

SANTA MONICA MOUNTAINS CONSERVANCY

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February 28, 2005

Samuel Dea
Los Angeles County
Department of Regional Planning
320 West Temple Street
Los Angeles, California 90012

**Comments on Negative Declaration for OTP No. 04-070-(3),
2400, 2501, 2990 Puerco Canyon Road,
Malibu (SCH No. 2005021024)**

Dear Mr. Dea:

The Santa Monica Mountains Conservancy (Conservancy) provides the following comments on the Negative Declaration (ND) for Oak Tree Permit (OTP) No. 04-070 for the project located at 2400 (Lot 6), 2501 (Lot 3), 2990 Puerco Canyon Road (at the northerly terminus of Puerco Canyon Road) (Plot Plans 49672 and 49673). According to the March 15, 2004 minutes of the Environmental Review Board, Plot Plan 49673 includes a 28,000 square-foot residence, 15-car garage, 90,000 cubic yards of cut and fill, and associated structures. The subject property is adjacent to Corral Canyon Park, owned by the Conservancy and managed by the Mountains Recreation and Conservation Authority (MRCA). The Conservancy is concerned about potentially significant adverse environmental impacts, including biological, visual, recreational, and growth-inducing impacts. The project has been poorly described in the California Environmental Quality Act (CEQA) document. In addition the foundation of the project appears to be a lot line adjustment of a minimum of six parcels under the same ownership. If that is the case, a Conditional Use Permit should be prerequisite to the proposed action. The mitigation that can be required under a CUP is substantially greater which in turns provides better public assurance that the environment will not be harmed.

The proposed development associated with the northerly house will intrude into a large block of relatively unbroken open space, which provides contiguous habitat for numerous species. Large areas of open space in the Santa Monica Mountains, such as this one, play important roles for wildlife movement and habitat connectivity. Of note, this area is known to support mountain lion, a species which requires large unbroken blocks of open space to persist. As the Initial Study (IS) indicates, sensitive habitats and unique native trees also exist onsite. Several blue line streams exist onsite and the site supports the Braunton's milk-vetch, a plant listed as endangered by the Federal government. The development of the house (or houses), improvements to the long private driveway (4,500 feet), and the associated grading in this area will fragment and degrade the habitat. The Conservancy is concerned about the adverse

impacts that would likely result from direct loss of habitat (e.g., from fuel modification and road improvements) and associated fragmentation, increased lighting, fencing, increased invasion of non-native invasive plants, and increased predation of native animals by pets. In addition, the development and paving could result in increased sediment input into the two streams and diminished water quality, and direct loss of riparian habitat at the creek crossings. Unless the project is mitigated to prevent further loss of habitat, this project could result in significant impacts to biological resources. The Conservancy is also concerned about potentially significant recreational and aesthetic impacts, again unless there are mitigation measures that prevent substantial further development of the property. The project should be modified, where possible, to reduce the level of those impacts, and/or conservation easements and deed restrictions should be required to mitigate those potential impacts—such as vineyards and large horse or cattle enclosures.

Need for a clear project description

The Conservancy emphasizes the need to for a clear project description in the CEQA document. There must be no question as to what project is being considered, and where it is located, in order for the public to adequately and fairly evaluate the project, and for the planning commission to make an informed decision. Different projects can result in different levels of significance with respect to environmental impacts. CEQA guidelines 15378 state that a project means the whole of an action, which has a potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment. Based on discussions with County staff, the representative for the landowner, and the information provided in the environmental document and the County's website, it is unclear if the County is considering the driveway only, or the driveway and one, two, or three houses, and where those houses are located.

Our confusion regarding the project description is based on the following information. The project description in the Initial Study states that the OTP application is to accommodate the construction of two single-family residences, a guesthouse, accessory structures; and improvement to an existing access driveway (Plot Plan Nos. 49672 and 49673), identified as Lots 3 and 6 (underlining added for emphasis). The oak tree plan (dated June 14, 2004) shows a northerly residence (on "Lot" 6) and smaller guesthouse or accessory structure (on "Lot" 5), and a southerly residence (on "Lot" 1), for a total of two residences. The driveway also appears to pass through "Lot" 3. The ND states the locations are (2400) Lot 6 and (2501) Lot 3, and the (2990) northernly terminus of Puerco Canyon Road. However, another oak tree plan provided to us (dated January 2005), shows only the northerly structure and the smaller guesthouse or accessory structure; the representative for the landowner has indicated the project is a driveway and one single-family residence, only the most northerly residence. The representative indicated that the "Lot" 1 (as numbered on the Oak Tree Plans), where the southerly house is proposed, is not accessed from the driveway. We are further confused

because the database on the County's website indicates the subject OTP is for "3 sf residences and accessories." The representative for the landowner indicated that the driveway provides access to three of the "lots," 3, 5, and 6, as numbered on both versions of the oak tree plan.

The CEQA document must clarify which lots, and proposed houses, will be served by the proposed driveway (e.g., "Lots" 5, 6 and 1 and/or 3). Any additional houses served by this driveway are reasonably foreseeable consequences of construction of the driveway and the northerly residence. Furthermore, if there are existing pads, then the environmental analysis should address the potential construction on these pads. These houses that would be served by the driveway, and the driveway, are integral parts of the same project, and should be considered in the subject CEQA document. If the County chooses to only evaluate the driveway and the most northerly proposed residence, then the future construction of the additional one or two residences served by the driveway should be considered in growth-inducing effects. The County's document states that clearly that the OTP application is to "accommodate the construction of two single-family residences..." Based on this statement, the driveway facilitates access to at least one more residence in addition to the northerly residence. It may facilitate access to the southerly residence on "Lot" 1, and/or another residence on "Lot" 3. The County's review is the appropriate juncture to address any potentially significant environmental effects, rather than deferring the review of the complete project to the California Coastal Commission.

The environmental analysis must also include impacts associated with potential developments (e.g., additional houses) on near-by properties owned by other property owners. The CEQA document must disclose whether adjacent property owners have access to their properties via roads on the subject property. Any of these existing access easements must be included in the CEQA document. If other access easements currently exist for other property owners, it is important to analyze environmental impacts associated with these other potential developments on these adjacent lands and the subject development in one CEQA document. Unless a conservation easement can guarantee that this project will not facilitate other developments, these growth-inducing impacts must be disclosed in the CEQA document for this project.

Without considering all of these potential additional developments within one environmental document, the environmental analysis is piece-mealed. In other words, the true environmental impacts associated with the driveway, and the two, or three houses plus these other potential developments would have cumulative impacts not included in an analysis of the driveway and one house only. Piece-mealing of the environmental analysis could result not just from other future developments including homes, but also from future vineyards, orchards, grazing, corrals, and sports areas onsite. It is crucial for the public to be adequately informed of the comprehensive development plans and associated impacts for the property in one CEQA

document.

Need for a clear description of properties under consideration

The ND is also deficient in that there is no clear explanation of which parcels are under consideration for this project. The State Clearinghouse cover page indicates that the Assessor's parcel numbers under consideration are 4457-004-028, 040 and 4457-005-012, 015, 017, and 025. However, the Oak Tree Plan (both versions) show a key in the corner showing six "lots" with different boundaries than those shown on the 2005 Assessor's Parcel Map for 4457-004. The representative for the landowner indicated that the Assessor's Parcel Maps have not been updated. If in fact the parcel lines have been changed, the new parcel numbers (and preferably the updated Assessor's Parcel lines) must be reflected in the CEQA documentation provided to the public. In addition, it is our understanding that a conditional use permit is required when moving three or four lot lines in the unincorporated portion of the Santa Monica Mountains. It may be true, as the landowner's representative indicated, that the new "lot lines" may result in more clustered development to the south, compared to a more spread-out configuration. However, the ND is deficient for not explaining the history of the lot line adjustment, and its potential impacts, or the current configuration of the Assessor's parcels for the project under consideration.

Other comments

The project could also potentially result in significant adverse impacts to public viewing areas, such as current or contemplated trails and Pacific Coast Highway. Specifically, the IS states that the project may be substantially visible or may obstruct views from a Malibu Creek State Park trail. Per the County planner and the landowner's representative, a visual impacts analysis has been conducted. The results of that analysis must be included in the CEQA document. Based on conversations with the County planner and the landowner's representative, impacts to views from trails would be "negligible," or there are "not many places on trails where [one] will see" the development. The landowner's representative indicated to our staff that one may be able to see "Lots" 1, 3, and 4 from the highway. Once the County has defined the project (i.e., defined which lots are being considered in the environmental analysis), the visual analysis must include those lots. The conclusions regarding potentially significant impacts must be included in the CEQA document and must be precise. We would appreciate if the County would provide a copy of the visual analysis to the address on this letterhead.

This analysis should include before and after (simulated) photos as viewed from Malibu Creek State Park trail, other existing trails, and Pacific Coast Highway. This analysis should be precise and should explicitly state whether, and to what extent, the proposed structures,

grading, and fuel modification areas will be visible from any point along these public viewing areas. Views of new developments from recreational trails can compromise the recreational experience of the trail user. Based on the results of this analysis, some project modifications may be necessary to avoid significant visual impacts by ensuring that the houses are invisible from these public viewing areas.

A conceptual alignment of the Coastal Slope Trail exists on the property, and conceptually passes through the southerly proposed residence and "Lot" 3. This alignment would connect the existing trail in Corral Canyon Park (owned by the Conservancy) to another secured trail easement to the east. The conditions of approval should require that the applicant dedicate a trail easement to ensure this connection. Preferably, this alignment would follow the alignment currently identified by National Park Service (NPS). However, the Conservancy recognizes that trails directly adjacent to a new house or adjacent to the proposed driveway are not preferable for the landowner. If this alignment is not possible, a dedication of a trail easement encompassing a conceptual alignment of adequate width and moderate terrain (i.e., not too steep) should be required. Agencies that may be appropriate to accept this dedication include National Park Service (NPS) and MRCA.

The ND is deficient for not addressing prescriptive rights on Puerco Canyon Fire Road. If the applicant asserts that prescriptive rights are extinguished by excluding public use, then details of this exclusion and an assessment of the validity of this assertion should be addressed in the ND.

The Conservancy concurs with the requirements for lighting and fencing in the Mitigation and Monitoring Program. In addition, the Mitigation and Monitoring Program and the conditions of approval for this project should specify that no lighting along the road is permitted. The development, including the southerly proposed residence, must be designed to preclude the need for fuel modification on public parkland including Corral Canyon Park. It is possible that fuel modification would not overlap onto public parkland. To ensure that this is implemented, this should be a requirement in the Mitigation Monitoring Program.

The representative for the landowner indicated that bridges will be constructed for the creek crossings. The Conservancy concurs with this approach, in order to minimize impacts to stream. Bridge crossings should be included in the project description in the CEQA document and should be included in the required Mitigation and Monitoring Reporting.

The project, or at least whole of the applicant's contiguous ownership, may be bifurcated between Los Angeles county and the City of Malibu, and may require approvals and CEQA documents from the City of Malibu, Los Angeles County, and the California Coastal Commission.

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Need for a conservation easement

A dedication of a conservation easement should be required as a condition of approval for this project. This conservation easement is needed to assure that the proposed project does not facilitate offsite development, nor any onsite development, and to avoid piece-mealing of the environmental analysis. However, if access easements exist or will exist, to other properties even within this conservation easement, we reiterate that those growth-inducing impacts associated with development on those other properties must be included in the CEQA document for this project. Conservation easements would also help offset the significant adverse impacts to biological impacts associated with this project. This conservation easement should be made in favor of a park and open space agency such as NPS or MRCA. Specifically this conservation easement should prohibit development, structures, roads, grading, mineral extraction, grazing, vineyards, planting of non-native vegetation, fencing (other than used for habitat restoration), utilities (other than what is allowed under current utility easements), and brush clearance (other than what would be required for the house[s]). Uses that should be allowed in this conservation easement include trails and habitat restoration. Because the project description and parcel lines are unclear in the ND, Conservancy staff is unable to provide an approximate recommended location at this time for the necessary conservation easement.

Thank you for your serious consideration of these comments. Please contact Judi Tamasi of our staff and by phone at (310)-589-3200, ext. 121, or Paul Edelman, Deputy Director of Natural Resources and Planned can be reached at the same phone number, ext. 128.

Sincerely,

ELIZABETH A. CHEADLE
Chairperson