

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
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Staff: Barbara Carey
Staff Report: 9/23/09

DRAFT—To be revised

STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.: 4-08-075
APPLICANT: Donald Eller and Grandpoint, LLC
AGENT: Larry Goodwin
PROJECT LOCATION: East of Saddlepeak Road, approximately 700 feet southeast of Whitney Road, Santa Monica Mountains, Los Angeles County [APNs 4448-020-047; 4448-020-047; and 4438-034-012]

PROJECT DESCRIPTION: Redivision of three parcels that are 4.9-acres, 4.9-acres, and 10.22-acres in size to create three parcels that will be 2.2-acres, 2.7-acres, and 15.12-acres in size, and to donate approximately 10-acres of the proposed 15.12-acre parcel to the Mountains Recreation and Conservation Authority in fee title.

MOTION & RESOLUTION: Page 4

SUMMARY OF STAFF RECOMMENDATION: Staff recommends **approval** of the proposed development with conditions.

The standard of review for the proposed project is the Chapter Three policies of the Coastal Act. In addition, the policies of the certified Malibu – Santa Monica Mountains Land Use Plan (LUP) serve as guidance. Following is a summary of the main issues raised by the project and how they are resolved by staff's recommendation:

- **CUMULATIVE IMPACTS.** The project includes the redivision of the subject three parcels, through a lot line adjustment, which is considered a land division under the provisions of the Coastal Act. The proposed land re-division will reconfigure the parcels in consideration of topographical constraints and existing physical access. Review of the proposed parcel reconfiguration indicates that the re-division will allow for the clustering of three residences along an existing common access road in close proximity to existing residential development.
- **ENVIRONMENTALLY SENSITIVE HABITAT AREA.** The project site contains habitat that meets the definition of ESHA and the project will have adverse impacts on ESHA. The subject parcels contain relatively undisturbed native habitat consisting primarily of chaparral plant communities contiguous with a larger area of native

chaparral. Each of the existing parcels is considered environmentally sensitive habitat area (ESHA). The proposed reconfiguration will provide for clustering of three future development areas on the western portion of the project site, near an existing road and other development. This will minimize grading, landform alteration, and removal of habitat. The clustering will allow for overlapping fuel modification areas and the preservation of land for open space and conservation purposes on the more remote, eastern portion of the project site. The project is conditioned to require an open space restriction on the areas of the site outside the development areas, and to require the applicants to implement their proposal to dedicate 10-acres to the MRCA in fee title.

- **VISUAL RESOURCES.** The proposed reconfiguration will result in clustering three development areas on the western portion of the project site, nearest to Saddle Peak Road. This would result in a much shorter, shared access road for all three sites. In this way, the reconfiguration will greatly reduce the amount of grading and landform alteration necessary to provide vehicular access to any future development. Additionally, the clustered development areas will obtain some overlap of required fuel modification areas when the proposed sites are developed with residences. Overlapping fuel modification will reduce the visual impacts that result from the alteration of natural vegetation.

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EXHIBITS

- Exhibit 1. Vicinity Map
 - Exhibit 2. Existing Lot Configuration
 - Exhibit 3. Proposed Lot Configuration
 - Exhibit 4. Proposed Development Areas
 - Exhibit 5. Open Space Area
 - Exhibit 6. Parcel Map No. 7633
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LOCAL APPROVALS RECEIVED: County of Los Angeles Department of Regional Planning, Approval in Concept, dated 9/18/08

SUBSTANTIVE FILE DOCUMENTS: Certified Malibu/Santa Monica Mountains Land Use Plan; The March 25, 2003 Memorandum Regarding the Designation of ESHA in the Santa Monica Mountains, prepared by John Dixon, Ph. D; CDP 5-87-197 (Sisson); CDP Waiver 4-07-048-W (Goodwin); CDP 4-96-28 (Harberger, et. al.), CDP 4-96-150 (Rein, et. al.), CDP 4-96-189 (Flinkman), CDP 4-96-187 (Sohal), CDP 4-04-026 (Malibu Ocean Ranches, Stoney Heights, Creekside), CDP 4-07-028 (Johnson, Gray, Early), CDP 4-08-091 (Cook)

I. STAFF RECOMMENDATION

The staff recommends that the Commission adopt the following resolution:

MOTION: *I move that the Commission approve Coastal Development Permit No 4-08-075 pursuant to the staff recommendation.*

STAFF RECOMMENDATION OF APPROVAL:

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

RESOLUTION TO APPROVE THE PERMIT:

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. STANDARD CONDITIONS

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.

2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.

3. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.

4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.

5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS

1. Deed Restriction

Prior to issuance of the Coastal Development Permit, each co-applicant shall submit to the Executive Director for review and approval documentation demonstrating that the co-applicant has executed and recorded against their respective parcel(s) governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

2. Open Space Restriction

A. No development, as defined in Section 30106 of the Coastal Act, grazing, or agricultural activities shall occur in the Open Space Area as described and depicted in an Exhibit attached to the Notice of Intent to Issue Permit (NOI) that the Executive Director issues for this permit except for:

- (1) Fuel modification required by the Los Angeles County Fire Department undertaken in accordance with a final approved fuel modification plan approved by the Commission pursuant to a different CDP(s) issued by the Commission;
- (2) Drainage and polluted runoff control activities required and approved by the Commission pursuant to a different CDP(s) issued by the Commission;
- (3) Planting of native vegetation and other restoration activities, if approved by the Commission as an amendment to this coastal development permit or a new coastal development permit;
- (4) If approved by the Commission as an amendment to this coastal development permit or a new coastal development permit,

- a. construction and maintenance of public hiking trails; and
 - b. construction and maintenance of roads, trails, and utilities consistent with existing easements.
- B. *Prior to the issuance by the Executive Director of the NOI for this Coastal Development Permit***, each co-applicant shall submit for the review and approval of the Executive Director, and upon such approval, for attachment as an Exhibit to the NOI, a formal legal description and graphic depiction, prepared by a licensed surveyor, of the portion of each of the three subject properties affected by this condition, as generally described on **Exhibit 5** attached to the findings in support of approval of this permit.

3. Fee Title Dedication

Prior to issuance of the Coastal Development Permit, and in order to implement the permittee's proposal, the permittee shall submit to the Executive Director, for review and approval, a proposed document dedicating fee title over APN 4438-034-905, as shown on Exhibit 7 of the Staff Report to Mountains Restoration and Conservation Authority, or a public agency or non-profit entity acceptable to the Executive Director, for habitat enhancement and protection. Once the document dedicating fee title to the property identified above has been approved, and also prior to issuance of this Coastal Development Permit, the permittee shall submit evidence that it has executed and recorded the document completing the transfer of fee title. The dedication shall be recorded free of prior liens and encumbrances which the Executive Director determines may affect the interest being conveyed.

IV. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

A. PROJECT DESCRIPTION AND BACKGROUND

The applicant proposes the redivision of three parcels that are 4.9-acres, 4.9-acres, and 10.22-acres in size to create three parcels that will be 2.2-acres, 2.7-acres, and 15.12-acres in size. The applicant further proposes to donate approximately 10-acres of the proposed 15.12-acre parcel to the Mountains Recreation and Conservation Authority in fee title. The project site is located east of Saddlepeak Road, approximately 700 feet southeast of Whitney Road, in the Santa Monica Mountains area of Los Angeles County. The eastern portion of the property extends downslope into Dix Canyon, which contains a riparian corridor. However, none of the approved or proposed building site locations will encroach upon this area of the property.

The existing lot configuration is shown in Exhibit 2 and the proposed lot configuration is shown in Exhibit 3. Following are the existing and proposed parcel sizes: