

CEQA FINDINGS

AS MODIFIED BY PLUM COMMITTEE ON MARCH 3, 2020

1. Determine that, based on the whole of the administrative record, the proposed project is not exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines, Sections 15301 (Class 1) and 15332 (Class 32), and there is substantial evidence demonstrating that an exception to a Categorical Exemption pursuant to CEQA Guidelines, Section 153002 applies. The administrative record indicates that there are unusual circumstances at the project site and that the project is not consistent with the General Plan.

CEQA Guidelines, Section 15332 (Class 32) Findings

- A. The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with the applicable zoning designation and regulations. ~~The subject property is zoned R1-1 and has a General Plan land use designation of Low Residential. The proposed uses of the subject property as single family dwellings are consistent with the zone and land use designation. The proposed construction of the single family dwellings meets the objective of the Brentwood-Pacific Palisades Community Plan through "the development of new housing to meet the diverse economic and physical needs of the existing residents and project population of the Plan area..." (Goal 1, Objective 1-1). The proposed project complies with the regulations of the zoning code, including those related to setbacks, density, floor area, height, etc. As shown in the case file, the proposed project is consistent with all the applicable Brentwood-Pacific Palisades Community Plan designation and policies and all applicable zoning designations and regulations.~~ The proposed project is inconsistent with numerous policies in the Conservation and Open Space elements of the General Plan and the Community Plan - which serves as the Land Use Element of the General Plan within this community. Footnote 6 of the Community Plan identifies a portion of the site within the "desirable open space" designation, with the remainder of the project site abutting land sharing this designation. Desirable open space is defined as land that "possesses open space characteristics which should be protected and where additional development controls such as proposed in this Plan and in the Open Space Plan are needed to conserve such characteristics. These lands may be either publicly or privately owned. Conservation of such characteristics is needed to ensure the usefulness, safety, welfare and attractiveness of the district." The designation of land as desirable open space within and adjacent to the project site is unambiguous and must be observed by the applicant.

Relevant policies identified in the Open Space Element of the General Plan specify that development "*in desirable open space, areas with unique natural features or ecologically important areas, a preliminary development plan shall be provided. Proposals should include: zoning, subdivision, grading, design, landscaping, public improvements and phasing. Also included should be an Environmental Impact Report dealing in particular*

with open space concerns" (pg. 7). Additionally, the Open Space Element states, "*private development which occurs in proximity to desirable open space areas should include roads and trails adequate to serve both that development and the immediately adjacent recreation and open space areas*" (pg. 8).

Moreover, the Community Plan states, "*where feasible, roads on headlands should be visually screened and driveways connecting to the coastal highway minimized. Transitions between headlands and related canyons streams should be left in a natural state and bridges over canyons located as far inland as feasible and environmentally acceptable. Grading, cutting and filling in canyons and arroyos on hillsides should be minimized, where such operations significantly alter the appearance of natural landforms.*" (Policy 5.1.2). This is consistent with the policy in the Conservation Element stating the City should "*continue to encourage and/or require property owners to develop their properties in a manner that will, to the greatest extent practical, retain significant existing land forms (e.g., ridge lines, bluffs, unique geologic features) and unique scenic features (historic, ocean, mountains, unique natural features) and/or make possible public view or other access to unique features or scenic views.*" (Pg. II-48).

The analysis conducted by the applicant and the design of the proposed homes do not demonstrate, nor recognize, the sensitive environmental context of this community. The proposed project does not meet the General Plan's purpose and intent to "*preserve, protect, restore and enhance natural plant and wildlife diversity, habitats, corridors and linkages*" (Conservation Element, pg. II-35). Therefore, the project is inconsistent with the applicable general plan designation and all applicable general plan policies as well as with the applicable zoning designation and regulations.

- B. The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses
- C. ~~The project site has no value as habitat for endangered, rare or threatened species. The subject property has been previously disturbed and is surrounded by development and, therefore, is not, and has no value as, a habitat for endangered, rare, or threatened species. There are two protected trees on the subject property. They are coast live oak trees, one with a 30" diameter at breast height (DBH) and height and spread of 50' by 40' and one with a 24" DBH and a height and spread of 35' by 30' at 572 North Marquette Street (Lot 6) as identified in the Tree Report prepared by The Tree Resource on April 4, 2017. The protected trees are outside of the construction areas. They will be retained and will not be impacted by the proposed project. A Biological Assessment was prepared by SWCA Environmental Consultants (January 2018) for the project site. The report determined the property is not located in a wildlife corridor and did not identify any endangered, rare, or threatened species. Furthermore, the project is subject to local and federal requirements (RCMs) that regulate the removal of protected trees and the protection of nesting birds. The project site is located in Las Pulgas Canyon, which is a~~

~~valuable, potential habitat for endangered, rare, or threatened species and an opportunity for valuable ecological linkages.~~ The Project causes a significant impact on the environment as it fails to adequately assess local policies valuing this region as a biological resource. Las Pulgas Canyon is a large, contiguous ecological island and a habitat threatened by fragmentation. Despite the fragmentation of wildlife movement corridors in the region, tenuous linkages still exist between Las Pulgas Canyon and the Santa Monica Mountains as fauna and flora. This is supported by a letter submitted by the Santa Monica Mountains Conservancy dated March 3, 2020 stating that the environmental documentation to date fails to address the site's spatial and resource contribution to either the Las Pulgas Canyon habitat block or connected habitat blocks to the east.

The proposed project site contributes to a rare example of an ecological refuge area in the City on the rim of Las Pulgas Canyon. Section 30107.5 of the Coastal Act defines Environmentally Sensitive Habitat Areas as *"any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments."* The Project site is adjacent to under-developed land that includes a blue-line stream, indigenous chaparral and coastal sage shrub, several protected trees, and a viable habitat for a variety of wildlife. Moreover, the Framework Element's EIR identifies the project site as a biological resource.

The applicant's Biological Assessment dated January 22, 2018 and prepared by SWCA Environmental Consultants does not constitute substantial evidence to support a determination that the site has no value as habitat for endangered, rare, or threatened species. The assessment failed to acknowledge the treatment of the project site in the General Plan. The assessment also failed to provide an analysis of potential impacts in light of its identification as desirable open space and a biological resource.

- D. Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality
- E. The site can be adequately served by all required utilities and public services.

Therefore, the proposed project does not meet the criteria for the Class 32 Categorical Exemption.

The significant effect exception outlined in CEQA Guidelines Section 15300.2 applies to the proposed project.

- C. Significant Effect. A Categorical Exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances. ~~The proposed project consists of work~~

~~typical to a residential neighborhood. Thus, there are no unusual circumstances that may lead to a significant effect on the environment.~~ A lead agency, such as the City of Los Angeles, may not determine that a project is categorically exempt if substantial evidence supports that any of the applicable exceptions to an exemption set forth in CEQA Guidelines, §15300.2 apply to the project. It states, “*a categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances.*” An “unusual circumstance” is established if substantial evidence supports a determination that (1) the project has some feature that distinguishes it from others in the exempt class, such as its size or location; or (2) the project will have a significant impact on the environment. There is substantial evidence that supports the exception set forth in CEQA Guidelines, §15300.2(c).

This project has distinct features that distinguishes it from other projects in the exempt class. Specifically, a portion or all of the Project site is located within the Las Pulgas Canyon habitat block, a 100 Year Floodplain, Very High Fire Severity Zone, Earthquake-Induced Landslide Area, Special Grading Area, Santa Monica Fault Zone, and an Environmentally Sensitive Area. Individually, these circumstances are common in the City of Los Angeles and a project would presumably pose a less-than-significant impact on the environment if standard regulations are applied to the project. Considered as a whole, however, the the fact that a portion or all of the project site is located in these designations raises a reasonable possibility the project will have a significant impact on the environment. Specifically, as discussed below, the project site’s location in an area that is environmentally sensitive and a biological resource raises a reasonable possibility of a significant impact.

Figure BR-D1 of the Framework Element of the General Plan’s EIR more clearly indicates that this is a biological resource area.¹ The shaded area includes the project site and is bounded to the west by Marquette Street. Moreover, Policy 6.1.5 of the Framework Element of the General Plan states that projects should “*provide for an on-site evaluation of sites located outside of targeted growth areas, as specified in amendments to the community plans, for the identification of sensitive habitats, sensitive species, and an analysis of wildlife movement, with specific emphasis on the evaluation of areas identified on the Biological Resource Maps contained in the Framework Element’s Technical Background Report and Environmental Impact Report.*” Per the General Plan, the project site has been identified as a biological resource and a environmentally sensitive area and be evaluated as such. In particular, General Plan policy and the whole of the administrative record demonstrate that protection, preservation, and restoration of Las Pulgas Canyon is a priority to the City.

¹ https://planning.lacity.org/odocument/e9c89ec2-2059-4a90-bed3-cdf6f05fb008/GPF_FEIR_DEIR2.18.pdf