

October 21, 2024

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

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

Dear Applicant,

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

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

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

Sincerely,

AMY J. BODEK, AICP
Director of Regional Planning



Robert Glaser, Supervising Regional Planner
Coastal Development Services Section

RG:NMM

Enclosures: Findings

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

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

RECITALS

1. **HEARING DATE(S).** The Los Angeles County (“County”) Regional Planning Commission (“Commission”) conducted a duly noticed public hearing on October 16, 2024, in the matter of Project No. R2014-00461-(3), consisting of Major Coastal Development Permit (“CDP”) No. 201500099 and Variance No. 201500100. The Major CDP and Variance are referred to collectively as the “Project Permits.” The Commission previously conducted a public hearing on October 17, 2018. The Commission voted to take the item off calendar at the conclusion of the previous public hearing.

2. **ENTITLEMENT(S) REQUESTED.** The applicant, Schmitz & Associates, Inc. (“Applicant”), requests the Project Permits to authorize 5,800 cubic yards of grading and the following development on a 9,715-square-foot building site area, referred to collectively as the “Project,” on a property located at Assessor’s Parcel Number (“APN”) 4465-002-023, also known as 3300 Kanan Dume Road, in the unincorporated community of Malibu (“Project Site”):
 - Construction of a 4,412-square-foot, 18-foot-tall, two-story, single-family residence.
 - Construction of a 2,030-square-foot, 18-foot-tall, two-story, detached auxiliary building, which includes a guest house and a 907-square-foot garage.
 - Construction of associated infrastructure, including a 1,550-foot-long driveway, a motor court, landscaping, hardscaping, retaining walls, an onsite wastewater treatment system (“OWTS”), roof-mounted solar panels, two water wells, and two water tanks.
 - Removal of three native trees, consisting of one oak tree, one black walnut tree, and one toyon tree.
 - Encroachments into the protected zones of 193 native trees, consisting of 190 oaks, one bigpod ceanothus, one big-leaf maple tree, and one toyon tree.

3. **ENTITLEMENT(S) REQUIRED.** The Major CDP is a request to authorize 5,800 cubic yards of grading and the following development on a 9,715-square-foot building site in the R-C-20 (Rural Coastal – 20-Acre Minimum Required Lot Area) Zone pursuant to the Santa Monica Mountains Local Coastal Program’s (“SMMLCP”) Local Implementation Program (“LIP”) Sections 22.44.1260 (Grading), 22.44.1750 (R-C Zone), and 22.44.1800 et seq. (Biological Resources):
 - Construction of a 4,412-square-foot, 18-foot-tall, two-story, single-family residence.

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

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

9. SURROUNDING LAND USES AND ZONING

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

10. PROJECT AND SITE PLAN DESCRIPTION.

A. Existing Site Conditions

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

B. Site Access

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

C. Site Plan

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

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

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

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

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

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

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

12. AGENCY RECOMMENDATIONS.

A. County Department Comments and Recommendations

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

B. Other Agency Comments and Recommendations

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

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

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

LAND USE PLAN CONSISTENCY FINDINGS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ZONING CODE CONSISTENCY FINDINGS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

LIP Section 22.44.2040.A.1 states, “If there is no feasible building site location on the proposed project site where development would not be visible from a Scenic Resource Area, then the development shall be sited and designed to minimize impacts on scenic areas through measures that may include, but not be limited to, siting development in the least visible portion of the site, breaking up the mass of new structures, designing structures to blend into the natural hillside setting, restricting the building maximum

size, reducing maximum height, clustering development, minimizing grading, incorporating landscape and building material screening elements, and where appropriate, berming.” As depicted on the site plan and elevations, the Project, as revised by the Applicant, would reach a maximum height of 18 feet. However, the Project is proposed as two detached, two-story residential structures, with numerous multi-level retaining walls, a motor court, and roof decks within a 9,715-square-foot building site area. These development features associated with the Project do not break up the mass of new structures, do not blend into the natural hillside setting, do not cluster development, and do not minimize the buildings’ maximum sizes. Specifically, the Project continues to be proposed at the toe of an existing slope as opposed to a location that would blend the Project into the existing hillside; the Project’s buildings’ height, shape, and façade are minimally articulated and extend 170 feet in length from the east end of the main residence building to the west end of the detached auxiliary building; the Project is not sited near existing development, including Kanan Dume Road and an existing building pad on the parcel directly north of the Project Site; and the Project continues to be proposed with a building site area of approximately 9,715 square feet, which is a mere 285 square feet less than the maximum allowed.

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

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

Therefore, the Project is inconsistent with LIP Section 22.44.2040.

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

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

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

COASTAL DEVELOPMENT FINDINGS

36. **The Commission finds the proposed development is not in conformity with the certified local coastal program.** The Project Site is located within the Land Use Plan's RL20 (Rural Lands 20) land use designation. While the Project is consistent with the intended uses of the RL20 land use designation, including single-family residences, it is not consistent with the Land Use Plan's guiding principle (resource protection has priority over development) and various policies related to habitable accessory structure, resource protection, limiting grading, buffers and setbacks from sensitive habitats, limiting the need for variances or modifications to development standards, limiting impacts to native trees, limiting scenic resource impacts, limiting vegetation clearance, and limiting building site area.
37. **The Commission finds that any development, located between the nearest public road and the sea or shoreline of any body of water located within the coastal zone, is in conformity with the public access and public recreation policies of Chapter 3 of Division 20 of the Public Resources Code.** The Commission finds the Project Site is in an inland portion of the Santa Monica Mountains and is not located between the first public road and the sea or shoreline of any body of water within the coastal zone.

VARIANCE FINDINGS

38. **The Commission does not find there are special circumstances or exceptional characteristics applicable to the property involved, such as size, shape, topography, location or surroundings, which are not generally applicable to other properties in the same vicinity and under identical zoning classification.** The Project Site is affected by similar circumstances as surrounding properties with steep slopes, a variety of H1, H2, and H3 Habitat, and native vegetation. The Applicant

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

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

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

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

ENVIRONMENTAL FINDINGS

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

ADMINISTRATIVE FINDINGS

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

Staff Presentation

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

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

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

Applicant Presentation

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

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

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

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

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

Public Testimony

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

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

Commission Questions

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

Commissioner Shell asked Staff the following questions:

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

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

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

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

Commissioner Modugno asked Staff the following questions:

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

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

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

Conclusion

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

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

Staff Presentation

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

Applicant Presentation

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

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

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

Public Testimony

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

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

Commission Questions

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

Conclusion

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

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

newspaper (Malibu Times), and property posting. Additionally, the Project was noticed and case materials were available on LA County Planning's website. On September 4, 2024, a total of 12 Notices of Public Hearing were mailed to all property owners as identified on the County Assessor's record within a 1,000-foot radius from the Project Site, as well as 18 notices to those on the courtesy mailing list for the Malibu Zoned District and to any additional interested parties.

45. LOCATION OF DOCUMENTS. The location of the documents and other materials constituting the record of proceedings upon which the Commission's decision is based in this matter is at LA County Planning, 13th Floor, Hall of Records, 320 West Temple Street, Los Angeles, California 90012. The custodian of such documents and materials shall be the Section Head of the Coastal Development Services Section, LA County Planning.

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

Regarding the Coastal Development Permit:

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

Regarding the Variance:

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

THEREFORE, THE REGIONAL PLANNING COMMISSION:

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

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

ACTION DATE: October 16, 2024

VOTE: 5:0:0:0

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

Dissenting: 0

Abstaining: 0

Absent: 0

MG:RG:NMM

October 21, 2024

c: Each Commissioner, Zoning Enforcement, Building and Safety