Los Angeles County
Department of Regional Planning

Planning for the Challenges Ahead

Richard J. Bruckner
Director

April 5, 2016

Bill Cohen
Construction Advisory Services, LLC
22226 Camay Court
Calabasas, CA 91320

RE: PROJECT NOs. R2008-00115, 00116, 00257, 00258-(3)
CONDITIONAL USE PERMITS 200800012, 200800013, 201000024, 201000025
VARIANCES 200800003, 200800004, 200800007, 200800008
ENVIRONMENTAL ASSESSMENTS 200800096, 200800097, 200800098, 200800099
CALABASAS PEAK MTWY., CALABASAS (APNs: 4436-001-034, 035, 036, 037)

Hearing Officer Alex Garcia, by his action of **April 5, 2016,** has **DENIED** the above referenced projects and cases associated with them due to inactivity. Enclosed are the Hearing Officer's Findings for Denial. Please carefully review each finding for denial of all cases associated with the projects. The denial is not effective until the appeal period has ended.

The applicant or any other interested person(s) may appeal the Hearing Officer's decision. **The appeal period for this project will end at 5:00 p.m. on April 19, 2016 (end of 14th calendar day/next business day after weekend/holiday). Appeals must be delivered in person.**

Appeals: To file an appeal, please contact:
Los Angeles County Regional Planning Commission, Attn. Commission Secretary
Room 1350, Hall of Records
320 West Temple Street, Los Angeles, California 90012
(213) 974-6409.

If no appeal is filed during the specified period, **the Hearing Officer's decision is final.**

For any other questions or information regarding this denial, please contact Rudy Silvas of the Land Development Coordinating Center at (213) 974-6438, or by email at rsilvas@planning.lacounty.gov. Our office hours are Monday through Thursday, 7:30 a.m. to 5:00 p.m.

Sincerely,
DEPARTMENT OF REGIONAL PLANNING
Richard J. Bruckner

M. Glaser

Mitch Glaser, AICP
Assistant Deputy Director, Current Planning Division

Enclosures: Findings for Denial

MG:RS

FINDINGS AND ORDER OF THE HEARING OFFICER
COUNTY OF LOS ANGELES
PROJECT NO. R2008-00115 to 00116, and R2008-00257 to 00258-(3)
CONDITIONAL USE PERMIT NO. 200800012, 200800013, and 201000024, 201000025
ENVIRONMENTAL ASSESSMENT NO. 200800096 to 200800099

1. **REQUEST TO DENY.** Pursuant to Los Angeles County Code Sections 22.60.010 and 22.56.060, it is requested of the Hearing Officer to deny Conditional Use Permits (CUP) 200800012, 200800013, 201000024 and 201000025 due to inactivity by the projects' proponent (agent) to obtain written permission from the new property owners of the four subject parcels in order to continue processing the CUP applications as required by County Code Section 22.56.030. A CUP was required for each parcel to allow grading quantities to exceed 5,000 total cubic yards to construct four new residences, and to provide required road improvements and a water tank placement within the Santa Monica Mountains North Area (SMMNA) Community Standards District (CSD). The project also required the processing of four variances, an oak tree permit for one parcel, along with a Draft EIR.

2. **CONSENT ITEM DATE:** April 5, 2016

3. **PROCEEDINGS BEFORE THE HEARING OFFICER:**
The four CUPs appeared as agenda item no. 16 for discussion and possible action on April 5, 2016, before Hearing Officer Alex Garcia, along with the other four variance, environmental assessment and single oak tree permit applications. Staff gave a brief presentation recommending denial of all applications associated with the four projects due to inactivity. Written permission from the new property owners of the subject parcels to continue processing the applications, including a new EIR agreement, had not been provided to staff by the agent for the projects as requested.

   Staff reported that no correspondence from the agent had been received, but that proof had been received that the letters sent by staff requesting written permission from the new property owners to continue processing the applications had been received by the agent's firm Construction Advisory Services, LLC.

   Following staff's presentation, and with no one present requesting to testify on the item, the Hearing Officer acted on the item and denied Conditional Use Permit No. 200800012, 200800013, 201000024, 201000025, along with the four variance and single oak tree permit applications, and invalidated the environmental assessment applications.

4. **PROJECT DESCRIPTION.** The applicant proposed construction of four new residences on four separate but contiguous parcels along the Calabasas Peak Motorway atop a significant ridgeline within the SMMNA CSD. A CUP is required per County Code Section 22.44.133.D.4.b. for grading quantities that exceed 5,000 cubic yards. A Variance is also required for each parcel per County Code Section 22.44.133.D.5 for development within 50 feet vertical and 50 feet horizontal of a significant ridgeline. An oak tree permit is required for the parcel identified as APN 4436-001-037, for encroachment of three oak trees to pave and widen the roadway fronting the parcel. A Draft Environmental Impact Report (EIR) has

been in preparation for the projects' impacts to the significant ridgeline but has not been released for public review.

5. **LOCATION.** Calabasas Peak Motorway - Assessor Parcel Numbers (APNs) 4436-001-034, 035, 036 and 037, Unincorporated Area of Calabasas. Site located within The Malibu Zone District.

6. **EXISTING ZONING.** The subject parcels are zoned A-1-10 (Light Agricultural – 10 acre gross min. area reqd.).

   Surrounding Properties:
   North: A-1-10, City of Calabasas
   East: A-1-10
   South: A-1-10
   West: A-1-10

7. **EXISTING LAND USES.** The project sites are currently vacant.

   Surrounding Properties:
   North: One single family residence north of - 034
   East: One single family residence east of - 034
   South: Vacant
   West: Vacant

8. **GENERAL PLAN / COMMUNITY PLAN DESIGNATION.** Sites located within the Mountain Lands 10 (N10) land use category of the Santa Monica Mountains North Area (SMMNA) Plan (1 du/ 10 acres).

9. **CASE(S) HISTORY.** Applications for two of the four CUPs for grading to exceed 5,000 cubic yards on each parcel were first received for APN 4436-001-037 (CUP 200800012) and -034 (CUP 200800013) on January 16, 2008. A variance and environmental assessment application for each of the four parcels were also submitted.

10. The four parcels were identified under the following holdings:

    - APN 4436-001-034 (Crown Park, LLC)
    - APN 4436-001-035 (Red Label Holding, LLC)
    - APN 4436-001-036 (Elite Brands, LLC)
    - APN 4436-001-037 (Mar Vista Holding, LLC)

11. CUP 200800012 and 200800013, along with the variance applications, were initially circulated to all County Departments in early 2008. Comments were received from Public Works in June and August 2008 recommending that the CUP and variance applications could not be approved due to requirements that geotechnical, drainage and right of way requirements be met. The applicant was copied on all letters received from the County departments and directed to contact them.

12. CUP 200800035 and Variance (VAR) 200800009, additional applications submitted in the same time period as CUP 200800012 and CUP 200800013 along with the other four variance applications, were withdrawn. VAR 200800009 was withdrawn shortly after submittal in February 2008 and CUP 200800035 in January 2010, following determination by staff that they were not necessary for the road improvements alone which would be covered by the other two existing CUPs and an additional two CUPs to be filed, along with the four other existing variance applications.

13. CUP applications on the remaining two of four parcels for grading to exceed 5,000 cubic yards on each were received on February 9, 2010, for APN 4436-001-035 (CUP 201000024) and –036 (CUP 201000025).

14. Staff executed an EIR Agreement with all four property owners, the EIR consultant and the County on November 18, 2010, consolidating all four environmental assessment applications into the preparation of one Draft EIR.

15. CUP applications 200800012, 200800013, 201000024 and 201000025 were recirculated to all County departments on July 7, 2014, along with the variance applications, which were initially circulated to all County Departments in early 2008 with the exception of CUP 201000024 and 201000025. Comments were received from Fire and Public Works in August and September of 2014 recommending that the CUP and variance applications could not be approved due to requirements that geotechnical, drainage and right of way requirements be met. The applicant was copied on all letters received from the County departments and directed to contact them to satisfy their requirements.

16. The agent for all four projects, Bill Cohen of Construction Advisory Services, confirmed via email on March 4, 2015, to staff that the four subject parcels have changed ownership. Each parcel is separately owned by new owners. The agent was directed to submit new applications for the CUPs, variances and oak tree permit for each project with new owners' signatures, along with a letter indicating the change of ownership and a copy of the new deeds. The agent was also directed to have new owners of all four parcels sign a new EIR Agreement to continue processing the Draft EIR.

17. Staff emailed the agent, on September 29, 2015, regarding the requirement for new applications and EIR Agreement with new owners' signatures. The agent replied on same date that he would have information to move the projects forward.

18. Staff sent agent an official letter by certified mail dated November 17, 2015, to provide new applications signed by new property owners to continue the processing of the CUP, variance, and oak tree permit applications by December 21, 2015, and for the new property owners to also sign a new EIR Agreement. The agent was also notified by email on the same date to provide the new signatures with a copy of the letter sent certified attached to the email.

19. The agent signed for receipt of the certified letter on November 21, 2015. No email or other correspondence was received from the agent.

20. A second certified letter requesting the new owners' signatures was sent to the agent on December 17, 2015, following no response from the agent other than acknowledgement from him that he had received the first letter dated November 17, 2015. The second certified letter set a deadline of January 16, 2016, for which staff must receive the required signatures on the applicable applications and documents, or else the CUP, variance and oak tree permit applications would be scheduled for denial before a Hearing Officer on April 5, 2016. No proof of receipt of the certified letter was signed for by the agent.

21. CUP 200800012, CUP 200800013, CUP 201000024, and CUP201000025, along with the four variance and single oak tree permit applications, was scheduled on February 18, 2016, for denial due to inactivity before a Hearing Officer on April 5, 2016.

22. The letter dated December 17, 2016, is resent to the agent via registered mail on March 9, 2016, following no response from the agent.

23. **ZONING ORDINANCE COMPLIANCE.** County Code Section 22.56.030 requires that all CUP applications contain required information which includes the names and addresses of the applicant and all persons owning any or all of the property to be used, including proof that the owner(s) is the applicant or that the owner(s) have granted written permission for an applicant to file an application for property under their ownership.

24. County Code Section 22.56.060 authorizes the Hearing Officer to deny a CUP application, without a public hearing, where the CUP application fails to provide the required information set forth in County Code Section 22.56.030.

ENVIRONMENTAL DETERMINATION

25. The denial of the four projects with the CUP, variance and oak tree permit applications negates the Draft EIR. Per California Environmental Quality Act (CEQA) Guidelines Section 15270, CEQA does not apply to projects which a public agency rejects or disapproves.

CONDITIONAL USE PERMIT SPECIFIC FINDINGS FOR DENIAL

26. The agent for the four projects, which includes the four CUP applications, has not provided written permission (newly signed applications for the CUPs and EIR Agreement) from the new property owners of the four subject parcels as required by County Code Section 22.56.030 to continue processing the CUP applications. The new applications with new owners' signatures are required to show as evidence that the new owners are the new applicants of the premises involved, or that that the new owners have granted written permission to the agent to act as the applicant.
27. The agent has failed to respond to certified letters sent on November 17, 2015, and December 17, 2015, to his address of business requesting that the new applications be signed by the new property owners, along with a newly signed EIR agreement, and be submitted to Regional Planning staff in order to continue processing the CUP applications.

28. The agent has failed to respond to the letters of November 17, 2015, and December 17, 2015, resent by registered mail on March 9, 2016, to his address of business requesting that the new applications be signed by the new property owners, along with a newly signed EIR agreement, and be submitted to Regional Planning staff in order to continue processing the CUP applications.

29. **RECORD OF PROCEEDINGS.** The location of the documents and other materials constituting the record of proceedings upon which the Hearing Officer's decision is based on in this matter is at the Los Angeles County Department of Regional Planning, 13th Floor, Hall of Records, 320 West Temple Street, Los Angeles, CA 90012. The custodian of such documents and materials shall be the Section Head of the Land Development Coordinating Center, Los Angeles County Department of Regional Planning.

BASED ON THE FOREGOING, THE HEARING OFFICER CONCLUDES:

WITH RESPECT TO THE CONDITIONAL USE PERMIT APPLICATIONS

A. That the applications for CUP 200800012, CUP 200800013, CUP 201000024, CUP 201000025 are incomplete due to the change in property ownership of the four project parcels identified as APN 4436-001-034, 035, 036 and 037, with no identification of the new property owners authorizing in writing that they themselves are the new applicants and /or the agent is the applicant authorized to continue the processing of the applications, and are not in compliance with County Code Section 22.56.030.

B. The Hearing Officer, under authority of County Code Section 22.60.010, and pursuant to County Code Section 22.56.060, is authorized to deny the applications for CUP 200800012, CUP 200800013, CUP 201000024 and CUP 201000025 for noncompliance to provide the information required for the applications in accordance with County Code Section 22.56.030.

THEREFORE, the information required by the applicant is incomplete, with evidence presented in the findings before the Hearing Officer that the required information requested to complete the applications was not met, and renders the Conditional Use Permit applications non compliant with Section 22.56.030 of the Los Angeles County Code (Zoning Ordinance).

HEARING OFFICER ACTION:

1. In view of the findings of fact and conclusions presented above, CUP 200800012, CUP 200800013, CUP 201000024, CUP 201000025, for Project No. 2008-00115, Project No. 2008-00116, Project No. 2008-00257, Project No. 2008-00258 are DENIED subject to the attached findings.

c: Zoning Enforcement, Building and Safety (Calabasas Office)

MG:RS

4/5/2016

FINDINGS AND ORDER OF THE HEARING OFFICER
COUNTY OF LOS ANGELES
PROJECT NO. R2008-00115 to 00116, and R2008-00257 to 00258-(3)
VARIANCE NO. 200800003, 200800004, and 200800007, 200800008
ENVIRONMENTAL ASSESSMENT NO. 200800096 to 200800099

1. **REQUEST TO DENY.** Pursuant to Los Angeles County Code Sections 22.60.010 and 22.56.310, it is requested of the Hearing Officer to deny Variance (VAR) 200800003, 200800004, 200800007 and 200800008 due to inactivity by the projects' proponent (agent) to obtain written permission from the new property owners of the four subject parcels in order to continue processing the VAR applications as required by County Code Sections 22.56.280 and 22.56.030. A VAR was required for each parcel to allow development within 50 feet vertical and 50 feet horizontal of a significant ridgeline within the Santa Monica Mountains North Area (SMMNA) Community Standards District (CSD). The project also required the processing of four conditional use permits (CUP), an oak tree permit for one parcel, along with a Draft EIR.

2. **CONSENT ITEM DATE:** April 5, 2016

3. **PROCEEDINGS BEFORE THE HEARING OFFICER:**
The four VARs appeared as agenda item no. 16 for discussion and possible action on April 5, 2016, before Hearing Officer Alex Garcia, along with the other four CUP, environmental assessment and single oak tree permit applications. Staff gave a brief presentation recommending denial of all applications associated with the four projects due to inactivity. Written permission from the new property owners of the subject parcels to continue processing the applications, including a new EIR agreement, had not been provided to staff by the agent for the projects as requested.

   Staff reported that no correspondence from the agent had been received, but that proof had been received that the letters sent by staff requesting written permission from the new property owners to continue processing the applications had been received by the agent's firm Construction Advisory Services, LLC.

   Following staff's presentation, and with no one present requesting to testify on the item, the Hearing Officer acted on the item and denied Variance No. 200800003, 200800004, 200800007, 200800008, along with the four CUP and single oak tree permit applications, and invalidated the environmental assessment applications.

4. **PROJECT DESCRIPTION.** The applicant proposed construction of four new residences on four separate but contiguous parcels along the Calabasas Peak Motorway atop a significant ridgeline within the SMMNA CSD. A VAR is required for each parcel per County Code Section 22.44.133.D.5.c for development within 50 feet vertical and 50 feet horizontal of a significant ridgeline. A CUP is also required for each parcel for proposed grading quantities that exceed 5,000 cubic yards. An oak tree permit is required for the parcel identified as APN 4436-001-037, for encroachment of three oak trees to pave and widen the roadway fronting the parcel. A Draft Environmental Impact Report (EIR) has been in

preparation for the projects' impacts to the significant ridgeline but has not been released for public review.

5. **LOCATION.** Calabasas Peak Motorway - Assessor Parcel Numbers (APNs) 4436-001-034, 035, 036 and 037, Unincorporated Area of Calabasas. Site located within The Malibu Zone District.

6. **EXISTING ZONING.** The subject parcels are zoned A-1-10 (Light Agricultural – 10 acre gross min. area reqd.).

   Surrounding Properties:
   North: A-1-10, City of Calabasas
   East: A-1-10
   South: A-1-10
   West: A-1-10

7. **EXISTING LAND USES.** The project sites are currently vacant.

   Surrounding Properties:
   North: One single family residence north of - 034
   East: One single family residence east of - 034
   South: Vacant
   West: Vacant

8. **GENERAL PLAN / COMMUNITY PLAN DESIGNATION.** Sites located within the Mountain Lands 10 (N10) land use category of the Santa Monica Mountains North Area (SMMNA) Plan (1 du/ 10 acres).

9. **CASE(S) HISTORY.** Applications for all four VARs to allow development within 50 feet vertical and 50 feet horizontal of a significant ridgeline were received for APN 4436-001-037 (VAR 200800003), -034 (VAR 200800004) on January 16, 2008, and APN 4436-001-035 (VAR 200800007), -036 (VAR 200800008) on February 6, 2008. A CUP and environmental assessment application for each of the four parcels were also submitted in the same time period, and as late as 2010.

10. The four parcels were identified under the following holdings:

    - APN 4436-001-034 (Crown Park, LLC)
    - APN 4436-001-035 (Red Label Holding, LLC)
    - APN 4436-001-036 (Elite Brands, LLC)
    - APN 4436-001-037 (Mar Vista Holding, LLC)

11. VAR 200800003, 200800004, 200800007, and 200800008, along with the CUP applications, were initially circulated to all County Departments in early 2008. Comments were received from Public Works in June and August 2008 recommending that the VAR and CUP applications could not be approved due to requirements that geotechnical, drainage and right of way requirements be met. The applicant was copied on all letters received from the County departments and directed to contact them.

12. VAR 200800009 and CUP 200800035, additional applications submitted in the same time period as VAR 200800003, 200800004, 200800007, and 200800008, along with the other two CUP applications, were withdrawn. VAR 200800009 was withdrawn shortly after submittal in February 2008, and CUP 200800035 in January 2010, following determination by staff that they were not necessary for the road improvements alone which would be covered by the other two existing CUPs and an additional two CUPs to be filed, along with the four existing VAR applications.

13. CUP applications on the remaining two of four parcels for grading to exceed 5,000 cubic yards on each were received on February 9, 2010, for APN 4436-001-035 (CUP 201000024) and –036 (CUP 201000025).

14. Staff executed an EIR Agreement with all four property owners, the EIR consultant and the County on November 18, 2010, consolidating all four environmental assessment applications into the preparation of one Draft EIR.

15. Variance applications VAR 200800003, 200800004, 200800007, and 200800008 were recirculated to all County departments on July 7, 2014, along with the four CUP applications. Comments were received from Fire and Public Works in August and September of 2014 recommending that the VAR and CUP applications could not be approved due to requirements that geotechnical, drainage and right of way requirements be met. The applicant was copied on all letters received from the County departments and directed to contact them to satisfy their requirements.

16. The agent for all four projects, Bill Cohen of Construction Advisory Services, confirmed via email on March 4, 2015, to staff that the four subject parcels have changed ownership. Each parcel is separately owned by new owners. The agent was directed to submit new applications for the VARs, CUPs and oak tree permit for each project with new owners' signatures, along with a letter indicating the change of ownership and a copy of the new deeds. The agent was also directed to have new owners of all four parcels sign a new EIR Agreement to continue processing the Draft EIR.

17. Staff emailed the agent on September 29, 2015, regarding the requirement for new applications and EIR Agreement with new owners' signatures. The agent replied on same date that he would have information to move the projects forward.

18. Staff sent agent an official letter by certified mail dated November 17, 2015, to provide new applications signed by new property owners to continue the processing of the VAR, CUP, and oak tree permit applications by December 21, 2015, and for the new property owners to also sign a new EIR Agreement. The agent was also notified by email on the same date to provide the new signatures and a copy of the letter sent certified was attached to the email.

19. The agent signed for receipt of the certified letter on November 21, 2015. No email or other correspondence was received from the agent.

20. A second certified letter requesting the new owners' signatures was sent to the agent on December 17, 2015, following no response from the agent other than acknowledgement from him that he had received the first letter dated November 17, 2015. The second certified letter set a deadline of January 16, 2016, for which staff must receive the required signatures on the applicable applications and documents, or else the VAR, CUP and oak tree permit applications would be scheduled for denial before a Hearing Officer on April 5, 2016. No proof of receipt of the certified letter was signed for by the agent.

21. VAR 200800003, 200800004, 200800007, and 200800008, along with the four CUP and single oak tree permit applications, were scheduled on February 18, 2016, for denial due to inactivity before a Hearing Officer on April 5, 2016.

22. The letter dated December 17, 2016, was resent to the agent via registered mail on March 9, 2016, following no response from the agent.

23. **ZONING ORDINANCE COMPLIANCE.** County Code Sections 22.56.280 and 22.56.030 require that all VAR applications contain required information which includes the names and addresses of the applicant and all persons owning any or all of the property to be used, including proof that the owner(s) is the applicant or that the owner(s) have granted written permission for an applicant to file an application for property under their ownership.

24. County Code Section 22.56.310 authorizes the Hearing Officer to deny a VAR application, without a public hearing, where the VAR application fails to provide the required information set forth in County Code Sections 22.56.280 and 22.56.030.

ENVIRONMENTAL DETERMINATION

25. The denial of the four projects with the VAR, CUP and oak tree permit applications negates the Draft EIR. Per California Environmental Quality Act (CEQA) Guidelines Section 15270, CEQA does not apply to projects which a public agency rejects or disapproves.

VARIANCE SPECIFIC FINDINGS FOR DENIAL

26. The agent for the four projects, which includes the four VAR applications, has not provided written permission (newly signed applications for the VARs and EIR Agreement) from the new property owners of the four subject parcels as required by County Code Sections 22.56.280 and 22.56.030 to continue processing the VAR applications. The new applications with new owners' signatures are required to show as evidence that the new owners are the new applicants of the premises involved, or that that the new owners have granted written permission to the agent to act as the applicant.
27. The agent has failed to respond to certified letters sent on November 17, 2015, and December 17, 2015, to his address of business requesting that the new applications be signed by the new property owners, along with a newly signed EIR agreement, and be submitted to Regional Planning staff in order to continue processing the VAR applications.

28. The agent has failed to respond to the letters of November 17, 2015, and December 17, 2015, resent by registered mail on March 9, 2016, to his address of business requesting that the new applications be signed by the new property owners, along with a newly signed EIR agreement, and be submitted to Regional Planning staff in order to continue processing the VAR applications.

29. **RECORD OF PROCEEDINGS.** The location of the documents and other materials constituting the record of proceedings upon which the Hearing Officer's decision is based on in this matter is at the Los Angeles County Department of Regional Planning, 13th Floor, Hall of Records, 320 West Temple Street, Los Angeles, CA 90012. The custodian of such documents and materials shall be the Section Head of the Land Development Coordinating Center, Los Angeles County Department of Regional Planning.

BASED ON THE FOREGOING, THE HEARING OFFICER CONCLUDES:

WITH RESPECT TO THE VARIANCE APPLICATIONS

A. That the applications for VAR 200800003, 200800004, 200800007, and 200800008, are incomplete due to the change in property ownership of the four project parcels identified as APNs 4436-001-034, 035, 036 and 037, with no identification of the new property owners authorizing in writing that they themselves are the new applicants and /or the agent is the applicant authorized to continue the processing of the applications, and are not in compliance with County Code Sections 22.56.280 and 22.56.030.

B. The Hearing Officer, under authority of County Code Section 22.60.010, and pursuant to County Code Section 22.56.310, is authorized to deny the applications for VAR 200800003, 200800004, 200800007, and 200800008, for noncompliance to provide the information required for the applications in accordance with County Code Sections 22.56.280 and 22.56.030.

THEREFORE, the information required by the applicant is incomplete, with evidence presented in the findings before the Hearing Officer that the required information requested to complete the applications was not met, and renders the Variance applications non compliant with Sections 22.56.280 and 22.56.030 of the Los Angeles County Code.

HEARING OFFICER ACTION:

1. In view of the findings of fact and conclusions presented above, VAR 200800003, VAR 200800004, and VAR 200800007, VAR 200800008, for Project No. 2008-00115, Project No. 2008-00116, Project No. 2008-00257, Project No. 2008-00258 are DENIED subject to the attached findings.

c: Zoning Enforcement, Building and Safety (Calabasas Office)

MG:RS

4/5/2016

FINDINGS AND ORDER OF THE HEARING OFFICER
COUNTY OF LOS ANGELES
PROJECT NO. R2008-00115-(3)
OAK TREE PERMIT NO. 201000006
ENVIRONMENTAL ASSESSMENT NO. 200800096

1. **REQUEST TO DENY.** Pursuant to Los Angeles County Code Sections 22.60.010, 22.56.2150, 22.56.2120, 22.56.1700 and 22.56.2090, it is requested of the Hearing Officer to deny Oak Tree Permit (OTP) 201000006, due to inactivity by the project's proponent (agent) to obtain written permission from the new property owner of the subject parcel in order to continue processing the OTP application as required by County Code Section 22.56.2090. The OTP was required due to oak encroachments for road widening along the parcel's frontage. Action by a Hearing Officer or the Commission is required for the OTP application which has been filed in conjunction with a variance (VAR) and a conditional use permit (CUP) in accordance with County Code Section 22.56.2150. Development of the property required the VAR and CUP applications due to the location of the property along a significant ridgeline within the Santa Monica Mountains North Area (SMMNA) Community Standards District (CSD), and the quantity of grading proposed on the parcel. The project also required the processing of a Draft EIR which covers the impacts to the subject parcel and three additional contiguous parcels.

2. **CONSENT ITEM DATE:** April 5, 2016

3. **PROCEEDINGS BEFORE THE HEARING OFFICER:**
The single OTP appeared as agenda item no. 16 for discussion and possible action on April 5, 2016, before Hearing Officer Alex Garcia, along with the other four CUP, VAR, and environmental assessment applications. Staff gave a brief presentation recommending denial of all applications associated with the four projects due to inactivity. Written permission from the new property owners of the subject parcels to continue processing the applications, including a new EIR agreement, had not been provided to staff by the agent for the projects as requested.

   Staff reported that no correspondence from the agent had been received, but that proof had been received that the letters sent by staff requesting written permission from the new property owners to continue processing the applications had been received by the agent's firm Construction Advisory Services, LLC.

   Following staff's presentation, and with no one present requesting to testify on the item, the Hearing Officer acted on the item and denied Oak Tree Permit No. 201000006, along with the CUP and VAR applications, and invalidated the environmental assessment applications.

4. **PROJECT DESCRIPTION.** The applicant proposed construction of a new residence on the subject parcel identified as APN 4436-001-037, with road widening that would impact three trees with encroachments along the Calabasas Peak Motorway atop a significant ridgeline within the SMMNA CSD. An OTP is required for the oak encroachments per County Code Section 22.56.2060, and a VAR is required for the subject parcel per County

Code Section 22.44.133.D.5.c for development within 50 feet vertical and 50 feet horizontal of a significant ridgeline. A CUP is also required for the subject parcel for proposed grading quantities that exceed 5,000 cubic yards per County Code Section 22.44.133.D.4.b. A Draft Environmental Impact Report (EIR) has been in preparation for the subject parcel and three contiguous parcels' project impacts to the significant ridgeline but has not been released for public review.

5. **LOCATION.** Calabasas Peak Motorway - Assessor Parcel Number (APNs) 4436-001-037, Unincorporated Area of Calabasas. Site located within The Malibu Zone District.

6. **EXISTING ZONING.** The subject property is zoned A-1-10 (Light Agricultural – 10 acre gross min. area reqd.).

   Surrounding Properties:
   North: A-1-10, City of Calabasas
   East: A-1-10
   South: A-1-10
   West: A-1-10

7. **EXISTING LAND USES.** The project site is currently vacant.

   Surrounding Properties:
   North: Vacant
   East: Vacant
   South: Vacant
   West: Vacant

8. **GENERAL PLAN / COMMUNITY PLAN DESIGNATION.** Site located within the Mountain Lands 10 (N10) land use category of the Santa Monica Mountains North Area (SMMNA) Plan (1 du/ 10 acres).

9. **CASE(S) HISTORY.** Application for the OTP 201000006 was submitted February 22, 2010, subsequent to the application for the VAR, CUP, and environmental assessment submitted in 2008.

10. The subject parcel was identified under the following holding:

    - APN 4436-001-037 (Mar Vista Holding, LLC)

11. Staff executed an EIR Agreement with the subject property owner and additional property owners of the three contiguous parcels, the EIR consultant, and the County on November 18, 2010, consolidating all four environmental assessment applications into the preparation of one Draft EIR.

12. The OTP 201000006 was circulated to the County Forestry Division of Fire, along with the VAR and CUP applications for the subject property and other three contiguous properties that were recirculated to all County departments on July 7, 2014. Comments were received from Fire and Public Works in August and September of 2014 recommending that the VAR and CUP applications could not be approved due to requirements that geotechnical, drainage and right of way requirements be met. The applicant was copied on all letters received from the County departments and directed to contact them to satisfy their requirements. The OTP could not be approved unless the VAR and CUP for the subject property could also be approved.

13. The agent for all four projects, Bill Cohen of Construction Advisory Services, confirmed via email on March 4, 2015, to staff, that the subject property and the three other contiguous parcels have changed ownership. Each parcel is separately owned by new owners. The agent was directed to submit new applications for the OTP, the VARs, and the CUPs for the subject parcel and three contiguous parcels with new owners' signatures, along with a letter indicating the change of ownership and a copy of the new deeds. The agent was also directed to have new owners of all four parcels sign a new EIR Agreement to continue processing the Draft EIR.

14. Staff emailed the agent, on September 29, 2015, regarding the requirement for new applications and EIR Agreement with new owners' signatures. The agent replied on same date that he would have information to move the projects forward.

15. Staff sent agent an official letter by certified mail dated November 17, 2015, to provide new applications signed by new property owners to continue the processing of the OTP, VAR and CUP applications by December 21, 2015, and for the new property owners to also sign a new EIR Agreement. The agent was also notified by email on the same date to provide the new signatures with a copy of the letter sent certified attached to the email.

16. The agent signed for receipt of the certified letter on November 21, 2015. No email or other correspondence was received from the agent.

17. A second certified letter requesting the new owners' signatures was sent to the agent on December 17, 2015, following no response from the agent other than acknowledgement from him that he had received the first letter dated November 17, 2015. The second certified letter set a deadline of January 16, 2016, for which staff must receive the required signatures on the applicable applications and documents, or else the OTP, VAR and CUP applications would be scheduled for denial before a Hearing Officer on April 5, 2016. No proof of receipt of the certified letter was signed for by the agent.

18. OTP 201000006, along with the four VAR and CUP applications, were scheduled on February 18, 2016, for denial due to inactivity before a Hearing Officer on April 5, 2016.

19. The letter dated December 17, 2016, was resent to the agent via registered mail on March 9, 2016, following no response from the agent.

20. **ZONING ORDINANCE COMPLIANCE.** County Code Section 22.56.2090 requires that all OTP applications contain required information which includes the names and addresses of the applicant and all persons owning any or all of the property to be used, including proof that the owner(s) is the applicant or that the owner(s) have granted written permission for an applicant to file an application for property under their ownership.

21. County Code Sections 22.56.2150, 22.56.2120, 22.56.1700 authorizes the Hearing Officer to deny an OTP application, without a public hearing, where the OTP application fails to provide the required information set forth in County Code Section 22.56.2090.

ENVIRONMENTAL DETERMINATION

22. The denial of the four projects with the OTP, VAR and CUP applications negates the Draft EIR. Per California Environmental Quality Act (CEQA) Guidelines Section 15270, CEQA does not apply to projects which a public agency rejects or disapproves.

OAK TREE PERMIT SPECIFIC FINDINGS FOR DENIAL

23. The agent for the subject parcel and three contiguous parcels, which includes the OTP under the project for the subject parcel along with the VAR and CUP applications, has not provided written permission (newly signed applications for the OTP and EIR Agreement) from the new property owner of the subject parcel, as required by County Code Section 22.56.2090 to continue processing the OTP application. The new application with new owner's signature for the subject parcel is required to show as evidence that the new owner(s) is/are the new applicant(s) of the premises involved, or that the new owner(s) have granted written permission to the agent to act as the applicant.

24. The agent has failed to respond to certified letters sent on November 17, 2015, and December 17, 2015, to his address of business requesting that the new applications be signed by the new property owners which includes the subject property, along with a newly signed EIR agreement, and be submitted to Regional Planning staff in order to continue processing the OTP application.

25. The agent has failed to respond to the letters of November 17, 2015, and December 17, 2015, resent by registered mail on March 9, 2016, to his address of business requesting that the new applications be signed by the new property owners which includes the subject property, along with a newly signed EIR agreement, and be submitted to Regional Planning staff in order to continue processing the OTP application.

26. **RECORD OF PROCEEDINGS.** The location of the documents and other materials constituting the record of proceedings upon which the Hearing Officer's decision is based on in this matter is at the Los Angeles County Department of Regional Planning, 13th Floor, Hall of Records, 320 West Temple Street, Los Angeles, CA 90012. The custodian of such documents and materials shall be the Section Head of the Land Development Coordinating Center, Los Angeles County Department of Regional Planning.

BASED ON THE FOREGOING, THE HEARING OFFICER CONCLUDES:

WITH RESPECT TO THE OAK TREE PERMIT APPLICATION

A. That the application for OTP 201000006 is incomplete due to the change in property ownership of the subject project parcel identified as APN 4436-001-037, with no identification of the new property owner(s) authorizing in writing that they themselves are the new applicants and /or the agent is the applicant authorized to continue the processing of the applications, and is not in compliance with County Code Sections 22.56.2090.

B. The Hearing Officer, under authority of County Code Section 22.60.010, and pursuant to County Code Section 22.56.2150, 22.56.2120 and 22.56.1700 is authorized to deny the applications for OTP 201000006, for noncompliance to provide the information required for the application in accordance with County Code Sections 22.56.2090.

THEREFORE, the information required by the applicant is incomplete, with evidence presented in the findings before the Hearing Officer that the required information requested to complete the application was not met, and renders the Oak Tree Permit application non compliant with Section 22.56.2090 of the Los Angeles County Code (Zoning Ordinance).

HEARING OFFICER ACTION:

1. In view of the findings of fact and conclusions presented above, OTP 201000006, for Project No. 2008-00115, is DENIED subject to the attached findings.

c: Zoning Enforcement, Building and Safety (Calabasas Office)

MG:RS

4/5/2016