirements identified in County Code Section 22.44.1270. The Project is proposing minimal outdoor lighting that would be appropriately shielded per LIP standards. The Project is appropriately conditioned so that all exterior lighting remains consistent with County Code Section 22.44.1270.
21. **FENCES AND WALLS.** The Hearing Officer finds that the Project is consistent with the standards identified in County Code Section 22.44.1310. Fences in the Santa Monica Mountains Coastal Zone must be wildlife permeable unless they are within Fuel Modification Zone "A," which typically extends 20 feet from habitable structures. The only fencing proposed for the Project Site, including pool security fencing, would be within this zone.
22. **BUILDING SITE AREA.** The Hearing Officer finds that the Project is consistent with the standard identified in County Code Section 22.44.1910.I, which refers to the maximum allowable building site area. The total building site area of 9,851 square feet is within the maximum building site area of 10,000 square feet.
23. **HABITAT CATEGORIES.** The Hearing Officer finds that the Project is consistent with the standard identified in County Code Section 22.44.1920. The building site area, as well as the areas of brush clearance, are designated as H3 Habitat by the LUP. While mapped H2 Habitat is located less than 200 feet to the west of the Project Site, no new fuel modification will be required within this area because all potentially affected H2 Habitat was recommended for remapping as H3 Habitat by the ERB. Therefore, no development or other fuel modification is proposed within H2 Habitat, H1 Habitat, the H1 Habitat Buffer, or the H1 Quiet Zone.
24. **SCENIC ROUTE FRONTAGE.** Not more than 50 percent of a scenic route frontage may be occupied by structures, per County Code Section 22.44.2040 C.1. The Project Site frontage on Tuna Canyon Road, a designated scenic route, is 522 feet, while the proposed frontage of all development is 190 feet (36.4 percent).
25. **GRANT TERM.** The Hearing Officer finds that, given the nature of the use and the surrounding area, it is appropriate to not require a grant term.

COASTAL DEVELOPMENT PERMIT FINDINGS

26. **The Hearing Officer finds that the proposed development is in conformity with the certified local coastal program.** As proposed, the Project would comply with all applicable development standards for residences subject to the Santa Monica Mountains Local Coastal Program, which includes the LUP and LIP, including those standards related to permitted uses, building site area, Gross Structural Area, habitat categories, height restrictions, scenic route frontage, and scenic resources.
27. **The Hearing Officer 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.

ENVIRONMENTAL FINDINGS

28. The Hearing Officer finds that the Project is exempt from the California Environmental Quality Act pursuant to State CEQA Guidelines section 15303 (Class 3, Construction or Conversion of Small Structures categorical exemption) and section 15304 (Class 4, Minor Alterations to Land). The Class 3 exemption specifically pertains to a single-family residence and its appurtenant structures, while the Class 4 exemption pertains to the proposed fuel modification and grading.

ADMINISTRATIVE FINDINGS

29. **HEARING PROCEEDINGS.** A duly noticed public hearing was held before the Hearing Officer on July 5, 2022. The hearing was continued to September 6, 2022 in order to allow time for revisions to the Project's findings, conditions, and design, which were requested by the Coastal Commission in a letter dated June 29, 2022. At the continued hearing on September 6, Staff requested additional time to prepare the revised findings and conditions, as a revised Project design had been recently submitted. The hearing was subsequently continued to October 4, 2022. At the continued hearing on October 4, the Hearing Officer, after consulting with Staff and the applicant, closed the public hearing and approved the Project with additional changes to its design.
30. **LEGAL NOTIFICATION.** The Hearing Officer finds that pursuant to County Code Section 22.44.990, the community was properly notified of the public hearing by mail, newspaper (*Malibu Times*), and property posting. Additionally, the Project was noticed and case materials were available on LA County Planning's website. On June 2, 2022, a total of 18 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 to those on the courtesy mailing list for the Santa Monica Mountains

Planning Area and to any additional interested parties. In addition, story poles indicating the elevation of all parts of the structure were erected at the Project Site on June 3, 2022, pursuant to the LIP requirements (County Code Section 22.44.1440 A), and revised story poles indicating the elevations of the redesigned structures were erected on the Project Site on September 2, 2022.

31. **LOCATION OF DOCUMENTS.** The location of the documents and other materials constituting the record of proceedings upon which the Hearing Officer's decision is based in this matter is at 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 HEARING OFFICER CONCLUDES THAT:

- A. The Hearing Officer finds that the proposed development is in conformity with the certified local coastal program.
- B. The Hearing Officer 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.

THEREFORE, THE HEARING OFFICER:

- 1. Finds that the Project is exempt from the California Environmental Quality Act pursuant to State CEQA Guidelines sections 15303 (Class 3, Construction or Conversion of Small Structures categorical exemption) and 15304 (Class 4, Minor Alterations to Land); and
- 2. Approves **MINOR COASTAL DEVELOPMENT PERMIT NO. RPPL2020007308** subject to the attached conditions.

ACTION DATE: October 4, 2022

RG:TM
10/05/22

c: Zoning Enforcement, Building and Safety

**LOS ANGELES COUNTY
DEPARTMENT OF REGIONAL PLANNING**

**CONDITIONS OF APPROVAL
PROJECT NO. PRJ2020-002339-(3)
MINOR COASTAL DEVELOPMENT PERMIT NO. RPPL2020007308**

PROJECT DESCRIPTION

The project consists of repaving and widening an existing 200-foot-long driveway and improvements and accessory structures associated with an existing 1,917-square-foot single family residence, including a swimming pool, a 248-square-foot pool house, a 516-square-foot accessory recreation room, an upgraded onsite wastewater treatment system (“OWTS”), and 468 cubic yards of grading, subject to the following conditions of approval:

GENERAL CONDITIONS

1. Unless otherwise apparent from the context, the term “permittee” shall include the applicant, owner of the property, and any other person, corporation, or other entity making use of this grant.
2. This grant shall not be effective for any purpose until the permittee, and the owner of the subject property if other than the permittee, have filed at the office of the Los Angeles County (“County”) Department of Regional Planning (“LA County Planning”) their affidavit stating that they are aware of and agree to accept all of the conditions of this grant, and that the conditions of the grant have been recorded as required by Condition No. 8, and until all required monies have been paid pursuant to Condition No. 11. Notwithstanding the foregoing, this Condition No. 2 and Conditions No. 4, 5, 6, and 10 shall be effective immediately upon the date of final approval of this grant by the County.
3. Unless otherwise apparent from the context, the term “date of final approval” shall mean the date the County’s action becomes effective pursuant to Section 22.44.1090 of the County Code.
4. The permittee shall defend, indemnify, and hold harmless the County, its agents, officers, and employees from any claim, action, or proceeding against the County or its agents, officers, or employees to attack, set aside, void, or annul this permit approval, which action is brought within the applicable time period of Government Code section 65009 or any other applicable limitations period. The County shall promptly notify the permittee of any claim, action, or proceeding and the County shall reasonably cooperate in the defense. If the County fails to promptly notify the permittee of any claim, action, or proceeding, or if the County fails to cooperate reasonably in the defense, the permittee shall not thereafter be responsible to defend, indemnify, or hold harmless the County.
5. Assumption of Risk, Waiver of Liability and Indemnity. By acceptance of this permit, the permittee acknowledges and agrees (i) that the site may be subject to hazards from wildfire and erosion; (ii) to assume the risks to the applicants and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or

liability against the County, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the County, its officers, agents, and employees with respect to the Hearing Officer's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

6. In the event that any claim, action, or proceeding as described above is filed against the County, the permittee shall within 10 days of the filing make an initial deposit with LA County Planning in the amount of up to \$5,000.00, from which actual costs and expenses shall be billed and deducted for the purpose of defraying the costs or expenses involved in LA County Planning's cooperation in the defense, including but not limited to, depositions, testimony, and other assistance provided to permittee or permittee's counsel.

If during the litigation process, actual costs or expenses incurred reach 80 percent of the amount on deposit, the permittee shall deposit additional funds sufficient to bring the balance up to the amount of \$5,000.00. There is no limit to the number of supplemental deposits that may be required prior to completion of the litigation.

At the sole discretion of the permittee, the amount of an initial or any supplemental deposit may exceed the minimum amounts defined herein. Additionally, the cost for collection and duplication of records and other related documents shall be paid by the permittee according to County Code Section 2.170.010.

7. If any material provision of this grant is held or declared to be invalid by a court of competent jurisdiction, the permit shall be void and the privileges granted hereunder shall lapse.
8. Prior to the use of this grant, the permittee, or the owner of the subject property if other than the permittee, shall **record the terms and conditions** of the grant in the office of the County Registrar-Recorder/County Clerk ("Recorder"). In addition, upon any transfer or lease of the property during the term of this grant, the permittee, or the owner of the subject property if other than the permittee, shall promptly provide a copy of the grant and its conditions to the transferee or lessee of the subject property.
9. In the event that the permittee seeks to discontinue or otherwise change the use, notice is hereby given that the use of such property may require additional or different permits and would be subject to the then-applicable regulations.
10. This grant shall expire unless used within two (2) years from the date of final approval of the grant. A single one-year time extension may be requested in writing and with the payment of the applicable fee prior to such expiration date.
11. The subject property shall be maintained and operated in full compliance with the conditions of this grant and any law, statute, ordinance, or other regulation applicable to any development or activity on the subject property. Failure of the permittee to cease any development or activity not in full compliance shall be a violation of these conditions. No provision of any easement or any other encumbrance on the property

shall exempt the permittee and/or property owner from compliance with these conditions and applicable regulations. Inspections shall be made to ensure compliance with the conditions of this grant as well as to ensure that any development undertaken on the subject property is in accordance with the approved site plan on file. The permittee shall deposit with the County the sum of **\$200.00**. The deposit shall be placed in a performance fund, which shall be used exclusively to compensate LA County Planning for all expenses incurred while inspecting the premises to determine the permittee's compliance with the conditions of approval. The fund provides for **one inspection after three years have elapsed**. Inspections may be unannounced and may be conducted utilizing any available technologies, including, but not limited to, unmanned aircraft systems (UAS).

12. If additional inspections are required to ensure compliance with the conditions of this grant, or if any inspection discloses that the subject property is being used in violation of any one of the conditions of this grant, the permittee shall be financially responsible and shall reimburse LA County Planning for all additional enforcement efforts necessary to bring the subject property into compliance. The amount charged for additional inspections shall be \$200.00 per inspection, or the current recovery cost at the time any additional inspections are required, whichever is greater.
13. Notice is hereby given that any person violating a provision of this grant is guilty of a misdemeanor. Notice is further given that the Regional Planning Commission ("Commission") or a Hearing Officer may, after conducting a public hearing, revoke or modify this grant, if the Commission or Hearing Officer finds that these conditions have been violated or that this grant has been exercised so as to be detrimental to the public's health or safety or so as to be a nuisance, or as otherwise authorized pursuant to County Code Chapters 22.44.1130 and 22.441140.
14. All development pursuant to this grant must be kept in full compliance with the County Fire Code to the satisfaction of the County Fire Department.
15. All development pursuant to this grant shall conform with the requirements of the County Department of Public Works to the satisfaction of said department.
16. All development pursuant to this grant shall comply with the requirements of Title 22 of the County Code and of the specific zoning of the subject property, unless specifically modified by this grant, as set forth in these conditions, including the approved Exhibit "A," or a revised Exhibit "A" approved by the Director of Regional Planning ("Director").
17. The subject property shall be developed and maintained in substantial conformance with the plans marked Exhibit "A." If changes to any of the plans marked Exhibit "A" are required as a result of instruction given at the public hearing, **one (1) digital copy of a modified Exhibit "A"** shall be submitted to LA County Planning by December 5, 2022.
18. In the event that subsequent revisions to the approved Exhibit "A" are submitted, the permittee shall submit **one (1) digital copy of the proposed plans** to the Director for review and approval. All revised plans must substantially conform to the originally

approved Exhibit "A". All revised plans must be accompanied by the written authorization of the property owner(s) and applicable fee for such revision.

PERMIT-SPECIFIC CONDITIONS – MINOR COASTAL DEVELOPMENT PERMIT

19. Prior to issuance of the grading or building permit for the project, the permittee shall dedicate all areas of the Project Site with grades of more than 50% as a permanent Irrevocable Open Space Conservation Easement, held by the County on behalf of the People of the State of California. No development, as defined in County Code Section 22.44.630, grazing, or agricultural activities shall be allowed in the Irrevocable Open Space Easement, with the exception of the following:
 - a. Fuel modification required by the County Fire Department undertaken in accordance with the final approved fuel modification plan for the permitted development and/or required brush clearance required by the County Fire Department for existing development on adjoining properties;
 - b. Drainage and polluted runoff control activities required and approved by the County for permitted development;
 - c. If approved by the County as an amendment to the CDP or a new CDP:
 - i. Planting of native vegetation and other restoration activities;
 - ii. Construction and maintenance of public hiking trails;
 - iii. Construction and maintenance of roads, trails, and utilities consistent with easements in existence prior to approval of the permit; and
 - iv. Confined animal facilities only where consistent with County Code Section 22.44.1940.

The permittee shall provide evidence of the recordation of a valid dedication to the County (and acceptance by the County) or to another public entity acceptable to the Director (and acceptance by said public entity) of a permanent, Irrevocable Open Space Conservation Easement in favor of the People of the State of California over the Irrevocable Open Space Conservation Easement Area for the purpose of habitat protection, the text of which has been approved by the Director and California Coastal Commission staff. The recorded easement document shall include a formal legal description of the entire property and a metes and bounds legal description and graphic depiction, prepared by a licensed surveyor, of the Irrevocable Open Space Conservation Easement Area; and it shall be recorded free of prior liens, including tax liens, and encumbrances. The recorded document shall reflect that no development shall occur within the Irrevocable Open Space Conservation Easement, except as otherwise set forth in the CDP conditions, consistent with the exceptions detailed in the County Code. Recordation of said easement on the Project Site shall be permanent.

20. A Low Impact Development (LID) Plan as part of the drainage concept is required. Per County Code Section 12.84.460, comply with LID requirements and provide calculations in accordance with the Low Impact Development Standards Manual which can be found at <http://dpw.lacounty.gov/idd/web/>.
21. The permittee shall comply with and remain in substantial conformance with the color palette and material specifications as outlined in County Code Section 22.44.1320

and as approved by this permit. The palette shall include the colors proposed for the roofs, trims, exterior surfaces, driveways, retaining walls, deflection walls, and any other structures authorized by this permit. Acceptable colors shall be limited to colors compatible with the surrounding environment (earth tones) including shades of green, brown and gray with no white or light shades and no bright tones. All windows shall be comprised of non-glare glass. The approved structures shall be colored with only the colors and window materials authorized pursuant to this special condition. Any substantial changes in the proposed structural appearance may be required to obtain amendment(s) to the permit(s) or new CDP(s).

22. Grading shall be prohibited during the rainy season, defined as October 15 of any year through April 15 of the subsequent year, unless specifically permitted pursuant to the provisions of County Code Sections 22.44.126 G and 22.44.1260 H.
23. In the event cultural and/or archeological resources are encountered during construction of the project, all ground-disturbing activities within the vicinity of the find shall cease and a qualified archeologist and Native American Monitor shall be notified. The archeologist, in consultation with the Native American Monitor, shall make recommendations to the Director, for review and approval, on the steps taken to protect the discovered resources, including but not limited to recordation and excavation of the finds and evaluation and processing of the finds. No further earthwork shall occur in the area of the discovery until the Director approves the methods to protect these resources.
24. Development is prohibited on slopes greater than 50%, except where noted on the Exhibit "A".

PROJECT SITE-SPECIFIC CONDITIONS

25. The building site area, as defined in the County Code Section 22.44.630, shall be limited to an area no greater than 9,851 square feet.
26. The permittee shall comply with all conditions set forth in the attached County Department of Public Health letter dated December 4, 2020, to the satisfaction of said department.
27. The exterior colors of all structures shall be earth-toned and shall not include bright or white tones. No glossy or reflective materials are permitted for exterior construction, other than glass, which shall be the least reflective variety available.
28. The permittee's contractor shall comply with all litter and pollution laws and shall provide covered trash receptacles so that all food scraps, food wrappers, beverage containers, etc., can be disposed of. The contractor shall empty the trash receptacles at the end of each day or as needed and dispose of trash at an off-site landfill.
29. The permittee's contractor shall ensure that no debris, bark, slash, sawdust, rubbish, cement or concrete or washing thereof, oil petroleum products, or other organic material from any construction, or associated activity of whatever nature, shall be

allowed to enter, or be placed where it may be washed by rainfall or runoff, into the nearby stream.

30. The permittee's contractor shall refuel and lubricate all equipment over drip pans or other appropriate containment devices.
31. The permittee's contractor shall position all stationary equipment and any equipment that is to be repaired over the drip pans or other appropriate containment devices.
32. The permittee's contractor shall check and maintain all equipment on a daily basis to prevent leaks. If a leak occurs, the permittee's contractor shall immediately clean up any spills and repair the leak.
33. The permittee's contractor shall make available all supplies necessary for clean-up of spills (absorbent and barrier materials) at the Project Site in quantities determined by the permittee's contractor to be sufficient to capture the largest spills reasonably foreseeable.
34. Discing and clearing for fuel modification are prohibited per County Code Section 22.44.1240 A.2. Instead, fuel modification shall be done by hand tools, including weed whips, grazing, or mowing so as to leave plant stubble cover.
35. Any large equipment used for construction or grading shall be pressure-washed to remove invasive plant propagules before transport to the site.
36. Prior to issuance of building or grading permits, seasonally timed special status and sensitive plant survey(s) shall be conducted by a qualified botanist to document the locations(s) and number(s) of any special status plants that may exist within the Project Site. The survey(s) shall be conducted not more than one year prior to the initiation of construction and shall coincide with the appropriate blooming periods for each special status plant species with potential to exist. A summary of findings shall be submitted to the Director (and to other pertinent resource agencies, if necessary) prior to the onset of construction activities.

If any special status plants are identified on the Project Site, including native sycamore trees, the following avoidance and restoration measures shall be followed:

- a. All special status plants that can be feasibly avoided, as determined by the Project biological monitor, shall be protected from harm during the construction phase and initial fuel modification.
- b. If any special status plants cannot be feasibly avoided, a mitigation plan shall be developed that contains the following information: the number of specimens affected; identification of on-site preservation location(s); methods for restoration, enhancement, and/or transplanting; a performance standard replacement ratio of 1:1 per impacted Rare Plant Rank ("RPR") 4 specimen and 2:1 per impacted RPR 1, 2, or 3 specimen, to be achieved within three years; and adaptive management and remedial measures in the event that the performance standard is not achieved. If on-site mitigation is not feasible, off-site mitigation

may be allowed at a replacement ratio of 2:1 per impacted RPR 4 specimen and 4:1 per impacted RPR 1, 2, or 3 specimen.

37. During fuel modification, the permittee shall retain as many non-sprouting species as possible. Such species usually have a single trunk, which shall not be cut off in pruning, as this results in the death of the plant. The permittee shall utilize multiple-trunked, resprouting species for removal over non-sprouters. The remaining multi-trunked shrubs shall be pruned in a staggered, clumped pattern on an alternating schedule, allowing two to three years between prunings for any one clump. Resprouting species can be pruned to near ground level. Locally indigenous plants thinned for fuel modification shall be chipped up and used as native plant mulch. Discing and indiscriminate clearing are prohibited in any fuel modification zone. During the removal of fuel ladders from trees, lower branches shall be pruned up to one-third of tree height, or up to six feet maximum for trees 18 feet and taller.
38. Glass shall be least reflective and/or incorporate frit patterns to promote energy conservation and prevent bird strikes, per the requirements of County Code Section 22.44.1320.
39. Exterior lighting shall follow the provisions of County Code Section 22.44.1270 in order to avoid light trespass.
40. Prior to the issuance of a grading permit, a qualified biologist shall be retained by the permittee as the lead biological monitor subject to the approval of the Director. 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 LA County Planning and the California Department of Fish and Wildlife ("CDFW") at their request.
41. The permittee 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.
42. 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 the 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 seven days prior to, and again within three days prior to, the date that activities are scheduled to begin. The biologist shall focus efforts within the grading area, development area, the fuel modification zones, the driveway area, and areas within 50 feet of them. The biologist shall also survey 300 feet 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 30 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 feet of the disturbance area. The surveys shall continue on a weekly basis with the last survey being conducted no more than three days prior to the initiation of project activities. If a protected native bird is found in suitable nesting habitat, all project activities within 300 feet of on- and off-site suitable nesting habitat (within 500 feet 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 feet of the nest (within 500 feet 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 feet (or 500 feet) 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 the Director 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, the biologist 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 LA County Planning and CDFW. Based on the submitted information, the Director (in consultation with CDFW) will determine whether to allow a narrower buffer. In circumstances when activities are scheduled to occur between an original buffer

and a reduced buffer, a qualified biologist shall monitor the nest before, during, and after the activities, to determine if it is being affected.

- i. 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 shall have the authority to stop any activities that exceed 60 dBA if the biologist determines that it is affecting, or has the potential to affect the outcome of a nest.
 - ii. The biologist shall send weekly monitoring reports to the Director and, upon request, to CDFW, documenting the status of monitored nests, and shall notify LA County Planning immediately if project activities damage active avian nests.
43. Temporary wildlife fencing shall be utilized to reduce the potential for wildlife being harmed by or moving into the work site. The permittee'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 five-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 shall 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).
44. A pre-construction biological resources survey shall be conducted within the area that is screened and within areas adjacent to the driveway the day after screening.
 - a. The permittee shall plan to remove vegetation from within the screened area no more than one day after completion of the Pre-Construction Biological Resources Survey.

- b. Laborers shall use handheld tools to remove the vegetation. Using handheld tools will allow wildlife, including bats and other 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 to capture and relocate wildlife as necessary. The biologist shall hold a CDFW Scientific Collectors Permit authorizing handling of invertebrates, reptiles, amphibians, and mammals.
- 45. Initial grubbing and grading shall occur three to seven days after vegetation has been cleared from the proposed development area/grading limits. The delay between vegetation clearance and the grubbing and grading activities allows wildlife, including special-status species, a chance to escape and reduce the potential of them being crushed by heavy machinery. A biologist shall monitor grubbing and grading to capture and relocate wildlife as necessary. The biologist shall hold a CDFW Scientific Collectors Permit authorizing handling of invertebrates, reptiles, amphibians, and mammals.
- 46. The Project Site shall be fuel-modified after or concurrently with the construction phase of the proposed project, as directed by the County Fire Department.
 - a. A qualified biologist shall implement the Nesting Bird Survey and 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. The stakes shall remain in place until after fuel modification activities have been completed.
 - c. 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.
- 47. Any future development on the subject property or improvements to the approved development shall require a CDP amendment or new CDP. Prior to final approval, the permittee shall provide evidence of the recordation of a deed restriction against the property, free of prior liens, including tax liens and encumbrances which the Director determines may affect the interest being conveyed, the text of which has been approved by the Director, reflecting this future improvements restriction. The deed restriction shall apply to the entirety of the Project Site, and shall insure that any future structures, future improvements, or change of use to the permitted structures authorized by the CDP, including but not limited to, any grading, clearing or other disturbance of vegetation, shall require the approval of an amendment to the CDP or the approval of an additional CDP, and that the exemptions otherwise provided in subsections A.1 or A.2 of County Code Section 22.44.820 shall not apply. The permittee shall provide evidence that the deed restriction appears on a preliminary report issued by a licensed title insurance company for the Project Site.