



**MINUTES OF THE ENVIRONMENTAL REVIEW BOARD (ERB)
Unincorporated Coastal Zone, Santa Monica Mountains, Los Angeles County
Meeting of 17 August 2015**

(Approved as amended, 21 September 2015)

Persons in Attendance

ERB Members

Rosi Dagit
Ron Durbin
Suzanne Goode
Travis Longcore
David Magney
Andrew Nickerson
Katherine Pease, Ph.D.

Regional Planning Staff

Leonard Erlanger, Planner
Shirley Imsand, Ph.D, Biologist, ERB coordinator
Gina Natoli, Planner

Public

Jennifer Mongolo
Don Schmitz

MacNeil LLA Project, R2015-00071, 622 & 624 North Topanga Canyon Boulevard, Topanga

John MacNeil surveyorjm@verizon.net 310-455-2013

Pagination

MacNeil, 622 & 624 North Topanga Canyon Blvd., LLA , R2015-00071, p.1-2

Bold type indicates ERB comments or recommendations.

MINUTES

OLD BUSINESS

- A. Minutes of 18 May 2015 meeting were approved as amended.**
Motion to approve: Rosi Dagit, 2nd Ron Durbin, Ayes: Unanimous;
Travis Longcore was not present for approval.

NEW BUSINESS

B. CONSENT ITEM: MacNeil Project for Lot Line Adjustment (LLA), Topanga Woods Rural Village

Project No. R2015-00071
Permit Nos. RCDP 201500006
APNs: 4444-0120-007, -008, -009
Location: 622, 624 North Topanga Canyon Boulevard, Topanga
Planner: Leonard Erlanger
Applicant: John MacNeil
Biologist: none
USGS Quad: Topanga

Proposal: Adjust three lot lines running east west to two lots by changing interior lines to a north-south line dividing two existing houses to separate lots. The applicant is requesting a Minor Coastal Development Permit for an LLA and yard modification, to consolidate three lots into two lots. The yard modification request is for the required rear yard related to the westerly residence, and a very small modification of a required side yard related to the easterly residence. (These are the only new undersized yards due to the proposed LLA.)

Biological Resources: The project is chiefly located in the H3 habitat category, but is within 200-ft. of the Topanga Creek H1 habitat. Houses already exist and fuel modification is already in place in accordance with County Fire standards. Houses are in the H1 Quiet Zone. Sensitive resources listed for the area are *Onchorhynchus mykiss irideus*, *Socalchemmis gertschi*, *Astragalus brauntonii*, and *Monardella hypoleuca* ssp. *hypoleuca*. Only the spider would be possible on the project site, and the yard landscaping will not be changing with this project, so no new impacts are anticipated. Conserved space of Santa Monica Mountains Conservancy (SMMC) is directly across the road along Topanga Creek. The project reduces habitable units in the Santa Monica Mountains, which is a goal of the Santa Monica Mountain Local Coastal Program (LCP). The LLA is not coupled with a request for development concessions in return.

Planner presentation: The houses were constructed in the 1940s. The lots are undersized with respect to current LCP requirement of 10,000 sq.ft. in rural villages. An LLA can be made as long as the smallest LLA lot is larger or same size as the original lot and any conforming lot remains conforming (§22.52.190, Undersized lots, resubdivision is used for LLA). No further development is permitted on the lots of this project because of their small lot size.

ERB COMMENTS:

ERB appreciates the opportunity to review a project in the earliest stages of planning, rather than have the project be planned without consideration for ecological impacts.

ERB RECOMMENDATION:

The project is consistent with the Local Coastal Program and Local Implementation Program. ERB recommends approval.

Approval: Recommendation/2nd: Suzanne Goode/Rosi Dagit Ayes: Unanimous
Travis Longcore was not present for the approval

ERB Evaluation: **Consistent** **Consistent after Modifications**
 Inconsistent **No decision**

Staff Biologist **Consistent** **Consistent after Modifications**
Recommendation: **Inconsistent** **No decision**

DISCUSSION ITEMS:

- D. **Biological reports: Inventory and Biological Assessment; certification by ERB; timing of survey**
Inventory §22.44.840.P, pp. 90-91;
Biological Assessment §22.44.1820-1870, pp.482-501)

BIOLOGICAL RESOURCE REPORTS

ERB is now mandated to make an assessment of the sufficiency of the biological reports that are usually required from the applicant for ERB review of projects in the Santa Monica Mountains Coastal Zone. Copies of the LIP sections pertinent to biological review (inventory and biological assessment) were passed out.

For projects not reviewed by ERB, biological inventories are required. These are projects further than 200-ft. from H1 or H2 resource areas. Inventories may be allowed for other projects by County biologist. Projects within 200-ft of H1 and/or H2 resources usually are required to do the biological assessment, unless the County biologist agrees that an inventory is sufficient, and these projects will generally be reviewed by ERB.

Although the biological reports appear in some readings of §22,44.1870.B.1 to require a spring survey, some interpretations are that a survey in another season is all right. For some of the H1 category habitats (annual grassland and rock outcrops, for example) a spring survey is needed to have a chance of detecting sensitive resources of those habitats. Nevertheless, ERB will be reviewing projects based on reports that may not have a spring survey. ERB may recommend (1) that final development design await results of a spring survey (which could mean redesign); (2) that the applicant return to ERB with results of a spring survey; (3) a redesign of project based on results of a spring survey.

Public: Mr. Schmitz stated that applicants that initiate projects in July and August are reluctant to wait for results of a spring survey for design. Mr. Schmitz listed some other departmental requirements keyed to a certain time of year. (Health Dept. wants groundwater testing for septic systems in the middle of the rainy season; well testing is to be done in the middle of the dry season.) Applicants to Schmitz and Associates are warned of the need to consider the ramifications of having a design based on a biological resources report without a spring survey. Schmitz requests that DRP and ERB consider practicality of timing in assembling what is needed for an application for development. Schmitz and Associates do request of their biologists to indicate areas which may require a springtime survey to define potential sensitive elements and planning caveats.

ERB stated that it is important for reports done based on surveys in other seasons to point out areas which need a supplemental springtime survey.

ERB stated that CA Coastal Commission (CCC) now uses the California Native Plant Society (CNPS) plant alliance system; the CA State uses the CNPS alliance system, and that ERB reports should also use this system for its reports. For wetlands, the CCC now uses the HGM, Hydrogeomorphic Assessment Method. A discussion is at:

http://magney.org/files/Wetland_Functions-Description.htm

The Army Corps of Engineers uses the Cowardin et al. (1979) wetland classification system developed by the U.S. Fish and Wildlife Service.

Ventura County has guidelines for Initial Study Biological Assessments (ISBA) Guidelines, which might be helpful to ERB in judging reports. However, ERB will be using the criteria in the LIP and the checklist in §22.44.1870. The Ventura County document may be useful in revision of the LIP for parts of reports that are ambiguously described in the LIP.

For Ventura Co. see <http://www.ventura.org/rma/planning/conservation/bio-report-procedure.html>

“Standards for Initial Study Biological Assessments”

ERB states that one of the most important parts of these reports is the compendium table listing the sensitive and other species on the CNDDDB 9-quad analysis coupled with the CNPS 9-quad analysis and the lists of all plants and wildlife observed onsite. They provide the potential microcosm of sensitivity for the particular project site. The special-status species table must be a compendium, not a print-out of the CNDDDB data. Also any sensitive species seen or known to the biologist should be included. These tables show that thorough research prior to survey was done by the biologist, and that the biologist understands the potential resources of the particular project site.

Tables should have all species in the lists grouped according to major categories: invertebrates, fishes, amphibians, reptiles, birds, mammals, plant alliances, and plants (vascular and nonvascular); should give sensitivity rankings; should give outline of habitat information such as elevation range, type of terrain, associated vegetation types, flowering periods; and should have a column listing potential for occurrence: observed, possible, unlikely. “Unlikely” species ratings should be justified. For birds, show rankings on the Los Angeles County Sensitive Birds List for Parts 1 and 2 as well as other sensitivity rankings of the Federal government, state, and CNPS. Some birds possible on Santa Monica Mountain sites are considered sensitive

in Los Angeles County that are not on the CNDDDB and CNPS lists, and these should be added. The LA County list of sensitive birds is found at:

<http://losangelesaudubon.org/images/stories/pdf/vol.%2075%20no.%2003%20january%20february%202009,%20color%20web%20version.pdf>

Sensitive habitats like grasslands include wildflower fields. The Department of Regional Planning (DRP) policy on native grasslands is to consider sensitive any area where native herbaceous plants comprise 10% of more of relative plant cover. The criterion was proposed by SEATAC in dealing with considerations of wildflower fields in the Antelope Valley. Los Angeles County does not have extensive areas of native bunch grasses, but instead has more diverse areas of herbaceous plants, both grasses and annuals. Wildflower fields are a kind of grassland, an ephemeral habitat, which may only be obvious every 10 years or so in springtime. In the Santa Monica Mountains these native grasslands can include areas where shrubs are dominant, as described in the LIP definition of H1 habitat elements (§22.44.1810.A). Another sensitive habitat of H1 category that is new to consideration for many biologists is the habitat of rock outcrops, which may have sensitive rare habitat in plant covers like lichens and bryophytes.

DRP planners have determined that only riparian and woodland H1 habitat is protected from development beyond fuel modification. Pre-existing fuel modification in other kinds of H1 evidently removes these other kinds of habitat from the H1 category and special protection. (§22.44.1810.E)

ERB CONSULTANT LIST

The ERB procedures manual indicates ERB is to form a list of biological consultants who are qualified to prepare biology reports for ERB-reviewed projects. A list now exists for SEATAC biology reports. The SEATAC list and invitation letter were handed out for reference. The SEATAC process was described: 1. Resumé and report are submitted; 2. County biologist works with applicant to get a report similar to biological reports for SEATAC; 3. SEATAC reviews the resumé and sample report and approves or does not approve adding the biologist applicant to the list of certified consultants.

ERB Comments:

ERB states that oftentimes a biologist will be pressured to write reports in a certain way for the company that is the employer, and some of the companies may not have policies for accuracy in regard to reporting on the resources. The ERB will be evaluating biological reports to reject those that have inaccurate reporting on biological resources.

CNPS has a collaborative effort to develop a certification program for 2 levels: “consulting botanist” and “field botanist” certifications. The consulting botanist certification will include satisfaction of qualification for field botanist. A code of ethics is included that compels the botanist to be named on any reports submitted, and disciplinary procedures are initiated for complaints on accuracy or misrepresentation of the facts.

ERB RECOMMENDATIONS for the ERB Consultant List:

ERB recommends those biologists on the SEATAC list to be invited to submit a resumé and sample report for consideration for the ERB list.

ERB recommends a list on the invitation letter of the kinds of data that should be in resúmes. For example: education, firm (no details), contact data, primary expertise, training, certifications, project experience, scientific papers authored, awards.

ERB requests that ERB consultant applicants submit sample reports for the Coastal Zone if they have them. Sample reports will be judged for content based on the checklist of §22.44.1870.

ERB recommends the list be formed one year from now, and after that time authors of biological reports would need to come from the list. However the list would be open to any submittals of resumé and sample report.

ERB recommends that there be a renewal process for names on the list at intervals of 5 years.

E. Local Coastal Program Development Credit to reduce habitable units and convert acreage to conservation units:

**Transfer of Development Credit (TDC), §22.44.1230, pp.167-176;
Incentive Credit §22.44.1420, pp.328-331;
Gross Structural Area Credit (GSA) §22.44.2140.A, pp. 571-577**

CREDIT PROGRAMS

Credit programs provide a means to conserve natural land in the Santa Monica Mountains, and retain the scenic and biological resource values that are so important to the entire area. All the credit programs require the applicant to provide proof of conveyance of natural land to a public agency or conservation agency through a legal instrument that makes it likely that the land will be conserved in perpetuity. Copies of sections of the LIP for the credit programs were handed out.

The Transfer of Development Credit (TDC) program chiefly is directed towards providing mitigation for an increase in habitable units in the Santa Monica Mountains. The goal is to keep habitable units the same—no increment, but decline in numbers of habitable units could happen. A TDC has an equivalency that enables use in other ways: 1 TDC = 1500 sq.ft., and fractional TDC units exist. For example, for condominium units on a single parcel, TDCs must be supplied equal to the number of units added to the parcel. If 3 condos are planned on a single parcel, then 2 TDCs must be supplied by the applicant/developer. A TDC is formed by providing through legal instrument a qualifying unit of land to an organization qualified by experience in management and conservation of natural lands or to a public agency. Lots/parcels in the Rural Villages defined in the Santa Monica Mountain Land Use Plan are used to create TDCs; natural land of H1 and H2 category habitats may also be used to create TDCs. The applicant must provide proof of a sufficient legal instrument assigning the land for TDC to the conservation management entity. A covenant on a deed would not be considered sufficient, since the covenant can be changed any time a deed is changed/reassigned. A conservation easement to a conservation agency is considered a sufficient legal instrument because the conservation agency would need to agree to any change in the deed or land use. Fee simple title conveyed to a conservation agency is a sufficient legal instrument.

ERB states that the Mountains Restoration Trust (MRT) has TDCs available for purchase. These were formed under the old Local Coastal Program, but are still valid.

The Incentive Program provides for TDC credits by applicants participating in land use activities that are beneficial to the County and to preservation of natural lands. Incentive credits can be multiple on a single parcel, while other kinds of credits are generally restricted to a single kind of credit tied to a single parcel of land. Kinds of incentive activities unique to the incentive program are providing trail easements across a parcel and providing access to trails. Retirement of land in H2 categories may also be used for incentive credits. Providing land next to legally conserved space or public space gains incentive credit. Incentive credits are the only way an applicant can gain a larger permitted pad and a concession on amount of grading that will not require a permit.

The Gross Structural Area (GSA) credit generally determines how large a structure the applicant may build. It involves calculation through a formula that considers horizontal area, slope intensity, and ruggedness of the terrain. GSA credits can be turned into TDCs, and TDCs can be turned into GSA credits. These calculations are largely used in Rural Village projects.

ERB questioned how basement and cellar square footage figure in the need for GSA credits. Basements are sunk somewhat into the ground but have over half of the wall elevation above ground level. GSA credits are needed for basement square footage. Cellars have half or more of the wall elevation below ground level and do not require GSA credit; they are not considered in determining limits on house floor area.

ERB states that cellar construction can be destructive to natural habitat and should be considered in limits on dwelling area.

OTHER MATTERS

F. Public comment pursuant to Section 54954.3 of the Government Code is shown where it occurred.