



Los Angeles County
Department of Regional Planning

Planning for the Challenges Ahead



Richard J. Bruckner
Director

May 8, 2014

TO: Esther L. Valadez, Chair
Laura Shell, Vice Chair
David W. Louie, Commissioner
Curt Pedersen, Commissioner
Pat Modugno, Commissioner

FROM: Rudy Silvas 
Principal Regional Planning Assistant
Zoning Permits West

SUBJECT: Project Number R2013-01846-(3)
Conditional Use Permit No. 201300093
Oak Tree Permit No. 201300019
Environmental Assessment No. 201300158
RPC Meeting: May 14, 2014
Agenda Item: 6

The updated Findings and Conditions, revised plans for the proposed residence with oak tree location plan, updated landscape plan, photos, letters of acceptance for off-site mitigation oak trees to be planted at Camp Kilpatrick and from the agency in charge of monitoring are attached for your review.

Correspondence for clearance of the revised plan from the County Fire Department and Public Health Department are attached. Due to continued review of final revisions for engineering and oak tree impacts, clearance from County Public Works and the Forestry Division of the Fire Department may be presented to you at the Public Hearing.

The revised plans show the proposed two-story residence built atop caissons or piles, located further to the west of where previously proposed, with the swimming pool and septic tank relocated. Grading is proposed for 70 cubic yards of cut and 70 cubic yards of fill, balanced on site with no importation of fill. The revised plan for the residence will reduce the number of oak trees to be removed from 14 to 7, but increase the number of oak tree encroachments from 8 to 16. Should you have any questions on this project please feel free to contact me at (213) 974-6462.

MK:RS

**DRAFT FINDINGS AND ORDER OF THE REGIONAL PLANNING COMMISSION
COUNTY OF LOS ANGELES
PROJECT NO. R2013-01846-(3)
CONDITIONAL USE PERMIT NO. 201300093
OAK TREE PERMIT NO. 201300019
ENVIRONMENTAL ASSESSMENT NO. 201300158**

1. **ENTITLEMENTS REQUESTED.** Pursuant to Los Angeles County Code Sections 22.44.133 F.1 and 22.56.2100, a conditional use permit (CUP) and oak tree permit are requested to authorize the development of a single-family residence within the Antiquated Subdivision Area of the Santa Monica Mountains North Area (SMMNA) Community Standards District (CSD), with removal of 14 oak trees and encroachment into an additional 8 oak trees. The Antiquated Subdivision Area is located with Significant Ecological Area (SEA) Buffer 3B, which serves as buffer to the Zuma Canyon SEA. A Hillside/SEA CUP is also required pursuant to County Code Section 22.56.215 F.1 and F.2, with a report by the County's Significant Ecological Area Technical Advisory Committee (SEATAC) required per County Code Section 22.56.215 H.
2. **HEARING DATE:** March 5, 2014, April 9, 2014
3. **PROCEEDINGS BEFORE THE PLANNING COMMISSION:**
March 5, 2014: A duly noticed public hearing was held on March 5, 2014, before the Planning Commission. Staff gave a presentation recommending approval for the CUP application for the proposed single-family residence, and for the oak tree permit application to allow the proposed removal of 14 oak trees and encroachment of additional 8 oak trees. Staff specified the mitigation site for off-site planting of 20 mitigation oak trees at Camp Kilpatrick, with the remaining 8 mitigation oak trees to be planted on the project site. Staff also presented SEATAC's findings to the Planning Commission and recommended adoption of the Mitigated Negative Declaration (MND) with the Mitigation Monitoring and Reporting Program (MMRP) for the project.

The applicant provided testimony to the Planning Commission and indicated that the plan presented for the residence, given the environmental and legal constraints of the property, was the best plan possible. There was difficulty in sitting the house on the property due to a 20 foot Fire easement along the northwest and western boundary of the property, and also due to grading and drainage requirements by County Public Works. An attempt was made by the applicant to plant mitigation oak trees in the surrounding community, and the applicant stated that he had contacted the local Home Owners Association (HOA) for assistance in finding a local site to plant the oak trees but no site was found. The applicant later found the Camp Kilpatrick location, and a second alternate location, when he began to work with the Mountains Restoration Trust (MRT). Camp Kilpatrick was preferred and deemed most suitable for off-site mitigation by the Regional Planning Staff Biologist. The applicant's engineer also provided testimony that he had worked with Public Works' Building and Safety on the requirements for the grading and

drainage plan and had done his best to save as many oak trees as possible. The applicant also stated that the condition of some of the oak trees on site proposed to be removed was not very good.

The Planning Commission heard testimony from Mrs. Lisa Niles-Gutierrez, a nearby resident of the community who resides on Birdella Road. Mrs. Niles-Gutierrez testified that she was an architect and did not understand why a better plan for the residence was not pursued which could save more oak trees, and why no plan was available to plant mitigation oak trees in the community. She stated that there was space available along Birdella Road previously cleared of oak trees but never developed that could be used for planting new oak trees, and that the type of residence proposed was the type found for suburban tract home development and presented a plan based on a site analysis she conducted. Her plan proposal would not require importation of fill which would cause removal of more oak trees, and would place the residence on caissons. Mr. John Gutierrez also provided testimony that their home was built with no oak tree removals and recommended that the applicant redesign his proposed residence to better fit-in with the rural community.

Following a brief rebuttal by the applicant reiterating the physical constraints of the property and the grading and drainage requirements necessary to construct a residence on the project site, the Planning Commission deferred to the Public Works' representative if it was possible to redesign the residence and not require importation of fill to save more oak trees. The Public Works representative stated that it was possible the project could be redesigned to alleviate the requirement that the foundation be raised higher up atop a fill to have drainage to the street. The project could be designed for drainage to occur in a different manner. The Planning Commission also asked if a 20 foot easement for Public Works' road widening along the property frontage could be vacated in order for the residence to be moved forward and avoid additional oak tree impacts. Public Works responded that it would be examined. Fire was also asked by the Planning Commission to look into the 20 foot Fire easement that the applicant had claimed existed in the northwest corner of the site and along the western property boundary.

The Planning Commission asked that the applicant work with Public Works and the other County Departments to redesign the residence in order to save more oak trees, and to return for a continued hearing on April 9, 2014, with an updated landscape plan that would increase landscaping on the street frontage, and with a letter from Camp Kilpatrick and the agency that will handle the off-site planting and oak restoration for the project. The Planning Commission also asked that the planting of acorns as mitigation for oak removals be included in the conditions, and that if necessary to save more oak trees the swimming pool should be removed from the proposed plans.

The Planning Commission moved to continue the hearing to April 9, 2014.

April 9, 2014: At the continued public hearing on April 9, 2014, Staff recommended that the public hearing be continued to May 14, 2014, in order to allow additional time necessary for County Department to review the redesign for the proposed single-family residence and related oak tree impacts.

The applicant provided testimony to the Planning Commission that the concept of the plan had been changed where the proposed residence would now be built on caissons, requiring no importation of fill material. The applicant also presented a plan which shifted the proposed residence further towards the west property line and away from some of the oak trees that were previously planned for removal. Public Works had verified with the applicant and his engineer that no 20 foot wide Fire easement along the west property line existed, but only a 4 by 4 foot easement in the northwest and northeast corners of the site existed for use by Southern California Edison equipment. The applicant also stated that the use of a sum-pump would pump out water from the property and prevent the necessity for an easement to have drainage transverse upon the neighboring property to the east. The applicant also depicted on his concept plan that he would move the swimming pool to a new location upon the back slope along the east property line to save more oak trees. After the applicant's presentation to the Planning Commission and demonstrating that the new concept plan would save 7 oak tree from the previous plan to remove 14 oak trees, the applicant asked the Planning Commission for approval of the revised conceptual plan and permission to move forward.

The Planning Commission, after questioning the Public Works representative about the revised plans and understanding that Public Works still needed more time to look at the engineering aspect for the plans, moved to continue the public hearing to May 14, 2014.

- 4. PROJECT DESCRIPTION.** The applicant proposes to construct a new 2,261 square foot two story single-family residence, with attached two car garage, swimming pool, patio deck, and retaining walls, on a 9,980 square foot parcel. On site grading is proposed for 27 cubic yards of cut and 188 cubic yards of fill, of which 161 cubic yards of fill will be imported, no export. The maximum height of the residence is proposed at 26.5 feet. To accommodate the proposed residence requires removal of 14 ordinance size oak trees and encroachment into an additional 8 oak trees. Mitigation for replacement of the oaks and oak woodland habitat disturbed will occur both on and off-site. Arrangements are planned to allow planting of 20 oak trees off-site at Camp Kilpatrick, a County facility, and 8 oak trees are to be replanted on-site, for a total of 28 replacement oak trees.

5. **LOCATION.** 540 Thrift Road, Malibu. Assessor Parcel Number is 4464-012-039/016, to be consolidated to 044. Site located within The Malibu Zone District.
6. **SITE PLAN DESCRIPTION.** The site plan depicts the property boundaries, the residence proposed, swimming pool, patio deck area, retaining walls, drainage swales, septic tank, and the oak tree locations. Driveway access from Thrift Road is also depicted. Contours of the site depicting the slope on the south end of the residence, along with finished grade elevations, are also depicted on the site plan.
7. **EXISTING ZONING.** The subject property is zoned A-1-5 (Light Agricultural – 5 acre gross min. area reqd.).

Surrounding Properties:

North: A-1-5
East: A-1-5
South: A-1-5
West: A-1-5

8. **EXISTING LAND USES.** The site is currently vacant with only the oak woodland and natural topography.

Surrounding Properties:

North: Single family residence; community septic system
East: Single family residence
South: Single family residence
West: Single family residence

9. **PREVIOUS CASES/ZONING HISTORY.** A single-family residence was previously proposed on the subject parcel, with removal of up to 12 oak trees and encroachment into an additional 4 oak trees, under Project Number 2007-01677, Oak Tree Permit Number 200700034. Due to the difficulty of obtaining approval for connection to the community septic system, the project was abandoned and the case withdrawn on June 8, 2011. No permits were issued on the project.
10. The subject property has been zoned A-1-5 per Ordinance Number 2002-0062Z, adopted on August 20, 2002. The property, located in the Antiquated Subdivision Area, is part of the original small lot subdivisions in the rural mountain area, which were subdivided in the 1920s.
11. The parcel has a recorded Certificate of Compliance No. 201300076, in compliance with the State Subdivision Map Act, and has a recorded Lot Line Adjustment No. 101,700.

12. **GENERAL PLAN / COMMUNITY PLAN CONSISTENCY.** The site is located in the Significant Ecological Area (SEA) land use category of the Countywide General Plan, and within the Mountain Lands 5 (N5) land use category of the Santa Monica Mountains North Area (SMMNA) Plan. The Mountain Lands 5 category allows one dwelling unit per five acres of land (1 du/ 5 acres). The proposed single-family residence exceeds the density threshold with one unit proposed on a parcel of less than one-half acre in size; however, the parcel is legally established and has a recorded certificate of compliance with no conditions or building restrictions indicated.
13. Because the property is located in SEA Buffer 3B, the North Area Plan requires that the project's impacts be based upon the same environmental thresholds set forth for an SEA. The North Area Plan requires that significant environmental features be recognized, for which the site qualifies with hillsides having a slope between 25 and 50 percent, and the presence of oak woodland. Development in these areas may be allowed to proceed "where a certain degree of development may be tolerated without significant environmental impacts provided that development is appropriately clustered", as stated in the North Area Plan. The proposed single-family residence will be clustered close to other residences to the east of the site and along Thrift Road. Although a portion of the site's oak woodland will be removed to accommodate the residence, mitigation will allow the restoration of the habitat within the same community ecosystem.
14. **ZONING ORDINANCE AND DEVELOPMENT STANDARDS COMPLIANCE.** The subject property is zoned A-1-5 and is located within the Antiquated Subdivision Area of the Santa Monica Mountains North Area CSD.
15. County Code Section 22.44.133 F.1 requires a CUP for residential development in the Antiquated Subdivision Area on a lot or parcel of land that has less than one-half acre in gross area and contains any area with a natural slope of 25 percent or greater. The exemption for single-family residences provided in subsection C.3 of County Code Section 22.56.215 does not apply in these cases. The project has been evaluated for hillside management criteria.
16. The project, due to its location in SEA Buffer 3B, was required to go before SEATAC in compliance with County Code Section 22.56.215. The project appeared before SEATAC on September 9, 2013, and November 4, 2013, and the findings by SEATAC of the project's impacts to the SEA Buffer 3B area and recommendations for mitigation due to impacts to the oak woodland have been reported in compliance with Subsection H of County Code Section 22.56.215.
17. The project is required to have an oak tree permit in compliance with County Code Section 22.56.2050, for the removal of 14 oak trees and the additional encroachment of 8 oak trees. The applicant has filed the required oak tree report and has obtained a letter from the County Forestry Division of the Fire Department

dated December 19, 2013, with conditions of approval for the removal and encroachment of the oak trees identified.

18. The project complies with County Code Section 22.24.110 for A-1 Zone development standards. The proposed residence meets or exceeds the basic setback requirements for a 20 foot front yard setback, a five-foot side yard setback, and a 15 foot rear yard setback. The proposed height of the residence is below the 35 foot height limit. The proposed retaining walls meet height requirements of six feet or less in the required yard areas in compliance with County Code Section 22.48.160 D. A minimum of 70 percent of the project site will also be maintained as open space in compliance with County Code Section 22.56.215 J.1 for a nonurban hillside management area. County Code Section 22.52.1180 for parking requirements have been satisfied for two covered parking spaces, with a proposed two car attached garage for the residence.
19. **SITE VISIT.** A site visit was conducted by Staff on October 10, 2013. The site visit was made prior to the last SEATAC meeting date of November 4, 2013. Planning Staff and the Staff Biologist inspected the oak woodland and the topography of the site, the oak woodland understory, and the oak trees slated for removal or encroachment.
20. **NEIGHBORHOOD IMPACT/LAND USE COMPATIBILITY.** The site is located in SEA Buffer 3B to the Zuma Canyon SEA. The site also consists of a natural oak woodland habitat with understory and a natural hillside on the site with slopes exceeding 25 percent intensity. The proposed residence will impact the oak woodland habitat of the site with the proposed removal of 14 oak trees and additional encroachment of 8 oak trees.
21. Mitigation measures will require both on and off-site mitigation for up to 28 replacement oak trees, a 2:1 replacement ratio for the 14 oak trees to be removed. Up to 8 oak trees will be replanted on-site, and up to 20 oak trees will be replanted off-site at Camp Kilpatrick, a County facility. All replacement oak trees and disturbed habitat acreage will be replaced within the same ecological community as the subject site, all within SEA Buffer 3B and the Zuma Canyon SEA.
22. The replacement of the oak woodland habitat within the same ecological community reduces the neighborhood impact for the loss of the oak trees on the subject property to less than significant once the replanted oak trees mature. To ensure that the replanted oak trees survive and reach maturity, mitigation measures require that the oak trees be cared for and monitored for seven years.
23. On-site mitigation for the eight replanted oak trees shall be covered by an oak tree mitigation plan prepared and carried out by the applicant's arborist and monitored by the County's Forestry Division. Off-site mitigation for the replanting of 20 oak trees at Camp Kilpatrick will be managed by Mountains Restoration Trust (MRT), a

private non-profit organization, or by the Mountains Recreation and Conservation Authority (MRCA), a public state agency. Either organization would be required to prepare an oak tree mitigation plan and carry it out. Off-site mitigation at Camp Kilpatrick will also require the establishment of a conservation easement, with an agreement for the easement required to be approved by the County Board of Supervisors.

24. The proposed single-family residence in the Antiquated Subdivision Area is compatible with the pattern of other single-family homes in the area. The recently established community septic system for the area will be able to accommodate service for the proposed residence.

25. COUNTY DEPARTMENT COMMENTS AND RECOMMENDATIONS.

Los Angeles County Sheriff's Report

The County Sheriff's Department was consulted with for CEQA consultation on the draft initial study for the project with regard to service and response time issues. The Sheriff's Department reported with a phone call on January 14, 2014, that there would be no service or response time issues as a result of the project. The nearest station that would provide service to the project area would be the Malibu/Lost Hills Sheriff Station, located approximately seven miles to the northeast in the City of Calabasas.

26. Los Angeles County Fire Department

The County Fire Department's Planning Division, in their response letter for CEQA consultation to County Regional Planning dated December 23, 2013, has concluded that the project will have a less than significant impact on fire protection services, but will require fire protection facilities fees to be paid. The project site, located in a Very High Fire Hazard Severity Zone (VHFHSZ), Fire Zone 4, will be required to comply with standard fire code requirements. On January 10, 2014, the Fire Department's Fire Prevention Division – Land Development Unit, cleared the project to proceed to public hearing after the applicant completed the required fire flow test and access requirements were verified. The development proponents are required to submit their building plans for review to the Calabasas Fire Prevention Office, and their fuel modification plan to the Fire Department's Fuel Modification Unit. The project proponent is required to address developer fees with the Fire Department's Planning Division. Conditions of approval will require the applicant to follow these instructions. No further comments were made.

27. The County Fire Department's Forestry Division, in their letter to County Regional Planning dated December 19, 2013, has cleared with conditions of approval the removal for the 14 oak trees and additional encroachment of 8 oak trees. The approval is based on the oak tree report dated September 30, 2013, for the project site.

28. Los Angeles County Public Works

The County Public Works Department, in their letter to County Regional Planning dated January 23, 2014, has cleared the project for hearing with the requirement that the applicant submit grading and drainage plans for final review, drainage impact letters from impacted off-site owners, and soil and geology approval from Public Works Geotechnical and Materials Engineering Division. The project will be reviewed for compliance with Low-Impact Development (LID) requirements per County Code Section 12.84.460, and for MS4 Permit requirements. County Public Works in a letter dated January 9, 2013, only had minor editorial comments on the draft initial study for CEQA consultation.

29. Los Angeles County Public Health

The County of Los Angeles Public Health Department's Land Use Program – Environmental Health Division, in their letters of December 13, 2013, have cleared the project for public hearing following CUP and CEQA Consultation. Public Health will require that the single-family residence be connected to the approved Malibu Highlands community wastewater treatment system in accordance with Condition No. 30 of CUP No. 200800102, which addresses the responsibilities of the owners of any parcels served by the system. This CUP will be conditioned for compliance with Condition No. 30 of CUP No. 200800102.

30. Los Angeles County Parks and Recreation

Staff did not solicit any comments from County Parks and Recreation, as there are no County trails or park facilities that would be impacted by the project.

31. OTHER AGENCY COMMENTS AND RECOMMENDATIONS.

State Fish and Wildlife Staff consulted with the State Department of Fish and Wildlife for CEQA consultation on the initial study in December of 2013. Comments were provided by the agency on December 23, 2013, with recommendations that mitigation measures take into account any necessary surveys for special status species. Comments include that if the oak woodland habitat is to be created then the entire oak woodland should be re-created, and not just the planting of oak trees. A functioning oak woodland habitat should be the goal, and a 10 year monitoring period was recommended, thereby allowing the site to go for 7 years with no supplemental irrigation in order for the oak trees to be deemed self-sustaining. A conservation easement was also recommended over the mitigation area selected. Comments were made for protection of nesting birds during the breeding season, and for prohibiting fencing that could restrict wildlife movement through the property.

32. To address the concerns raised by the State Fish and Wildlife agency for disturbance of nesting birds, mitigation measures were prepared which require nesting bird surveys for any disturbance to the site that would occur from February 1st through August 31st of any given year. These measures are contained under

the Biological Resources Environmental Factor Section of the MMRP prepared for the project.

33. Additional Agencies Consulted, With No Responses Received

Staff solicited comments from the following agencies for informal consultation on the draft initial study, no comments were received.

National Park Service
City of Westlake Village
Mountains Recreation and Conservation Authority
Santa Monica Mountains Conservancy

34. ZONING ENFORCEMENT

The County Department of Regional Planning's Zoning Enforcement West section did not have any notice of violations registered on the site as of February 20, 2014.

35. LEGAL NOTIFICATION AND PUBLIC OUTREACH. Pursuant to the provisions of Sections 22.60.174 and 22.60.175 of the County Code, the community was appropriately notified of the public hearing by mail, newspaper, property posting, library posting and Department of Regional Planning website posting. Property owners within a 500-foot radius of the subject property were notified by mail.

36. In order to ensure notification thirty (30) days before the scheduled hearing date of March 5, 2014, and in accordance with above provisions, a total of 58 public hearing notices were mailed out on January 27, 2014, to all property owners within a 500 foot radius of the subject property.

37. Also in compliance with the thirty-day noticing requirement, the Notice of Public Hearing was published and advertised in the *Malibu Times* newspaper on January 30, 2014, and *La Opinion* newspaper on January 30, 2014, and was also sent on January 27, 2014, to the City of Westlake Village Library, 31220 Oak Crest Drive in Westlake Village, along with the Factual Sheet, Initial Study and MMRP.

38. Staff also received the Certificate of Posting from the applicant stating that the Notice of Public Hearing was posted at the site 30 days before the hearing date in accordance with Section 22.60.175 of the County Code.

39. PUBLIC COMMENTS. Staff has received letters from surrounding property owners expressing support of the project for the proposed residence. No comments in opposition to the project have been received.

ENVIRONMENTAL DETERMINATION

40. Staff has made an initial study determination for a mitigated negative declaration (MND), and has prepared a mitigation monitoring and reporting program (MMRP) for

the projects impacts to biota and aesthetic quality. The MND with MMRP are proposed for adoption under California Environmental Quality Act (CEQA) Guidelines and County Environmental Guidelines, and has been distributed to the State Clearinghouse on January 23, 2014, for distribution among state agencies and to allow a 30 day public review. The project is a request to construct a single-family residence in the Antiquated Subdivision Area of the SMMNA CSD with removal of 14 oak trees, and encroachment of 8 additional oak trees, within SEA Buffer 3B to the Zuma Canyon SEA. The project, which requires a Hillside/SEA CUP and an oak tree permit in an environmentally sensitive area, does not qualify for categorical exemption under CEQA. *Please see attached Initial Study and Mitigation Monitoring and Reporting Program for project.*

41. Comments from SEATAC were utilized in preparation of the initial study and MMRP, and in guiding the applicant to an off-site mitigation location at Camp Kilpatrick for mitigation oak tree planting and oak woodland habitat restoration. Camp Kilpatrick is located in the Zuma Canyon SEA, and all efforts for restoration of the oak woodland habitat will occur in compliance with the County's Oak Tree Ordinance provisions and with the State's Oak Woodland Conservation Act under CEQA Public Resources Code (PRC) Section 21083.4 .
42. The applicant, as required, initially appeared before SEATAC on September 9, 2013, due to the project's location in SEA Buffer 3B to the Zuma Canyon SEA. After review of the project, the applicant was advised by SEATAC to seek design alternatives for the residence to lessen the number of oak tree removals, to revise the oak tree report and biology update letter, and to ensure that all replacement mitigation oak trees would be planted within the Zuma Canyon SEA or SEA Buffer 3B area. Further SEATAC review was warranted.
43. The applicant returned to SEATAC on November 4, 2013, and presented a revised oak tree report for removal of the 14 oak trees and encroachment of an additional 8 oak trees, an updated biology letter, and a proposed off-site mitigation area for the oak tree replacement and mitigation effort, but not within SEA Buffer 3B or the Zuma Canyon SEA. The applicant also presented a grading and drainage plan depicting finished grade elevations, drainage swales, necessary retaining walls and a new septic tank location.
44. The applicant was questioned by SEATAC as to why a site for off-site mitigation for the oak trees was not found within SEA Buffer 3B or within the Zuma Canyon SEA. SEATAC also questioned why further redesign and alternatives for the proposed residence were not presented. The applicant responded that due to grading and drainage requirements by the County for the proposed residence, which is sited in a depressed topographical location of the property, it required imported fill to establish the finished grade elevation which in turn would impact the oak woodland of the site. The applicant did not see any feasibility for development of the residence on the sloped area of the site, or in curtailing the footprint of the residence proposed. Per

the applicant, a setback requirement of 20 feet by the Fire Department from the west property line also further constrained the applicant from options to site the residence on the property in a location that would impact less oak trees.

45. SEATAC was not satisfied with the explanation of limitations on the design of the proposed residence, and also restated that any replacement mitigation oak trees were to be placed within the Zuma Canyon SEA or SEA Buffer 3B area. Action requested by Staff was for the project to be found consistent with the SEA Compatibility Criteria if the replacement mitigation oaks and disturbed oak woodland habitat could be mitigated within the Zuma Canyon SEA or SEA Buffer 3B area. SEATAC commented that the Committee understood the constraints on the site faced by the applicant for the project residence he has proposed. SEATAC understood that off-site mitigation of the oak trees could be done outside of the SEA area but that this would not satisfy the SEA CUP burden of proof and did not accept that further design options for the residence were not feasible. SEATAC found that the project was incompatible with the burden of proof for the SEA CUP, but that the applicant was free to proceed toward a public hearing with SEATAC comments and recommendations presented for the record.
46. Following SEATAC review of the project, Staff worked with the applicant to find an acceptable location for oak tree replacement and oak woodland mitigation at Camp Kilpatrick within the Zuma Canyon SEA. In return for the off-site location selected for oak woodland mitigation, and for the substantial gain for the community ecosystem once the new oak woodland matures and is protected in perpetuity with a conservation easement, the loss due to the impact for the proposed residence at the subject site will be less overall to what will be gained for the future. Conclusions for an MND determination, with implementation of the MMRP, are based on this factor. Off-site mitigation at Camp Kilpatrick would also enable the burden of proof for the SEA CUP to be met, and provide for the determination that the significant impacts to the biota of the site and surrounding area would be less than significant following completion of mitigation under the MMRP.
47. A landscape/fuel modification plan will also be reviewed by the Staff Biologist, as part of the MMRP Aesthetics category, to ensure aesthetic quality and the use of native plant species in the landscape design for the new residence. Visual impacts will be reduced to less than significant.

CONDITIONAL USE PERMIT SPECIFIC FINDINGS

48. The subject site, located in SEA Buffer 3B to the Zuma Canyon SEA, is situated within a unique ecological setting that consists of oak woodland habitat and natural hillsides. The proposed design of the residence will have impacts that will result in oak woodland disturbance on site. To mitigate for the loss of oak woodland habitat on site, off-site mitigation at Camp Kilpatrick, a County facility located within the

Zuma Canyon SEA, will be the mitigation site to restore the loss of oak woodland habitat on the subject parcel, with the replanting of oak trees and the restoration of oak woodland habitat protected in perpetuity with a conservation easement held and managed by either Mountains Restoration Trust (MRT), a private non-profit entity, or by the Mountains Recreation and Conservation Authority (MRCA), a state public agency. Both organizations are well recognized for their work with mitigation and monitoring and restoration efforts of oak woodland habitat. Through the employment of mitigation measures under the Biological Resources category of the MMRP, the off-site mitigation of oak woodland habitat at Camp Kilpatrick that includes the planting of 7 oak trees, when completed, will present a benefit for the overall ecosystem of the Zuma Canyon SEA and SEA Buffer 3B area. The project, through implementation of the MMRP, will meet the SEA CUP Burden of Proof as required per County Code Section 22.56.215 F.2.

49. The proposed project for the residence will maintain up to 73 percent of the project site as open space, and in compliance with County Code Section 22.56.215 J.1 for a nonurban hillside management area. The project meets the Hillside CUP Burden of Proof as required by County Code Section 22.56.215 F.1.
50. SEATAC's recommendations for the off-site mitigation location for restoration of the oak woodland habitat have been satisfied with the selection of Camp Kilpatrick within the Zuma Canyon SEA. Staff has determined that the overall benefit to the ecosystem of the Zuma Canyon SEA and SEA Buffer 3B community to be obtained, following the completion of all mitigation measures under the MMRP for the oak woodland restoration effort, would outweigh the impacts of allowing the design of the proposed residence to move forward and the loss of oak woodland on the project site. Staff has found that the proposed project, with implementation of all mitigation measures of the MMRP, is acceptable for making a recommendation for the granting of the CUP required by County Code Section 22.44.133 F.1 for the residence, located within the Antiquated Subdivision Area of the SMMNA CSD and within SEA Buffer 3B to the Zuma Canyon SEA, and finds the project in compliance with the intentions for proper development in the area and consistent with the policies of the Santa Monica Mountains North Area Plan.
51. Following the direction of the Regional Planning Commission at the Public Hearing of March 5, 2014, the applicant has redesigned a better plan for the residence which has reduced the proposed removal of oak trees from the previous plan by fifty percent. As a result, only 7 oak trees will now be removed. The redesign of the residence on caissons or piles, requiring no import of fill material, is an environmentally superior alternative to the original plan proposal.

OAK TREE PERMIT SPECIFIC FINDINGS

52. In satisfying the requirements for the conditions of the oak tree permit, the applicant will be required to replant oak trees at a 2:1 ratio for each of the 7 oak

trees to be removed. A total of 14 fifteen-gallon sized oak trees are required to be replanted, with 7 oak trees to be planted off-site at Camp Kilpatrick, and 7 oak trees to be planted on the subject parcel. Oak tree mitigation plans for each site will be required. Mitigation measures will be implemented through the MMRP for the project and will require a conservation easement for the mitigation area at Camp Kilpatrick to be held and managed by MRT or MRCA. Full restoration of the oak woodland habitat will also require a seven year monitoring period. The removal of the 7 oak trees and the additional encroachment of 16 oak trees are necessary to accommodate the proposed residence in the location where most of the oak trees are clustered on the site. The removal of the oak trees with the subsequent development of the project through mitigation will not create an erosion hazard on site nor endanger the remaining oak trees as indicated by the applicant for the oak tree permit burden of proof. Staff finds the oak tree permit burden of proof to be acceptable per County Code Section 22.56.2100, and recognizes the benefits to be gained for the Zuma Canyon SEA and SEA Buffer 3B ecosystem through oak woodland restoration and mitigation off-site at Camp Kilpatrick, and also with the replanting of oaks of the subject parcel. Staff's findings support recommendation of approval for the oak tree permit application.

53. **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 Zoning Permits West Section, Los Angeles County Department of Regional Planning.

BASED ON THE FOREGOING, THE REGIONAL PLANNING COMMISSION CONCLUDES:

WITH RESPECT TO THE CONDITIONAL USE PERMIT

- A. That the proposed use will be consistent with the adopted general plan for the area; and
- B. That the requested use at the proposed location will not adversely affect the health, peace, comfort, or welfare of persons residing and working in the surrounding area, will not be materially detrimental to the use, enjoyment, or valuation of property of other persons located in the vicinity of the site, and will not jeopardize, endanger, or otherwise constitute a menace to the public health, safety or general welfare; and

- C. That the proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and other development features prescribed in Title 22 of the County Code, or as is otherwise required in order to integrate said use with the uses in the surrounding area; and
- D. That the proposed site is adequately served by highways or streets of sufficient width and improved as necessary to carry the kind and quantity of traffic such use would generate, and by other public or private service facilities as are required.

WITH RESPECT TO THE HILLSIDE CONDITIONAL USE PERMIT

- A. That the proposed project is located and designated so as to protect the safety of current and future residents, and will not create significant threats to life and/or property due to the presence of geologic, seismic, slope instability, fire, flood, mud flow, or erosion hazard, and
- B. That the proposed project is compatible with the natural, biotic, cultural, scenic and open space resources of the area, and
- C. That the proposed project is conveniently served by (or provides) neighborhood shopping and commercial facilities, can be provided with essential public services without imposing undue costs on the total community, and is consistent with the objectives and policies of the General Plan, and
- D. That the proposed development demonstrates creative and imaginative design, resulting in a visual quality that will complement community character and benefit current and future community residents.

WITH RESPECT TO THE SIGNIFICANT ECOLOGICAL AREA CONDITIONAL USE PERMIT

- A. That the requested development is designed to be highly compatible with the biotic resources present, including the setting aside of appropriate and sufficient undisturbed areas; and
- B. That the requested development is designed to maintain water bodies, watercourses, and their tributaries in a natural state; and
- C. That the requested development is designed so that wildlife movement corridors (migratory paths) are left in an undisturbed and natural state; and

- D. That the requested development retains sufficient natural vegetative cover and/or open spaces to buffer critical resource areas from said requested development; and
- E. That where necessary, fences or walls are provided to buffer important habitat areas from development; and
- F. That roads and utilities serving the proposed development are located and designed so as to not conflict with critical resources, habitat areas or migratory paths.

WITH RESPECT TO THE OAK TREE PERMIT

- A. That the proposed construction of proposed use will be accomplished without endangering the health of the remaining trees subject to this Part 16 of Chapter 22.56, if any, on the subject property; and
- B. That the removal or relocation of the oak tree(s) proposed will not result in soil erosion through the diversion or increased flow of surface waters which cannot be satisfactorily mitigated; and
- C. That in addition to the above facts, at least one of the following findings must apply:
 - 1. That the removal or relocation of the oak tree(s) proposed is necessary as continued existence at present location(s) frustrates the planned improvement or proposed use of the subject property to such an extent that:
 - a. Alternative developments plans cannot achieve the same permitted density or that the cost of such alternative would be prohibitive, or
 - b. Placement of such tree(s) precludes the reasonable and efficient use of such property for a use otherwise authorized, or
 - 2. That the oak tree(s) proposed for removal or relocation interferes with utility services or streets and highways, either within or outside of the subject property, and no reasonable alternative to such interference exists other than removal of the tree(s), or
 - 3. That the condition of the oak tree(s) proposed for removal, with reference to seriously debilitating disease or danger of falling, is such that it cannot be remedied through reasonable preservation procedures and practices, or
- D. That the removal of the oak tree(s) proposed will not be contrary to or be in substantial conflict with the intent and purpose of the oak tree permit procedure.

THEREFORE, the information submitted by the applicant and presented at the public hearing substantiates the required findings for a Conditional Use Permit in Section 22.56.090, and for an Oak Tree Permit in Sections 22.56.2150 and 22.56.2170 of the Los Angeles County Code (Zoning Ordinance).

REGIONAL PLANNING COMMISSION ACTION:

1. The Regional Planning Commission having considered the Mitigated Negative Declaration together with any comments received during the public review process, finds on the basis of the whole record before the Regional Planning Commission that there are is no substantial evidence that the project will have a significant effect on the environment as modified, finds that the Mitigated Negative Declaration reflects the independent judgment and analysis of the Regional Planning Commission, and adopts the Mitigated Negative Declaration and Mitigation Monitoring Program for the project.
2. In view of the findings of fact and conclusions presented above, Conditional Use Permit No. 201300093 and Oak Tree Permit No. 201300019 are **APPROVED**, subject to the attached conditions.

VOTE:

Concurring:

Dissenting:

Abstaining:

Absent:

Action Date:

MK:RS

5/08/2014

c: Each Commissioner

**DRAFT CONDITIONS OF APPROVAL
DEPARTMENT OF REGIONAL PLANNING
PROJECT NO. R2013-01846-(3)
CONDITIONAL USE PERMIT NO. 201300093
OAK TREE PERMIT NO. 201300019
ENVIRONMENTAL ASSESSMENT NO. 201300158**

PROJECT DESCRIPTION

The applicant proposes to construct a new 2,261 square foot two story single-family residence, with attached two car garage, swimming pool, patio deck, and retaining walls, on a 9,980 square foot parcel. On site grading is proposed for 27 cubic yards of cut and 188 cubic yards of fill, of which 161 cubic yards of fill will be imported, no export. The maximum height of the residence is proposed at 26.5 feet. To accommodate the proposed residence requires removal of 14 ordinance size oak trees and encroachment into an additional 8 oak trees. Mitigation for replacement of the oaks and oak woodland habitat disturbed will occur both on and off-site. Arrangements are planned to allow planting of 20 oak trees off-site at Camp Kilpatrick, a County facility, and 8 oak trees are to be replanted on-site, for a total of 28 replacement oak trees.

GENERAL CONDITIONS

1. This grant authorizes a conditional use permit and oak tree permit for the development of a single-family residence within the Antiquated Subdivision Area of Santa Monica Mountains North Area (SMMNA) Community Standards District (CSD) and SEA Buffer 3B of the Zuma Canyon SEA, requiring an oak tree permit for the removal of 14 oak trees and the encroachment of an additional 8 oak trees, pursuant to County Code Sections 22.44.133 F.1, 22.56.020, 22.56.215, and 22.56.2050.
2. Unless otherwise apparent from the context, the term "permittee" shall include the applicant, owner of the property, and any other person, corporation, or other entity making use of this grant.
3. This grant shall not be effective for any purpose until the permittee, and the owner of the subject property if other than the permittee, have filed at the office of the Los Angeles County ("County") Department of Regional Planning ("Regional Planning") their affidavit stating that they are aware of and agree to accept all of the conditions of this grant, and that the conditions of the grant have been recorded as required by Condition No. 8, and until all required monies have been paid pursuant to Condition Nos. 10, 11, and 14. Notwithstanding the foregoing, this Condition No. 3 and Condition Nos. 5, 6, 9, and 15 shall be effective immediately upon the date of final approval of this grant by the County.
4. Unless otherwise apparent from the context, the term "**date of final approval**" shall mean the date the County's action becomes effective pursuant to Section 22.60.260 of the County Code.

5. The permittee shall defend, indemnify, and hold harmless the County, its agents, officers, and employees from any claim, action, or proceeding against the County or its agents, officers, or employees to attack, set aside, void, or annul this permit approval, which action is brought within the applicable time period of Government Code Section 65009 or any other applicable limitations period. The County shall promptly notify the permittee of any claim, action, or proceeding and the County shall fully cooperate in the defense. If the County fails to promptly notify the permittee of any claim action or proceeding, or if the County fails to cooperate fully in the defense, the permittee shall not thereafter be responsible to defend, indemnify, or hold harmless the County.
6. In the event that any claim, action, or proceeding as described above is filed against the County, the permittee shall within ten days of the filing make an initial deposit with Regional Planning in the amount of up to \$5,000.00, from which actual costs and expenses shall be billed and deducted for the purpose of defraying the costs or expenses involved in Regional Planning's cooperation in the defense, including but not limited to, depositions, testimony, and other assistance provided to permittee or permittee's counsel.

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

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

7. If any material provision of this grant is held or declared to be invalid by a court of competent jurisdiction, the permit shall be void and the privileges granted hereunder shall lapse.
8. Prior to the use of this grant, the permittee, or the owner of the subject property if other than the permittee, shall **record the terms and conditions** of the grant in the office of the County Registrar-Recorder/County Clerk ("Recorder"). In addition, upon any transfer or lease of the property during the term of this grant, the permittee, or the owner of the subject property if other than the permittee, shall promptly provide a copy of the grant and its conditions to the transferee or lessee of the subject property.
9. This grant shall expire unless used within two (2) years from the date of "final approval" of the grant. A single one-year time extension may be requested in writing and with the payment of the applicable fee prior to such expiration date.

10. The subject property shall be maintained and operated in full compliance with the conditions of this grant and any law, statute, ordinance, or other regulation applicable to any development or activity on the subject property. Failure of the permittee to cease any development or activity not in full compliance shall be a violation of these conditions. Inspections shall be made to ensure compliance with the conditions of this grant as well as to ensure that any development undertaken on the subject property is in accordance with the approved site plan on file. The permittee shall deposit with the County the sum of \$200.00. The deposit shall be placed in a performance fund, which shall be used exclusively to compensate Regional Planning for all expenses incurred while inspecting the premises to determine the permittee's compliance with the conditions of approval. The fund provides for 2 inspections. Inspections shall be unannounced.

If additional inspections are required to ensure compliance with the conditions of this grant, or if any inspection discloses that the subject property is being used in violation of any one of the conditions of this grant, the permittee shall be financially responsible and shall reimburse Regional Planning for all additional enforcement efforts necessary to bring the subject property into compliance. The amount charged for additional inspections shall be \$200.00 per inspection, or the current recovery cost at the time any additional inspections are required, whichever is greater.

11. Within three (3) days of the date of final approval of this grant, the permittee shall remit processing fees payable to the County of Los Angeles in connection with the filing and posting of a Notice of Determination (NOD) for this project and its entitlements in compliance with Section 21152 of the Public Resources Code. Unless a Certificate of Exemption is issued by the California Department of Fish and Wildlife pursuant to Section 711.4 of the California Fish and Wildlife Code, the permittee shall pay the fees in effect at the time of the filing of the NOD, as provided for in Section 711.4 of the Fish and Wildlife Code, currently \$2,231.25 (\$2,231.25 for a Negative Declaration or Mitigated Negative Declaration which includes a \$75.00 processing fee). No land use project subject to this requirement is final, vested or operative until the fee is paid.
12. The permittee shall comply with all mitigation measures identified in the Mitigation Monitoring and Reporting Program ("MMRP"), which is attached hereto and incorporated by this reference and set forth fully herein.
13. Within thirty (30) days of the date of final approval of the grant by the County, the permittee shall record a covenant and agreement, which attaches the Mitigation Monitoring and Reporting Program ("MMRP") and agrees to comply with the mitigation measures imposed by the Mitigated Negative Declaration for this project, in the office of the County Recorder. Prior to recordation of the covenant, the permittee shall submit a draft copy of the covenant and agreement to Regional Planning for review and approval. As a means of ensuring the effectiveness of the

mitigation measures, the permittee shall submit annual mitigation monitoring reports to Regional Planning for approval or as required. The reports shall describe the status of the permittee's compliance with the required mitigation measures.

14. The permittee shall deposit an initial sum of \$6,000.00 with Regional Planning within thirty (30) days of the date of final approval of this grant in order to defray the cost of reviewing and verifying the information contained in the reports required by the MMRP. The permittee shall replenish the mitigation monitoring account if necessary until all mitigation measures have been implemented and completed.
15. Notice is hereby given that any person violating a provision of this grant is guilty of a misdemeanor. Notice is further given that the Regional Planning Commission ("Commission") or a Hearing Officer may, after conducting a public hearing, revoke or modify this grant, if the Commission or Hearing Officer finds that these conditions have been violated or that this grant has been exercised so as to be detrimental to the public's health or safety or so as to be a nuisance, or as otherwise authorized pursuant to Chapter 22.56, Part 13 of the County Code.
16. All development pursuant to this grant must be kept in full compliance with the County Fire Code.
17. The applicant shall submit building plans for approval to the Calabasas Fire Prevention Office, at 26600 Agoura Road, Calabasas, for final review and approval and for payment fire protection facilities fees.
18. All development shall comply with the requirements of Title 22 of the County Code ("Zoning Ordinance") and of the specific zoning of the subject property, unless specifically modified by this grant, as set forth in these conditions, including the approved Exhibit "A," or a revised Exhibit "A" approved by the Director.
19. All development pursuant to this grant shall conform to the requirements of County Department of Public Works.
20. The permittee shall maintain the subject property in a neat and orderly fashion, and shall maintain free of litter all areas of the premises over which the permittee has control.
21. The subject property shall be developed and maintained in substantial compliance with the plans marked Exhibit "A." If changes to the site plan are required as a result of instruction given at the public hearing, **three copies** of a modified Exhibit "A" shall be submitted to Regional Planning within sixty (60) days of the date of final approval.

22. In the event that subsequent revisions to the approved Exhibit "A" are submitted, the permittee shall submit **three copies** of the proposed plans to the Director for review and approval. All revised plans must be accompanied by the written authorization of the property owner(s) and applicable fee for such revision.

PERMIT SPECIFIC CONDITIONS

23. The permittee shall comply with all conditions and requirements contained in the County Forester letter dated December 19, 2013 for the oak tree permit (attached hereto and incorporated herein by this reference). The permittee shall also comply with all mitigation measures identified in the adopted Mitigation Monitoring and Reporting Program ("MMRP"), including but not limited to the measures set forth under the Biological Resources category for oak woodland restoration and mitigation under Mitigation Measures 4.1, 4.2, 4.3, and 4.4, which is attached hereto and incorporated herein by this reference. Compliance with the County Forester's letter and the MMRP shall be to the satisfaction of said County Forestry Division and the Department of Regional Planning. These measures include but are not limited to the following:
- a. The permittee shall provide mitigation trees of the Oak genus at a rate of two to one (2:1) for each of the 14 oak trees removed for a total of 28 oak trees;
 - b. Additional oak trees may be required per the Oak Tree Mitigation Plans to be prepared and approved by Regional Planning for on-site planting and off-site planting of oak trees at Camp Kilpatrick, a County Facility;
 - c. Under the MMRP, an in perpetuity conservation easement must be approved by the County in an agreement with either the Mountains Restoration Trust (MRT), a private entity, or the Mountains Recreation and Conservation Authority (MRCA), a public entity
 - d. No oak trees on the subject parcel may be disturbed or removed, or encroached upon, until approval of the agreement between the County, the applicant, MRT and MRCA, the approval of oak tree mitigation plans by the Staff Biologist of Regional Planning, and approval by the County Board of Supervisors for the conservation easement over the mitigation area of Camp Kilpatrick.
24. In addition to the conditions and requirements of the County Forester letter dated December 19, 2013, the permittee shall plant one healthy acorn of the same species of oak (*Quercus sp.*) as the tree removed for each mitigation tree planted. The acorns shall be planted at the same time as and within the watering zone of each mitigation tree.
25. All replacement trees shall be planted on native undisturbed soil and shall be the same species of oak (*Quercus sp.*) as the removed tree. The location of the replacement tree shall be in the vicinity of other oak trees of the same species. A layer of humus and litter from beneath the canopy of the removed tree shall also

be applied to the area beneath the canopies of the replacement trees to further promote the establishment of mycorrhizae within their rooting zones.

26. When replacement trees are planted on disturbed soil or are not in the vicinity of the same species of oak (*Quercus sp.*) as the removed tree, planting shall incorporate a mycorrhizal product, either as amendment or in the first two irrigations or watering of planted trees (i.e. "mycorrhizaROOTS" or similar product) in accordance with the label's directions. A layer of humus and litter from beneath the canopy of the removed tree shall also be applied to the area beneath the canopies of the replacement trees to further promote the establishment of mycorrhizae within their rooting zones.
27. That the trees on the site plan be physically identified by number on a tag affixed to the north side of the tree in a manner preserving the health and viability of the tree. The tag shall be composed of a noncorrosive all-weather material and shall be permanently affixed to the tree. The tree shall be similarly designated on the site plan in a manner acceptable to the director.
28. The permittee shall first obtain approval of a landscape/fuel modification plan, to be approved by the Staff Biologist for the proposed development on site, per the adopted MMRP.
29. The permittee for the project is required to comply with Condition No. 30 of CUP No. 200800102 for service connection to the community septic system. Condition No. 30 of CUP No. 200800102, a copy of which is attached to this CUP, outlines the responsibilities of the owners of any parcels served by the community septic system.
30. No chain-link or other solid fencing structure is permitted on the subject property, with the exception of necessary fencing for safety around the swimming pool area. Open split rail fencing is permitted on the perimeter of the site.
31. The applicant is expected to work diligently to complete the project and shall initiate contact with the Regional Planning Department to pay the fees as specified in Condition No. 14 for the MMRP, and shall work with the assigned Planner and Staff Biologist to begin work outlined in the MMRP.
32. The conditions of this grant shall be retained on the premises at all times and be immediately produced upon request of any County Zoning Enforcement Inspector, County Forester, and County Regional Planning Staff Biologist.

Mr. Eddie Makabi
5905 Beckford Avenue,
Tarzana, CA 91356

Dear Mr. Makabi:

**REQUEST FOR COUNTY PROPERTY USE FOR OAK TREE MITIGATION
PURPOSES
CAMP MILLER/KILPATRICK PROBATION CAMP
427 S. ENCINAL CANYON ROAD, MALIBU**

This letter is to advise you that the County of Los Angeles has reviewed your request to use County property located in the vicinity of Camp Miller/Kilpatrick (Camp) for the purpose of planting oak trees to satisfy the mitigation requirements for your private home construction located at 540 Thrift Road, Malibu, CA, 90265. The construction project is currently under review by the County's Department of Regional Planning (Regional Planning) and the Department of Public Works.

Staff from this office, Regional Planning, and the Probation Department has selected a site on Camp property that is suitable for the oak tree mitigation and oak wood restoration. To ensure the sustainability of the oak tree habitat on the selected site, this office will grant a conservation easement to an appropriate conservation organization that will be responsible for the planting, maintenance, and irrigation of said oak trees and associated landscaping. The granting of the conservation easement will be subject to Board of Supervisors approval.

Please note, this letter does not constitute a formal and binding approval of any home construction project. Any approval of building and grading permits for the home construction project will be strictly at the behest of the Department of Regional Planning, Public Works, and other necessary departments.

Please contact Roger Hernandez at (213) 974-4208 if you have any questions.

Sincerely,

Rudy Silvas

From: Eddie Makabi [eddiemakabi@hotmail.com]
Sent: Wednesday, April 02, 2014 3:37 PM
To: Rudy Silvas
Subject: FW: Mitigation Proposal for Camp Kilpatrick related to Latigo Canyon Development

Here you go Rudy. Do you need anything else from them?

On Mar 28, 2014, at 4:47 PM, "Paul Edelman" <edelman@smmc.ca.gov> wrote:

Dear Mr. Makabi –

This proposal is for the MRCA to conduct oak woodland mitigation on property owned by Los Angeles County. Given that the RPC agenda shows the subject mitigation project on Camp Kilpatrick County land it seems that the County is on board. However this proposal wholly rests on the MRCA having unfettered access to the mitigation site on this County property and that County maintenance activities do not harm the site.

The MRCA understands that it must request a conservation easement from the County over the mitigation area. The MRCA will prepare a recordable legal description and a draft Grant of Conservation Easement deed. Said documents will be submitted by MRCA staff counsel to Regional Planning or County Counsel. However, the process of the County approving and recording the easement is beyond the scope of this proposed work. If the County fails to record that easement, the MRCA would not be subject non-performance on this work because of that omission.

This proposal is 100 percent dependent on the availability of water at no cost to the MRCA from the County facility for the length of the project. Currently a live PVC waterline with valve comes right to the work site. That live line shall remain in place. If renovations of the County facility cut off the water supply to the work site – the MRCA will require additional time and materials funding paid in advance on a weekly basis to cover this deficiency until it is remedied.

The MRCA will prepare a mitigation plan for approval by the County.

This quote covers planting up to 15 oak trees on the site (yes it may only need to be 8) and creating oak woodland understory with less than 10 percent non-native vegetation cover over an area not to exceed 0.1 acres.

To cover project management interface with the County and contingencies the MRCA must increase its initial quoted amount by \$5,000 to a total of \$34,000.

The MRCA would prepare a simple MOA to enter into this contractual obligation.

Sincerely Paul Edelman
Chief of Natural Resources and Planning

Rudy Silvas

From: Debbie Sharpton [dsharpton@mountainstrust.org]
Sent: Tuesday, April 08, 2014 10:42 AM
To: Rudy Silvas; 'Eddie Makabi'
Cc: Joseph Decruyenaere; 'Tom Hayduk'
Subject: RE:

Thanks Rudy.
We will wait until the off-site mitigation requirement is determined.
Let us know.

Debbie

From: Rudy Silvas [mailto:rsilvas@planning.lacounty.gov]
Sent: Tuesday, April 8, 2014 9:57 AM
To: 'Debbie Sharpton'; 'Eddie Makabi'
Cc: Joseph Decruyenaere
Subject: RE:

Hello Debbie. Although what Eddie has said to you appears to be what has been shaping up, we will not know for sure the precise amount of off-site mitigation required until we see his final revised plan. He is working with County Public Works right now for a revised site plan to be found feasible for the site. We are recommending continuing his public hearing until May 14th.

Rudy

From: Debbie Sharpton [mailto:dsharpton@mountainstrust.org]
Sent: Friday, April 04, 2014 2:19 PM
To: 'Eddie Makabi'
Cc: Rudy Silvas
Subject: RE:

Rudy-

Eddie told me today that the offsite mitigation requirements have been reduced to about 2,200 sq ft of oak woodland and 7 oak trees. Can you please confirm that before we spend time reviewing and revising the cost estimate?

Thanks.

Debbie

Debbie Sharpton
Mountains Restoration Trust
Executive Director
(818) 337-3515 – direct line
(805) 338-8278 cell
www.mountainstrust.org
Love the mountains? Like MRT on Facebook!

**IN-LIEU FEE MITIGATION AGREEMENT BETWEEN
EDWARD MAKABI
AND THE MOUNTAINS RESTORATION TRUST**

THIS AGREEMENT is made and effective as of _____, between Edward Makabi (“Applicant”) and the Mountains Restoration Trust (“MRT”). In consideration of the mutual covenants and conditions set forth herein, the parties agree as follows:

1. RECITALS. This agreement is made with respect to the following facts and for the following purposes, which each of the parties hereto acknowledge as true and correct:

A. Pursuant to (*need description of why Applicant needs mitigation, such as oak tree ordinance code number*) the Applicant notified Los Angeles County Regional Planning “LACRP”) of its intent to (*need description of what Mr. Makabi wants to do*), located in the unincorporated area of Agoura, Los Angeles County, California.

B. Applicant entered into the following permit, (“Permit”), authorizing (*need description of intended project*) (“the Project”) impacting (*need impact description*) in Agoura:

a. (*need description of permit*).

C. The Permit requires Applicant to provide certain mitigation (“Mitigation”) relating to the Project.

D. MRT is in a position to perform and fulfill all of the mitigation requirements set forth in the Permit, on behalf of the Applicant.

2. TERM. This Agreement shall commence upon mutual execution and shall remain and continue in effect until tasks described herein are completed.

3. IN-LIEU FEE COMPENSATION.

In lieu of on-site mitigation to offset adverse impacts associated with permitted projects, jurisdictional agencies, often will allow compensatory mitigation in the form of an “in lieu” fee where it has determined that such compensatory mitigation may offer greater resource protection and conservation benefits to gather funds collected in-lieu of actual required mitigation actions, and to expend such in lieu monies on independent conservation projects that will offset impacts to jurisdictional habitat caused by the authorized activity. The purpose of these mitigation payments is to provide a voluntary, alternative compensatory mitigation option that will result in better designed and managed aquatic resource sites.

A. The total (*need description of impact*) to be impacted as a result of the Permit will be (*need number*). Based on (*need basis of mitigation*) of mitigation is required. LACRP has agreed to allow payment of an in lieu fee of (*need dollar amount*) (the “In Lieu Fee”) for the creation and restoration of the Oak Woodland Resources, as defined in Section 4 below.

B. In order to provide an endowment for the preservation, maintenance and management of the Aquatic Resources (as defined in Section 4 below), LACRP has agreed to allow the payment of an endowment of \$(*need dollar amount*) (the “Endowment”).

4. **INTENT OF IN-LIEU FEE AND ENDOWMENT.** MRT shall accept payment of the In Lieu Fee and Endowment by the Applicant in order to fully satisfy the mitigation requirements of the Permits listed under 1.B above. MRT enters into this Agreement agreeing to, among other things, use the In Lieu Fee and Endowment to create and/or restore, preserve, maintain and manage (*need acreage*) acres of oak woodland resources (collectively, the “Resources”) on the property known as the “Kilpatrick Probation Camp” that is currently owned by Los Angeles County and managed under conservation easement held by the MRT as required in the Conditions, as defined in 4A below. Without limiting the generality of the foregoing, MRT shall perform each and all of the obligations set forth in Sections 4A and 4B below.

A. MRT shall assume, perform, and fulfill all of the conditions for the mitigation requirements set forth in the Permit (“Condition”), as more particularly set forth in the following exhibit attached hereto and incorporated herein as though set forth in full. To the extent it is unclear as to MRT’s responsibilities under any Condition, the parties agree to cooperate reasonably with one another to define and clarify the work to be performed by MRT under such Condition under this agreement. Any material change or modification in any Condition relating to the work to be performed by MRT hereunder shall not be binding on MRT unless disclosed to MRT in writing and approved by MRT, which approval shall not be unreasonably withheld, conditioned or delayed, including satisfactory agreement regarding any material increase to MRT in the cost of the work required to be performed by MRT under this agreement:

a. Exhibit A, (*need description of attachment*)

B. MRT shall complete its obligations to create and/or restore the Resource with 7 years, or as agreed to LACRP, following the date of this Agreement. Following the creation and/or restoration of the Resource, MRT shall thereafter preserve, maintain and manage the Aquatic Resource.

5. **PERFORMANCE.** MRT shall at all times faithfully, competently and to the best of its ability and experience perform all tasks described herein and in Exhibit A. MRT shall employ, at a minimum, generally accepted standards and practices utilized by persons engaged in providing similar services as are required of MRT hereunder in meeting its obligations under this Agreement.

6. **PAYMENT OF IN-LIEU FEE MITIGATION.**

A. In consideration of MRT’s undertakings herein, the Applicant agrees to pay MRT the In Lieu Fee and the Endowment, in cash, payable upon the execution of this Agreement by both parties.

7. **INDEMNIFICATION.** The MRT agrees to defend, indemnify, protect and hold harmless the Applicant, its directors, officers, trustees, officials, employees, contractors, agents,

and volunteers from and against any and all claims, demands, losses, defense costs or expenses, including attorney fees and expert witness fees, or liability of any kind or nature which the Applicant, its directors, officers, trustees, officials, employees, contractors, agents and volunteers may sustain or incur or which may be imposed upon them for injury to or death of persons, or damage to or loss of property arising out of MRT's negligent or wrongful acts or omissions arising out of or in any way related to the performance or non-performance of this Agreement, excepting only liability arising out of the negligence of the Applicant. The Applicant agrees to defend, indemnify, protect and hold harmless MRT, its directors, officers, trustees, officials, employees, contractors, agents, and volunteers from and against any and all claims, demands, losses, defense costs or expenses, including attorney fees and expert witness fees, or liability of any kind or nature which MRT, its directors, officers, trustees, officials, employees, contractors, agents and volunteers may sustain or incur or which may be imposed upon them for injury to or death of persons, or damage to or loss of property arising out of the Applicant's negligent or wrongful acts or omissions arising out of or in any way related to the performance or non-performance of this Agreement, excepting only liability arising out of the negligence of MRT.

8. LEGAL RESPONSIBILITIES. The MRT shall keep itself informed of all local, State and Federal ordinances, laws and regulations which in any manner affect those employed by it or in any way affect the performance of its service pursuant to this Agreement. The MRT shall at all times observe and comply with all such ordinances, laws and regulations. The Applicant, and its officers and employees, shall not be liable at law or in equity occasioned by failure of the MRT to comply with this section. The Applicant shall keep MRT informed regarding any material changes in the Condition which may relate to MRT's work required under this agreement.

9. NOTICES. Any notices which either party may desire to give to the other party under this Agreement must be in writing and may be given either by: (i) personal service, (ii) delivery by a reputable document delivery service, such as but not limited to, Federal Express, that provides a receipt showing date and time of delivery, (iii) mailing in the United States Mail, certified mail, postage prepaid, return receipt requested, addressed to the address of the party as set forth below or at any other address as that party may later designate by Notice, or (iv) facsimile transmission. Notice shall be effective upon delivery to the addresses specified below or on the third business day following deposit with document delivery service or United States Mail as provided above or upon successful transmission by facsimile as confirmed by written confirmation of successful transmission by sender's facsimile equipment, provided a copy of such notice shall be sent within two (2) business by one of the other means provided in clauses (i) through (iii), inclusive above.

To Applicant: *(need address)*

To MRT: Mountains Restoration Trust
3815 Old Topanga Canyon Road
Calabasas, California 91302
Attention: Debra Sharpton, Executive Director

10. **ASSIGNMENT.** Neither party shall assign the performance of this Agreement, nor any part thereof, nor any monies due hereunder, without prior written consent of the other party. Upon termination of this Agreement, MRT's sole compensation shall be payment for actual services performed up to, and including, the date of termination, including without limitation all actual, verifiable costs of MRT, or as may be otherwise agreed to in writing between the Foundation and the MRT.

11. **LICENSES.** At all times during the term of this Agreement, MRT shall have in full force and effect, all permits and licenses required of it by law for the performance of the services described in this Agreement.

12. **GOVERNING LAW.** The Applicant and MRT understand and agree that the laws of the State of California shall govern the rights, obligations, duties and liabilities of the parties to this Agreement and also govern the interpretation of this Agreement. Any litigation concerning this Agreement shall take place in the municipal, superior, or federal district court with geographic jurisdiction over the unincorporated area of Agoura, Los Angeles County, California. In the event such litigation is filed by one party against the other to enforce its rights under this Agreement, the prevailing party, as determined by the Court's judgment, shall be entitled to reasonable attorney fees and litigation expenses for the relief granted.

13. **ENTIRE AGREEMENT.** This Agreement contains the entire understanding between the parties relating to the obligations of the parties described in this Agreement. All prior or contemporaneous agreements, understandings, representations and statements, oral or written, are merged into this Agreement based solely upon the representations set forth herein and upon each party's own independent investigation of any and all facts such party deems material.

14. **AUTHORITY TO EXECUTE THIS AGREEMENT.** The person or persons executing this Agreement on behalf of MRT warrants and represents that he or she has the authority to execute this Agreement on behalf of the MRT and has the authority to bind MRT to the performance of its obligations hereunder.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed the day and year first above written.

Applicant

By: _____
Name:

MRT

By: _____
Name: Debra Sharpton
Title: Executive Director



COUNTY OF LOS ANGELES FIRE DEPARTMENT
Fire Prevention Division – Land Development Unit
5823 Rickenbacker Road
Commerce, California 90040-3027
Office (323) 890-4243, Fax (323) 890-9783

DATE: May 8, 2014 **SITE PLAN DATE:** 05/05/14
TO: Department of Regional Planning
Zoning Permits - Rudy Silvas
PROJECT #: R2013-01846
LOCATION: 540 Thrift Rd., Malibu

- The Fire Department Land Development Unit has no additional requirements for this permit.
- This property is located within the area described by the Fire Department as the Very High Fire Hazard Severity Zone (VHFHSZ). A Preliminary Fuel Modification Plan shall be submitted and approved prior to the Public Hearing. For details, please contact the Department's Fuel Modification Unit which is located at Fire Station 32, 605 North Angeleno Avenue, Azusa, CA 91702-2904. They may be reached at (626) 969-5205.
- The required fire flow for this development is _____ gallons per minute for _____ hours. The water mains in the street fronting this property must be capable of delivering this flow at 20 psi residual pressure. One () public fire hydrant flowing simultaneously may be used to achieve the required fire flow.
- Verify one 6" X 4" X 2 1/2" existing public fire hydrant, conforming to AWWA C503-75 or approved equal. All installations must meet Fire Department specifications. Fire hydrant systems must be installed in accordance with the Utility Manual of Ordinance 7834 and all installations must be inspected and flow tested prior to final approval.
- Water:** The fire flow test for the closest existing public fire hydrant on Thrift Road is adequate for this project.
- Access:** Provide access as noted on the site plan. Access is required to be within 150 feet of exterior portions of the building.

Provide a minimum of a 5-foot walking access around the proposed building.
- Special Requirements:**
- Comments:** The project is "cleared" to proceed with the public hearing process.

Once the project has been cleared to proceed to public hearing, the building plans shall be submitted to the Department's Calabasas Fire Prevention Office, Fire Prevention Engineering-Building Plan Check Unit located at 26600 Agoura Road, Calabasas. The phone number is (818) 880-0341.

Fire Protection facilities; including access and water must be provided prior to and during construction. Should any questions arise regarding this matter, please feel free to call our office at (323) 890-4243.

Inspector: *Wally Collins*

Land Development Unit – Fire Prevention Division – Office (323) 890-4243 Fax (323) 890-9783

Rudy Silvas

From: Richard Jefferson
Sent: Tuesday, June 04, 2013 9:55 AM
To: Rudy Silvas
Cc: eddiemakabi@hotmail.com
Subject: 540 Thrift Rd.

Rudy:

This is to confirm that lot #4464-012-016 & 4464-012-035 (aka 540 Thrift Rd) currently owned by Edward Makabi, is one of two vacant lots that were considered in the design of the community septic system. As long as all other requirements are met he is approved to connect to this system.

If you have any other questions please give me call.

Richard Jefferson
L.A. County Dept. of Public Health
Land Use Program
26600 Agoura Rd. #110
Calabasas, CA 91302
(818)880-3410



Picture #1 Facing North East



Picture #2 Facing East



Picture #3 Facing directly South



Picture #4 North West corner of Lot



Picture #5 Center of the Lot facing North



Picture #6 South East Corner of Lot

