

Exhibit C

This page intentionally left blank.

Memorandum

Date: July 20, 2021

To: Monterey County Planning Commission

From: John M Dugan FAICP Management Specialist

RE: City of Malibu Local Coastal Plan Policies Regarding Environmentally Sensitive Habitat Areas

The draft Big Sur Land Use Plan Update (LUP) has language copied from the City of Malibu's Local Coastal Plan as follows: Section 3.3 Environmentally Sensitive Habitat areas, subsection 3.3.2 General Policies. "2. Areas where wildfire fuel modification is recommended by the fire authority having jurisdiction do not meet the definition of ESHA." Also: " 3. Threatened and endangered species, critical habitats, wetlands and lagoons protected under federal and state laws and regulations are subject to separate regulatory processes and thus, are taken out of the definition of ESHA."

The rationale given to adding policy 2 is that that the City of Malibu has such wording in its certified Coastal Plan that the Coastal Commission has approved. At the LUP workshop on July 15 the Commission asked staff to evaluate the Malibu Plan's statements in more depth.

Staff contacted Mr. Richard Mollica, Director of Planning for Malibu, and asked how this provision was working in Malibu, which has experienced substantial destructive wildfires in the past few years. He said their Coastal Plan policy states:

Existing, legally established agricultural uses, confined animal facilities, and fuel modification areas required by the Los Angeles County Fire Department for existing, legal structures do not meet the definition of ESHA.

He advised that in intent and practice this policy applies only within the 100 foot defensible space radius from an existing permitted structure. Within that area the city staff and county fire authorities determine what areas are to be subject to fire fuel mitigations, even if they may otherwise be ESHA. They are guided by specific fire fuel modification policies (see attached excerpts from the Malibu Coastal Plan). They do not apply to larger multiple properties or areas beyond 100 feet from the existing structures, as the draft LUP recommends. Following are excerpts from the Malibu Coastal Plan addressing ESHA and fire fuel management.

City of Malibu Local Coastal Plan

Land Use Plan Policies

Chapter 3 Marine and Land Resources and Chapter 4 Hazards and Shoreline/Bluff Development

Land Use Plan Policies

1. Land Resources

a. ESHA Designation

3.1 Areas 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 are Environmentally Sensitive Habitat Areas (ESHAs) and are generally shown on the LUP ESHA Map. The ESHAs in the City of Malibu are riparian areas, streams, native woodlands, native grasslands/savannas, chaparral, coastal sage scrub, dunes, bluffs, and wetlands, unless there is site-specific evidence that establishes that a habitat area is not especially valuable because of its special nature or role in the ecosystem. Regardless of whether streams and wetlands are designated as ESHA, the policies and standards in the LCP applicable to streams and wetlands shall apply. Existing, legally established agricultural uses, confined animal facilities, and fuel modification areas required by the Los Angeles County Fire Department for existing, legal structures do not meet the definition of ESHA.

h. Fuel Modification

3.59 All new development shall be sited and designed to minimize required fuel modification and brushing to the maximum extent feasible in order to minimize habitat disturbance or destruction, removal or modification of natural vegetation, and irrigation of natural areas, while providing for fire safety, as required by Policies 4.45 through 4.54. Development shall utilize fire resistant materials and incorporate alternative fuel modification measures, such as firewalls (except where this would have impacts on visual resources), and landscaping techniques, where feasible, to minimize the total area modified. All development shall be subject to applicable federal, state and county fire protection requirements.

3.60 As required by Policy 4.49, applications for new development shall include a fuel modification plan for the project site, approved by the County Fire Department. Additionally, applications shall include a site plan depicting the brush clearance, if any, that would be required on adjacent properties to provide fire safety for the proposed structures.

3.61 Applications for new development shall include a quantification of the acreage of natural vegetation that would be removed or made subject to thinning, irrigation, or other modification by the proposed project, including building pad and road/driveway areas, as well as required fuel modification on the project site and brush clearance on adjacent properties.

3.62 All new development shall include mitigation for unavoidable impacts to ESHA from the removal, conversion, or modification of natural habitat for new development, including required fuel modification and brush clearance.

i. Native Tree Protection

3.63 New development shall be sited and designed to preserve oak, walnut, sycamore, alder, toyon, or other native trees that are not otherwise protected as ESHA. Removal of native trees shall be prohibited except where no other feasible alternative exists. Structures, including roads or driveways, shall be sited to prevent any encroachment into the root zone

and to provide an adequate buffer outside of the root zone of individual native trees in order to allow for future growth.

3.64 New development on sites containing oak, walnut, sycamore, alder, toyon, or other native trees shall include a tree protection plan.

3.65 Where the removal of native trees cannot be avoided through the implementation of project alternatives or where development encroachments into the protected zone of native trees result in the loss or worsened health of the trees, mitigation measures shall include, at a minimum, the planting of replacement trees on-site, if suitable area exists on the project site, at a ratio of 10 replacement trees for every 1 tree removed. Where on-site mitigation is not feasible, off-site mitigation shall be provided through planting replacement trees or by providing an in-lieu fee, based on the type, size and age of the tree(s) removed.

Chapter 4 Hazards and Shoreline/Bluff Development

4.49 Applications for new development, which require fuel modification, shall include a fuel modification plan for the project, prepared by a landscape architect or resource specialist that incorporates measures to minimize removal of native vegetation and to minimize impacts to ESHA, while providing for fire safety, consistent with the of the applicable fire safety regulations. Such plans shall be reviewed and approved by the Forestry Division. requirements

4.54 Should the County of Los Angeles Fire Department policies regarding fuel management and fire protection conflict with the policies and provisions of the Malibu LCP, particularly those relating to the protection of ESHA, personnel from the Fire Department and the City of Malibu shall meet and agree on measures to balance the need for fire protection for structures with the need to protect environmental resources.

This page intentionally left blank.