January 4, 2021 Regular Meeting - (held during COVID-19 emergency)
HTTPS://WWW.MALIBUCITY.ORG/VIRTUALMEETING

1. Meeting Agenda
   Documents:
   
   PC210104_AGENDA.PDF

2. Item 3B1 - Approval Of Minutes
   Documents:
   
   PC210104_ITEM 3B1.PDF

3. Item 4A - Coastal Development Permit No. 20-018 / 6480 Via Escondido Drive
   Documents:
   
   PC210104_ITEM 4A.PDF

4. Item 4B - Coastal Development Permit No. 19-001 / 20272 Inland Lane
   Documents:
   
   PC210104_ITEM 4B.PDF

5. Item 5A - Coastal Development Permit No. 17-085 / 3710 Decker Edison Road
   Documents:
   
   PC210104_ITEM 5A.PDF
This meeting will be held via teleconference only in order to reduce the risk of spreading COVID-19 and pursuant to the Governor’s Executive Orders N-25-20 and N-29-20 and the County of Los Angeles Public Health Officer’s Safer at Home Order (revised December 19, 2020). All votes taken during this teleconference meeting will be by roll call vote, and the vote will be publicly reported.

HOW TO VIEW THE MEETING: No physical location from which members of the public may observe the meeting and offer public comment will be provided. Please view the meeting, which will be live streamed at https://malibucity.org/video and https://malibucity.org/VirtualMeeting.

HOW TO PARTICIPATE BEFORE THE MEETING: Members of the public are encouraged to submit email correspondence to planningcommission@malibucity.org before the meeting begins.

HOW TO PARTICIPATE DURING THE MEETING: Members of the public may also speak during the meeting through the Zoom application. You must first sign up to speak before the item you would like to speak on has been called by the Chair and then you must be present in the Zoom conference to be recognized.

Please visit https://malibucity.org/VirtualMeeting and follow the directions for signing up to speak and downloading the Zoom application.

Malibu Planning Commission
Regular Meeting Agenda
(to be held during COVID-19 emergency)

Monday, January 4, 2021

6:30 P.M. – REGULAR PLANNING COMMISSION MEETING
Various Teleconference Locations
YOU MAY VIEW THIS MEETING LIVE OVER THE INTERNET AT MALIBUCITY.ORG/VIDEO

Call to Order - Chair

Roll Call - Recording Secretary

Pledge of Allegiance

Approval of Agenda

Report on Posting of Agenda – December 22, 2020

1. Ceremonial/Presentations

None.
2. **Written and Oral Communications from the Public**

   A. Communications from the public concerning matters which are not on the agenda but for which the Planning Commission has subject matter jurisdiction. The Commission may not act on these matters except to refer the matters to staff or schedule the matters for a future agenda.

   B. Planning Commission and staff comments and inquiries

3. **Consent Calendar**

   A. Previously Discussed Items

      None.

   B. New Items

      1. **Approval of Minutes**

         Recommended Action: Approve the minutes for the December 7, 2020 Regular Planning Commission meeting.

         Staff Contact: Acting Planning Director Mollica, 456-2489, ext. 346

4. **Continued Public Hearings**

   A. **Coastal Development Permit No. 20-018 - An application for a new vehicular and pedestrian access gate to the Sycamore Park neighborhood (Continued from December 7, 2020)**

      Location: 6480 Via Escondido Drive, not within the appealable coastal zone

      APN: 4460-009-003

      Owner: Sycamore Tennis Court Association

      Case Planner: Associate Planner Thompson, 456-2489, ext. 280

      Recommended Action: Continue this item to the January 19, 2021 Regular Planning Commission meeting.

   B. **Coastal Development Permit No. 19-001, Variance No. 19-001, Site Plan Review No. 19-001, and Minor Modification No. 19-001 – An application for a new single-family residence and associated development (Continued from December 7, 2020)**

      Location: 20272 Inland Lane, within the appealable coastal zone

      APN: 4450-012-032

      Owner: The Jonathan L. Congdon Revocable Trust

      Case Planner: Contract Planner Rudolph, 456-2489, ext. 374

      Recommended Action: Adopt Planning Commission Resolution No. 21-01 determining the project is categorically exempt from the California Environmental Quality Act, and approving Coastal Development Permit No. 19-001 for the construction of a new 3,792 square foot, two-story single-family residence, plus a 602 square foot attached two-car garage with storage, a detached 192 square foot cabana, hardscape, grading, drainage, and installation of a new onsite wastewater treatment system; including Variance No. 19-001 from the City’s geotechnical standards for factor of safety, Site Plan Review No. 19-001
for the roof height in excess of 18 feet, up to 24 feet for a flat roof, and Minor Modification No. 19-001 for the reduction of the required side yard setback, located in the Single-Family Low Density zoning district at 20272 Inland Lane (The Jonathan L. Congdon Revocable Trust).

5. **New Public Hearings**

   A. **Coastal Development Permit No. 17-085, Variance No. 19-059, Site Plan Review No. 17-001 and Demolition Permit No. 17-001** – An application for an interior and exterior remodel, additions to an existing single-family residence and new accessory development

   Location: 3710 Decker Edison Road, not within the appealable coastal zone
   APN: 4473-005-014
   Owner: Tao Guan
   Case Planner: Assistant Planner Murillo, 456-2489, ext. 353

   Recommended Action: Adopt Planning Commission Resolution No. 21-02 determining the project is categorically exempt from the California Environmental Quality Act, approving Coastal Development Permit No. 17-085 to allow for an interior and exterior remodel and 920 square feet of additions to the existing single-family residence, a new 900 square foot detached second residential unit with an attached 400 square foot garage, a new 440 square foot detached swimming pool house, swimming pool, native vegetation restoration, hardscape, fire department access improvements and a new onsite wastewater treatment system; including Variance No 19-059 for the required fuel modification to encroach onto Environmentally Sensitive Habitat Area, Site Plan Review No. 17-001 for construction up to 28 feet in height for a pitched roof and Demolition Permit No. 17-001 for the exterior wall demolition to accommodate the additions to the existing single-family residence and abandon the existing OWTS, located in the Rural Residential-Ten Acre zoning district at 3710 Decker Edison Road (Tao Guan).

6. **Old Business**

   None.

7. **New Business**

   None.

8. **Planning Commission Items**

   None.

**Adjournment**

**Future Meetings**

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<tr>
<th>Date</th>
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<tr>
<td>Tuesday, January 19, 2021</td>
<td>6:30 p.m.</td>
<td>Regular Planning Commission Meeting</td>
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<td>Monday, February 1, 2021</td>
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<tr>
<td>Tuesday, February 16, 2021</td>
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<td>Regular Planning Commission Meeting</td>
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Guide to the Planning Commission Proceedings

As a result of the Coronavirus (COVID-19) pandemic, the City is under a state of local emergency, as well as states of emergency that have been declared in the County of Los Angeles, state of California, and a federal emergency declared by the President of the United States. At the direction of the Governor, starting March 19, 2020, the entire state is subject to stay-at-home orders. These measures are imposed to reduce the risk of spreading COVID-19. To comply with these emergency measures, the Planning Commission meeting will be open and public but conducted via teleconference only. This way the public, the staff, and the Commission will not be physically in the same place.

The Oral Communication portion of the agenda is for members of the public to present items, which are not listed on the agenda but are under the subject matter jurisdiction of the Planning Commission. No action may be taken under, except to direct staff unless the Commission, by a two-thirds vote, determines that there is a need to take immediate action and that need came to the attention of the City after the posting of the agenda. Although no action may be taken, the Commission and staff will follow up, at an appropriate time, on those items needing response. Each speaker is limited to three (3) minutes. Members of the public wishing to speak during the meeting must participate through the Zoom application. Please visit https://malibucity.org/VirtualMeeting and follow the directions for signing up to speak and downloading the Zoom application.

Items in Consent Calendar Section A have already been considered by the Commission at a previous meeting where the public was invited to comment, after which a decision was made. These items are not subject to public discussion at this meeting because the vote taken at the previous meeting was final. Resolutions concerning decisions made at previous meetings are for the purpose of memorializing the decision to assure the accuracy of the findings, the prior vote, and any conditions imposed.

Items in Consent Calendar Section B have not been discussed previously by the Commission. If discussion is desired, an item may be removed from the Consent Calendar for individual consideration. Commissioners may indicate a negative or abstaining vote on any individual item by so declaring prior to the vote on the motion to adopt the entire Consent Calendar. Items excluded from the Consent Calendar will be taken up by the Commission following the action on the Consent Calendar. The Commission first will take up the items for which public speaker requests have been submitted.

For Public Hearings involving zoning matters the appellant and applicant will be given 15 minutes each to present their position to the Planning Commission, including rebuttal time. All other testimony shall follow the rules as set forth under Oral Communication. In order to speak, individuals must visit https://malibucity.org/VirtualMeeting and follow the directions for signing up to speak and downloading the Zoom application.

Old Business items have appeared on previous agendas but have either been continued or tabled to this meeting with no final action having been taken. Public comment shall follow the rules as set forth under Oral Communication.

Items in New Business are items, which are appearing for the first time for formal action. Public comment shall follow the rules as set forth under Oral Communication.

Planning Commission Items are items, which individual members of the Planning Commission may bring up for action, to propose future agenda items or to suggest future staff assignments. No new items will be taken-up after 10:30 p.m. without a two-thirds vote of the Planning Commission.

Planning Commission meetings are aired live and replayed on City of Malibu Government Access Channel 3 and are available on demand on the City’s website at https://www.malibucity.org/video. Copies of the staff reports or other written documentation relating to each item of business described above are available upon request by emailing planningcommission@malibucity.org.
The City Hall phone number is (310) 456-2489. To contact City Hall using a telecommunication device for the deaf (TDD), please call (800) 735-2929 and a California Relay Service operator will assist you. In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact Environmental Sustainability Director Yolanda Bundy, (310) 456-2489, ext. 229. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting. [28 CFR 35.102-35.104 ADD Title II].

I hereby certify under penalty of perjury, under the laws of the State of California that the foregoing agenda was posted in accordance with the applicable legal requirements. Regular and Adjourned Regular meeting agendas may be amended up to 72 hours in advance of the meeting. Dated this 22nd day of December 2020 at 3:30 p.m.

Kathleen Stecko, Administrative Assistant
Commission Agenda Report

To: Chair Mazza and Members of the Planning Commission

Prepared by: Kathleen Stecko, Administrative Assistant

Approved by: Richard Mollica, Acting Planning Director

Date prepared: December 22, 2020

Meeting date: January 4, 2021

Subject: Approval of Minutes

RECOMMENDED ACTION: Approve the minutes for the December 7, 2020 Regular Planning Commission meeting.

ATTACHMENT: December 7, 2020 Regular Planning Commission Meeting
The following meeting was held pursuant to the Governor’s Executive Orders N-25-20 and N-29-20 and fully teleconferenced from various locations during the coronavirus disease (COVID-19) pandemic.

CALL TO ORDER

Chair Mazza called the meeting to order at 6:30 p.m.

ROLL CALL

The following persons were recorded in attendance via teleconference by the Recording Secretary:

PRESENT: Chair John Mazza; Vice Chair Chris Marx; and Commissioners Jeffrey Jennings, Steve Uhring, and David Weil

ALSO PRESENT: Patrick Donegan, Assistant City Attorney; Richard Mollica, Acting Planning Director; Philip Coronel, Planning Technician; Tyler Eaton, Assistant Planner; Kathleen Stecko, Administrative Assistant; and Jessica Thompson, Associate Planner

PLEDGE OF ALLEGIANCE

Commissioner Uhring led the pledge of allegiance.

REPORT ON POSTING OF AGENDA

Administrative Assistant Stecko reported that the agenda for the meeting was properly posted on November 25, 2020, with the amended agenda posted on December 1, 2020.

APPROVAL OF AGENDA

MOTION Vice Chair Marx moved and Commissioner Jennings seconded a motion to approve the agenda, continuing Item Nos. 4.A. and 5.E. to the January 4, 2021 Regular Planning Commission meeting and Item No. 4.B. to the February 1, 2021 Regular Planning Commission meeting.

The Commission discussed the motion.

The question was called and the motion carried unanimously.
ITEM 1  CEREMONIAL/PRESENTATIONS

A. Short-term Rental Compliance Presentation

Acting Planning Director Mollica presented information on short-term rental compliance.

ITEM 2.A. PUBLIC COMMENTS

Kraig Hill commented on noticing for hearings and suggested more congenial, inviting verbiage added to the technical information provided on notices similar to the approach taken on the recent Wireless Workshop notice. In addition, he stated more lengthy reports might be more manageable to read if they were broken down differently, with current documents in one section and background documents in a different section.

ITEM 2.B. COMMISSION / STAFF COMMENT

Commissioner Uhring stated during the most recent power outages that occurred in eastern Malibu, the water pumps were working and extended his thanks to Water District 29 for making that happen.

In response to Vice Chair Marx, Acting Planning Director Mollica stated public hearing notices had different legal noticing requirements than that of the recent public workshop, but efforts to enhance the understanding of public hearing notices would be explored.

Chair Mazza stated more detailed notices would impart more helpful information and encourage more public participation. He wished departing Planning Commissioner Uhring well in his upcoming role as a City Councilmember.

CONSENSUS

By consensus, the Commission directed staff to place an item on a future Planning Commission meeting agenda to discuss implementation of a method of deferring time for public comment during public hearings held via teleconference.

ITEM 3  CONSENT CALENDAR

Commissioner Uhring moved and Commissioner Jennings seconded a motion to approve the Consent Calendar.

The Commission discussed the motion.

The question was called and the motion carried unanimously.

The consent calendar consisted of the following items:
A. Previously Discussed Items
1. Administrative Coastal Development Permit No. 20-002 – An application to allow for the construction of a new 5,686 square-foot, two-story single-family residence with 806 square foot attached garage and associated development including the conversion of an existing accessory structure into a new 900 square-foot detached second unit, a new lap pool/spa, a new 100 square-foot cabana, reconfiguring the existing driveway, hardscaping, grading; and installation of a new onsite wastewater treatment system, including Site Plan Review No. 20-010 for construction of the residence over 18 feet in height to replace a home destroyed in the 2018 Woolsey Fire (Continued from November 16, 2020)
   Location: 29725 Harvester Road, not within the appealable coastal zone
   APN: 4469-010-017
   Owners: Gary and Daphne Murphy
   Case Planner: Contract Planner Shah, 456-2489, ext. 385
   Recommended Action: Receive and file the Planning Director’s report on the approval of Administrative Coastal Development Permit No. 20-002.

B. New Items
2. Approval of Minutes
   Recommended Action: Approve the minutes for the November 16, 2020 Regular Planning Commission meeting.

ITEM 4 CONTINUED PUBLIC HEARINGS

A. Coastal Development Permit No. 20-018 - An application for a new vehicular and pedestrian access gate to the Sycamore Park neighborhood (Continued from November 16, 2020)
   Location: 6480 Via Escondido Drive, not within the appealable coastal zone
   APN: 4460-009-003
   Owner: Sycamore Tennis Court Association
   Case Planner: Associate Planner Thompson, 456-2489, ext. 280
   Recommended Action: Continue this item to the January 4, 2021 Regular Planning Commission meeting.

This item was continued to the January 4, 2021 Regular Planning Commission meeting upon approval of the agenda.

B. Coastal Development Permit No. 17-001, Variance No. 19-004, and Site Plan Review No. 17-005 – An application for the construction of a new single-family residence and associated development (Continued from November 2, 2020)
   Location: 5924 Zumirez Drive, within the appealable coastal zone
   APN: 4467-008-034
   Owner: Izad Family Trust
   Case Planner: Assistant Planner Murillo, 456-2489, ext. 353
   Recommended Action: Continue this item to the February 1, 2021 Regular Planning Commission meeting.
This item was continued to the February 1, 2021 Regular Planning Commission meeting upon approval of the agenda.

C.  

Coastal Development Permit–Woolsey Fire No. 20-023 – An application for a 1,314 square foot addition, a new OWTS, and exterior site improvements (Continued from November 16, 2020)

Location:  30181 Cuthbert Road, within the appealable coastal zone
APN:  4469-007-002
Owner:  Cuthbert Surf, LLC
Case Planner:  Planning Technician Coronel, 456-2489, ext. 373

Recommended Action:  Adopt Planning Commission Resolution No. 20-79 determining that the project is categorically exempt from the California Environmental Quality Act and approving Coastal Development Permit–Woolsey Fire No. 20-023 to allow for the construction of a 1,314 square foot addition; 6,783 square feet of new impermeable coverage; view permeable front yard fence (not to exceed six feet in height); rear and side yard retaining walls (not to exceed six feet in height); a new pool and spa with associated equipment; and installation of a new onsite wastewater treatment system, as an addition to a home destroyed in the 2018 Woolsey Fire, located in the Rural Residential–Two Acre zoning district at 30181 Cuthbert Road (Cuthbert Surf, LLC).

Planning Technician Coronel presented the staff report.

Disclosures:  Commissioners Jennings, Uhring, and Weil, Vice Chair Marx, and Chair Mazza.

The Commission directed questions to staff.

As there were no further questions for staff, Chair Mazza opened the public comment portion of the public hearing.

Speakers:  Vitus Matare, Howard Spunt, Anne Sadeghpour, and Saeed Sadeghpour.

Mr. Matare provided rebuttal to public comment.

As there were no other speakers present, Chair Mazza closed the public comment portion of the public hearing and returned the matter to the table for discussion.

The Commission directed questions to staff and Mr. Matare.

MOTION  Commissioner Weil moved and Commissioner Jennings seconded a motion to adopt Planning Commission Resolution No. 20-79 determining that the project is categorically exempt from the California Environmental Quality Act and approving Coastal Development Permit–Woolsey Fire No. 20-023 to allow for the construction of a 1,314 square foot addition; 6,783 square feet of new impermeable coverage; view permeable front yard fence (not to exceed six feet in height); rear...
and side yard retaining walls (not to exceed six feet in height); a new pool and spa with associated equipment; and installation of a new onsite wastewater treatment system, as an addition to a home destroyed in the 2018 Woolsey Fire, located in the Rural Residential–Two Acre zoning district at 30181 Cuthbert Road (Cuthbert Surf, LLC).

The Commission discussed the motion.

The question was called and the motion failed 2-3, Commissioner Uhring, Vice Chair Marx, and Chair Mazza dissenting.

The Commission directed questions to staff, Mr. Matare, and Mr. Spunt.

MOTION Commissioner Uhring moved to direct staff to bring back a resolution denying the project.

The Commission discussed the motion.

Commissioner Uhring withdrew his motion.

MOTION Commissioner Uhring moved and Vice Chair Marx seconded a motion continue the item to a date uncertain to allow the applicant to redesign the project.

The Commission discussed the motion.

The question was called and the motion carried unanimously.

ITEM 5 NEW PUBLIC HEARINGS

A. Administrative Plan Review No. 20-014 and Variance No. 20-009 – An application to install new rooftop mechanical equipment and mounting platform

Location: 3011 Malibu Canyon Road, not within the appealable coastal zone

APN: 4458-029-012

Owner: HRL Laboratories, LLC

Case Planner: Assistant Planner Eaton, 456-2489, ext. 273

Recommended Action: Adopt Planning Commission Resolution No. 20-71 determining the project is categorically exempt from the California Environmental Quality Act, and approving Administrative Plan Review No. 20-014 to allow the installation of roof-mounted mechanical equipment and mounting platform serving an existing research and development facility, including Variance No. 20-009 for development over 24 feet in height, located in the Industrial and Research and Development zoning district at 3011 Malibu Canyon Road (HRL Laboratories, LLC).

Assistant Planner Eaton presented the staff report.
Disclosures: Commissioner Uhring and Chair Mazza.

The Commission directed questions to staff.

As there were no further questions for staff, Chair Mazza opened the public comment portion of the public hearing.

Speaker: Eduardo Santa Cruz.

As there were no other speakers present, Chair Mazza closed the public comment portion of the public hearing and returned the matter to the table for discussion.

The Commission directed questions to staff.

**MOTION** Commissioner Uhring moved and Commissioner Weil seconded a motion to adopt Planning Commission Resolution No. 20-71 determining the project is categorically exempt from the California Environmental Quality Act, and approving Administrative Plan Review No. 20-014 to allow the installation of roof-mounted mechanical equipment and mounting platform serving an existing research and development facility, including Variance No. 20-009 for development over 24 feet in height, located in the Industrial and Research and Development zoning district at 3011 Malibu Canyon Road (HRL Laboratories, LLC).

The Commission discussed the motion.

The question was called and the motion carried unanimously.

B. **Conditional Use Permit Amendment No. 19-007 – An application to amend Conditional Use Permit No. 16-004 to allow the modification of an existing liquor license for the Malibu Racquet Club**

Location: 23847 Stuart Ranch Road
APN: 4458-021-002
Owner: Malibu Racquet Club, LLC
Case Planner: Associate Planner Thompson, 456-2489, ext. 280
Recommended Action: Adopt Planning Commission Resolution No. 20-75 determining the project is categorically exempt from the California Environmental Quality Act, and approving Conditional Use Permit Amendment No. 19-007 to permit the amendment of Conditional Use Permit No. 16-004 to allow the modification of an existing liquor license for the Malibu Racquet Club located in the Community Commercial zoning district at 23847 Stuart Ranch Road (Malibu Racquet Club, LLC).

Associate Planner Thompson presented the staff report.

The Commission directed questions to staff.

Disclosures: Commissioners Uhring and Weil and Chair Mazza.
The Commission directed questions to staff.

As there were no further questions for staff, Chair Mazza opened the public comment portion of the public hearing.

Speakers: Drew Purvis, Trey Waltke, and Ryan Embree.

Mr. Purvis and Mr. Waltke provided rebuttal to public comment.

As there were no other speakers present, Chair Mazza closed the public comment portion of the public hearing and returned the matter to the table for discussion.

The Commission directed questions to staff, Mr. Purvis, and Mr. Waltke.

MOTION Commissioner Uhring moved and Vice Chair Marx seconded a motion to adopt Planning Commission Resolution No. 20-75, as amended: 1) determining the project is categorically exempt from the California Environmental Quality Act, and approving Conditional Use Permit Amendment No. 19-007 to permit the amendment of Conditional Use Permit No. 16-004 to allow the modification of an existing liquor license for the Malibu Racquet Club located in the Community Commercial zoning district at 23847 Stuart Ranch Road (Malibu Racquet Club, LLC); and 2) updating Condition No. 11 to specify that any increase to service area, number of employees, or any number of restaurant seats requires evaluation by the Planning Director and the City Environmental Health Administrator and shall require an amendment to this conditional use permit by the Planning Commission; and if necessary, modification or update to the onsite wastewater treatment system as required.

The Commission discussed the motion.

The question was called and the motion carried unanimously.

RECESS At 8:30 p.m. Chair Mazza recessed the meeting. The meeting reconvened at 8:40 p.m. with all Commissioners present.

C. Coastal Development Permit No. 19-032 and Demolition Permit No. 20-027 – An application for the construction of a new guest house, garage, onsite wastewater treatment system and associated improvements, and partial demolition of an existing accessory structure
Location: 5845 Clover Heights Avenue, within the appealable coastal zone
APN: 4469-013-010
Owner: Alan and Thords Carson Trust
Case Planner: Associate Planner Thompson, 456-2489, ext. 280
Recommended Action: Adopt Planning Commission Resolution No. 20-74 determining the project is categorically exempt from the California Environmental Quality Act, and approving Coastal Development Permit No. 19-032 for a 900-square foot guest house, including a 496.5-square foot mechanical room (with a
floor-to-ceiling height not to exceed six feet), a 400-square foot garage, for a total property development square footage of 3,177-square feet, a new onsite wastewater treatment system, exterior site improvements including a 1,123-square foot on-grade deck and 2,600-square feet of new impermeable coverage, and Demolition Permit No. 20-027 for the partial demolition of an existing accessory structure and the demolition of two sheds totaling 236-square feet; located in the Rural Residential-Two Acre zoning district at 5845 Clover Heights Avenue (Alan and Thords Carson Trust).

Associate Planner Thompson presented the staff report.

Disclosures: Commissioner Weil and Chair Mazza.

The Commission directed questions to staff.

As there were no further questions for staff, Chair Mazza opened the public comment portion of the public hearing.

Speaker: Marissa Coughlan.

As there were no other speakers present, Chair Mazza closed the public comment portion of the public hearing and returned the matter to the table for discussion.

The Commission directed questions to staff and Ms. Coughlan.

MOTION Chair Mazza moved and Vice Chair Marx seconded a motion to adopt Planning Commission Resolution No. 20-74, as amended: 1) determining the project is categorically exempt from the California Environmental Quality Act, and approving Coastal Development Permit No. 19-032 for a 900-square foot secondary dwelling unit, including a 496.5-square foot mechanical room (with a floor-to-ceiling height not to exceed six feet), a 440-square foot garage, for a total property development square footage of 3,177-square feet, a new onsite wastewater treatment system, exterior site improvements including a 1,123-square foot deck and 2,600-square feet of new impermeable coverage, and Demolition Permit No. 20-027 for the partial demolition of an existing accessory structure and the demolition of two sheds totaling 236-square feet; located in the Rural Residential-Two Acre zoning district; 2) changing the term “guest house” to “secondary dwelling unit;” and 3) correct the square footage of the garage from 400 to 440.

The Commission discussed the motion.

The question was called and the motion carried unanimously.

RECUSSAL Commissioner Uhring recused himself due to the possibility of having to consider the Coastal Development Permit 14-069 in the future if it goes before the City Council and left the meeting 9:00 p.m.
D. Malibu Jewish Center and Synagogue Project - Coastal Development Permit No. 14-069, Conditional Use Permit No. 16-005, Variance Nos. 14-050, 14-051 and 16-009, Site Plan Review No. 14-050, Sign Permit No. 16-006, Demolition Permit No. 18-024, Initial Study No. 18-001, and Mitigated Negative Declaration No. 18-001 – An application to remove four modular buildings and redevelop the site with a two-story classroom/administration building with a subterranean garage and basement, construct a new temple building with a basement, and associated development

Location: 24855 Pacific Coast Highway, within the appealable coastal zone
APN: 4458-032-027
Owner: Malibu Jewish Center and Synagogue
Case Planner: Principal Planner Fernandez, 456-2489, ext. 482

Recommended Action: Adopt Planning Commission Resolution No. 20-83 adopting Initial Study No. 18-001 and Mitigated Negative Declaration No. 18-001 and approving Coastal Development Permit No. 14-069 and Demolition Permit No. 20-024 for the removal of four modular buildings and redevelopment of the site with a two-story, 16,410 square foot classroom/administration building with two subterranean levels; one for 28 parking spaces and the second for storage, construction of a new temple building with 2,013 square foot of above-ground floor area and a basement, redevelopment of the existing surface parking lot to improve internal circulation and parking, installation of a second onsite wastewater treatment system, and a habitat restoration program for Puerco Canyon Creek to be integrated with ongoing fuel modification activities; including Conditional Use Permit No. 16-005 for the expansion of the existing religious facility; Variance (VAR) No. 14-050 to allow for non-code compliant parking spaces, reduced number of parking spaces and parking space dimensions; VAR No. 14-051 for construction within an Environmentally Sensitive Habitat Area buffer zone; VAR No. 16-009 for a retaining wall over six feet in height; Site Plan Review No. 14-050 for buildings in excess of 18 feet in height but not to exceed 28 feet for flat roofs; and Sign Permit No. 16-006 for identification and building mounted signage, located in the Institutional zoning district at 24855 Pacific Coast Highway (Malibu Jewish Center and Synagogue).

Acting Planning Director Mollica presented the staff report.

The Commission directed questions to staff.

Disclosures: Commissioners Jennings and Weil, Vice Chair Marx, and Chair Mazza.

The Commission directed questions to staff.

As there were no further questions for staff, Chair Mazza opened the public comment portion of the public hearing.

Speakers: David Gray, Mark Meyer, George Greenberg, Ron Goldman, and Kraig Hill.
Mr. Gray and Mr. Greenberg provided rebuttal to public comment.

As there were no other speakers present, Chair Mazza closed the public comment portion of the public hearing and returned the matter to the table for discussion.

The Commission directed questions to staff and Mr. Gray.

MOTION
Chair Mazza moved and Commissioner Jennings seconded a motion to continue the hearing to a date uncertain to allow staff time to have the Malibu Public Safety Commission provide input on relevant highway safety concerns and have staff provide additional analysis on the proposed parking plan for the Malibu Jewish Center and Synagogue Project - Coastal Development Permit No. 14-069, Conditional Use Permit No. 16-005, Variance Nos. 14-050, 14-051 and 16-009, Site Plan Review No. 14-050, Sign Permit No. 16-006, Demolition Permit No. 18-024, Initial Study No. 18-001, and Mitigated Negative Declaration No. 18-001, an application to remove four modular buildings and redevelop the site with a two-story classroom/administration building with a subterranean garage and basement, construct a new temple building with a basement, and associated development.

The Commission discussed the motion.

The question was called and the motion carried 4-0, Commissioner Uhring absent.

E. Coastal Development Permit No. 19-001, Variance No. 19-001, Site Plan Review No. 19-001, and Minor Modification No. 19-001 – An application for a new single-family residence and associated development
Location: 20272 Inland Lane, within the appealable coastal zone
APN: 4450-012-032
Owner: The Jonathan L. Congdon Revocable Trust
Case Planner: Contract Planner Rudolph, 456-2489, ext. 374
Recommended Action: Adopt Planning Commission Resolution No. 20-61 determining the project is categorically exempt from the California Environmental Quality Act, and approving Coastal Development Permit No. 19-001 for the construction of a new 3,792 square foot, two-story single-family residence, plus a 602 square foot attached two-car garage with storage, a detached 192 square foot cabana, hardscape, grading, drainage, and installation of a new onsite wastewater treatment system; including Variance No. 19-001 from the City’s geotechnical standards for factor of safety, Site Plan Review No. 19-001 for the roof height in excess of 18 feet, up to 24 feet for a flat roof, and Minor Modification No. 19-001 for the reduction of the required side yard setback, located in the Single-Family Low Density zoning district at 20272 Inland Lane (The Jonathan L. Congdon Revocable Trust).

This item was continued to the January 4, 2021 Regular Planning Commission meeting upon approval of the agenda.
ITEM 6  OLD BUSINESS

None.

ITEM 7  NEW BUSINESS

None.

ITEM 8  PLANNING COMMISSION ITEMS

None.

ADJOURNMENT

MOTION  At 10:17 p.m., Chair Mazza moved and Vice Chair Marx seconded a motion to adjourn the meeting. The question was called and the motion carried 4-0, Commissioner Uhring absent.

Approved and adopted by the Planning Commission of the City of Malibu on ________________.

_____________________________
JOHN MAZZA, Chair

ATTEST:

KATHLEEN STECKO, Administrative Assistant
Commission Agenda Report

To: Chair Mazza and Members of the Planning Commission

Prepared by: Jessica Thompson, Associate Planner

Approved by: Richard Mollica, Acting Planning Director

Date prepared: December 22, 2020  Meeting date: January 4, 2021

Subject: Coastal Development Permit No. 20-018 - An application for a new vehicular and pedestrian access gate to the Sycamore Park neighborhood (Continued from December 7, 2020)

Location: 6480 Via Escondido Drive, not within the appealable coastal zone
APN: 4460-009-003
Owner: Sycamore Tennis Court Association

RECOMMENDED ACTION: Continue this item to the January 19, 2021 Regular Planning Commission meeting.

Section 13.12 of Malibu LCP’s Local Implementation Plan requires that each CDP application be noticed based on whether the decision on the CDP is subject to appeal to the Coastal Commission. This hearing was noticed as an application that is not subject to appeal to the Coastal Commission. This determination was made based on evidence provided by the applicant. The City’s determination has been challenged by an interested party. Pursuant to Malibu LCP’s Local Implementation Plan Section 13.10.1, when an appealability determination is challenged, the City must notify the Coastal Commission’s Executive Director who will make a determination with respect to correct category of the CDP application. That process is currently underway. Staff will determine whether to move forward with a hearing on January 19, 2021, or take some other action regarding the application prior to preparation of the January 19, 2021 agenda.
To: Chair Mazza and Members of the Planning Commission

Prepared by: Lilly Rudolph, Contract Planner

Approved by: Richard Mollica, Acting Planning Director

Date prepared: December 22, 2020 Meeting date: January 4, 2021

Subject: Coastal Development Permit No. 19-001, Variance No. 19-001, Site Plan Review No. 19-001, and Minor Modification No. 19-001 – An application for a new single-family residence and associated development (Continued from December 7, 2020)

Location: 20272 Inland Lane, within the appealable coastal zone
APN: 4450-012-032
Owner: The Jonathan L. Congdon Revocable Trust

RECOMMENDED ACTION: Adopt Planning Commission Resolution No. 21-01 (Attachment 1) determining the project is categorically exempt from the California Environmental Quality Act (CEQA), and approving Coastal Development Permit (CDP) No. 19-001 for the construction of a new 3,792 square foot, two-story single-family residence, plus a 602 square foot attached two-car garage with storage, a detached 192 square foot cabana, hardscape, grading, drainage, and installation of a new onsite wastewater treatment system (OWTS); including Variance (VAR) No. 19-001 from the City’s geotechnical standards for factor of safety, Site Plan Review (SPR) No. 19-001 for the roof height in excess of 18 feet, up to 24 feet for a flat roof, and Minor Modification (MM) No. 19-001 for the reduction of the required side yard setback, located in the Single-Family Low Density (SFL) zoning district at 20272 Inland Lane (The Jonathan L. Congdon Revocable Trust).

DISCUSSION: This item was first continued to November 2, 2020 at the October 6, 2020 Planning Commission meeting at staff’s recommendation to incorporate community feedback received during an October 6, 2020 virtual community meeting and City Council direction on the Big Rock Mesa Landslide Assessment District. On November 2, 2020, the Planning Commission continued the item to allow the applicant time to prepare a geotechnical report to further support findings for VAR No. 19-001. On November 16, 2020, the Planning Commission continued the item to re-notice the project due to incorrect mailing data. On December 7, 2020, the Planning Commission continued the item to
January 4, 2021 at the request of the applicant. This agenda report provides a project overview, a summary of the surrounding land uses and project setting, description of the proposed project, staff’s analysis of the proposed project’s consistency with applicable provisions of the Malibu Local Coastal Program (LCP) and Malibu Municipal Code (MMC), and environmental review pursuant to CEQA. The analysis and findings contained herein demonstrate the proposed project is consistent with the LCP.

Project Overview

The subject parcel is located in the Big Rock neighborhood and is affected by the Big Rock Mesa Landslide. While the Big Rock Mesa Landslide Assessment District de-waters the landslide area to increase stability, it is infeasible to rebuild a residence on the subject property in a fashion that would meet the code-required factors of safety. The measures available for residential construction on a single lot, such as deepened piles and other techniques, cannot increase the factor of safety sufficiently due to the fact that the landslide covers 160 acres in land area and is 350 feet thick at its deepest extent. Figure 1 below depicts the Big Rock Mesa Landslide Assessment District boundary. The subject parcel is highlighted in yellow.

Figure 1 – Big Rock Mesa Landslide Assessment District

Source: Annual Assessment Report (Fiscal Year 2020 – 2021) Assessment District No. 98-1 Big Rock Mesa
While the assessment district boundary is larger than the approximate limits of the primary land movement of the landslide itself, the map demonstrates the large scale of the landslide area relative to the project site. Detailed analysis of the project’s conformance with the LCP’s development standards regarding hazards and discussion of the variance findings for the reduced factor of safety due to the unique geotechnical conditions on the site are discussed below. Project plans are included as Attachment 2.

In 1968, a 2,184 square foot (according to the Los Angeles County Assessor) single-family residence and garage were constructed on the subject property. In 1993, the residence burned in the Malibu Topanga Fire and was demolished, leaving just the foundation.

The subject parcel is an irregularly shaped lot that narrows as it connects to Inland Lane. The existing pad area where the original residence was constructed is the only flat area on the property. The lot descends steeply to Pacific Coast Highway (PCH) with slopes of 2.5 to 1 that increase to slopes of 1 to 1 and steeper. The entire slope area was restricted as a geological hazard area by the original Tract Map No. 27463, which was recorded in 1963. The project site is outlined in green in Figure 1 below (property lines are approximate).

![Figure 1 – Project Area Aerial](source: Pictometry 2020)

Project Background

On August 7, 2012, the Planning Commission approved an application from John Ahn, the previous property owner, for CDP No. 11-037, VAR No. 11-018, and MM No. 12-007 to allow the construction of a new one-story, 3,682 square foot single-family residence with an attached two-car garage, covered patios, hardscape, new OWTS, grading, and
associated development, including a variance from the City's geotechnical standards for factor of safety, and a minor modification to reduce side yard setbacks. The residence height did not exceed 18 feet. The adjacent neighbor to the west (Cohen) appealed the approval to the City Council but withdrew the appeal prior to the Council public hearing. The Planning Commission’s decision became final.

The property was subsequently sold to the current property owner, who also owns the adjacent lot to the east. On October 6, 2014, the Planning Commission approved a two-year time extension request for CDP No. 11-037, VAR No. 11-018, and MM No. 12-007, extending the approval to December 10, 2016.

On July 13, 2015, the current property owner submitted CDPA No. 15-005 to redesign the project approved under CDP No. 11-037 and to construct a 192 square foot cabana. A request for a second time extension was included with that amendment, which the Planning Commission approved on November 6, 2017. The Planning Commission added a condition requiring an annual monitoring report to be submitted to the Big Rock Mesa Landslide Maintenance District No. 98-1 detailing the monitoring and maintenance activities completed between July 1 and June 30 to coincide with the district’s annual reporting activities. This condition is also included in Resolution No. 21-01. The Planning Commission separately approved Demolition Permit No. 17-022 to demolish the existing remnant onsite foundation. The Commission’s approval of CDP No. 11-037 was subsequently appealed to the City Council, and the City Council upheld the Commission’s decision on March 26, 2018 and approved the application. The City Council’s approval of the CDP was subsequently appealed to the California Coastal Commission (CCC). The appellant did not appeal the associated demolition permit, and the applicant was allowed to demolish remnants of the foundation from the previous residence.

The Coastal Commission staff informed the applicant that it intended to recommend denial of the project because the time extension request was not filed in a timely manner, and the CDP had expired. The applicant withdrew the application and submitted the subject new CDP application. The subject application is similar to CDPA No. 15-005, which was approved by the Planning Commission and the City Council (on appeal) prior to being withdrawn by the applicant. Proposed revisions to CDP No. CDPA No. 15-005 involve adding 284 square feet to the first floor and 171 square feet to the second floor, increasing the total development square footage (TDSF) by 455 square feet, and replacing two existing entry gates to comply with view permeability standards.

**Variance from Factor of Safety**

The project site does not satisfy the LCP-required geotechnical 1.5 static and 1.1 pseudostatic factors of safety for slope stability found in LCP Local Implementation Plan (LIP) Section 9.4. Given the size and scope of the landslide (discussed in more detail below), it is not feasible to meet those standards through the design and engineering of the project, and a variance is requested based on extensive geologic and geotechnical
engineering studies completed for the subject property that were reviewed and approved by City geotechnical staff. The studies described existing site conditions and devised a set of complex site design and construction measures that would allow development of the project that would not cause adverse site or structural stability impacts on the subject parcel or surrounding parcels. A letter dated October 23, 2020 clarifies that the factor of safety of 1.5 cannot be achieved through site-specific improvements (Attachment 5 – GeoConcepts Letter dated October 23, 2020).

The reports also clarify that the studies are not designed to provide a guarantee that the site will be free from hazards. The Quality Control Maintenance Manual (QCMM) states that the manual is not intended to preclude distress from the Big Rock Mesa Landslide and cannot cover every conceivable hazard that can arise (Attachment 6 – Quality Control Maintenance Manual dated September 19, 2017).

City geotechnical staff reviewed the project, as well as updated geotechnical reports, and determined that the applicant provided documentation that adequately supports the findings that the project will not adversely affect the stability of the slope.

Site Plan Review for Height

Because the proposed project includes a new second-story element with a height not to exceed 24 feet for a flat roof, the applicant has submitted a site plan review request. Three properties within 1,000 feet of the project site requested primary view determinations in response to story poles installed for CDPA 15-005: 20260 Inland Lane, adjacent (northeast) to the project site; 20269 Inland Lane to the north; and 20282 Inland Lane, which is one parcel away to the west, as shown in Figure 1. The project conforms with primary view protection standards because the portions of the structure that are higher than 18 feet in height are behind, and obscured by, the portion of the residence that is 18 feet in height and lower (Attachment 3 – Site and Story Pole Photographs). Thus, whether the 24-foot high portion of the residence is included or not, the impact on primary views would be the same as a result of the by-right 18-foot high portion of the home. Therefore, no portion of the residence in excess of 18 feet is obstructing neighbor’s views of impressive scenes.

Minor Modification for Side Yard Setback Reduction

Due to the irregular shape of the lot, the subject property has two east side yard setback areas. The project requires a reduction of one of the east side yard setbacks. Figure 2 illustrates the two setback areas of the east side yard. Setback area no. 1 (shown in blue) along the driveway shared by the neighboring lot owned by the applicant requires the 20 percent reduction to 7 feet, 3 inches. Thus, the project minimizes the setback reduction to a small portion of the site abutting property owned by the applicant and does not adversely affect neighborhood character.
Surrounding Land Uses and Setting

The property is located in the Big Rock neighborhood on Inland Lane, a private street. Residences in the immediate area consist of one-story homes, with a few two-story homes nearby, and the area is zoned Single-Family Low Density (SFL). Views of the Pacific Ocean are oriented to the south of the subject parcel.

Figure 3 below indicates the year built and size of surrounding development for the four properties to the west of the subject property which, like the subject property, are sited at the end of Inland Lane and at the top of the slope that descends to PCH. The information is from the Los Angeles County Assessor website.
Table 1 provides a summary of the lot dimensions and lot area of the subject parcel. Because the parcel is wedge-shaped and the area south of the pad is restricted from development, lot width was calculated based upon the average width of the parcel in the area proposed for a building pad.¹

<table>
<thead>
<tr>
<th>Table 1 – Property Data</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Lot Depth</td>
<td>399.88 – 68 feet (1:1 slopes) = 331.88 feet</td>
</tr>
<tr>
<td>Lot Width</td>
<td>91.5 feet</td>
</tr>
<tr>
<td>Gross Lot Area</td>
<td>40,516 square feet (0.93 acre)</td>
</tr>
<tr>
<td>Area of Easements</td>
<td>360 square feet</td>
</tr>
<tr>
<td>Area of 1 to 1 Slopes</td>
<td>11,686 square feet</td>
</tr>
<tr>
<td>Net Lot Area²</td>
<td>28,470 square feet (0.65 acre)</td>
</tr>
</tbody>
</table>

The project site is within the Appeal Jurisdiction of the CCC as depicted on the Post-LCP Certification Permit and Appeal Jurisdiction Map, so the project is appealable to the CCC. The project site has no trails on or adjacent to it according to the LCP Park Lands Map and is not in a designated Environmentally Sensitive Habitat Area (ESHA) or ESHA buffer as shown on the LCP ESHA and Marine Resources Map.

¹ This determination was made by the Planning Director in 2011 for the original CDP application pursuant to LIP Section 3.6(P) which states that determinations regarding lot widths and depths for irregularly shaped parcels, permitted driveway paths, building area and total development square footage, infill lots and yards shall be made by the Director.

² Net Lot Area = Gross Lot Area minus the area of street easements and 1 to 1 slopes.
Project Description

The proposed scope of work is as follows:

a. Construction of a new 3,792 square foot two-story single-family residence, plus a 602 square foot attached garage and storage, 618 square feet of covered patio areas, and a detached 192 square foot cabana for a TDSF of 5,204 square feet;
b. Hardscape improvements, including patios, walkways and extending the existing driveway to the new garage and widening it toward the east property line to meet Fire Department requirements;
c. Replacement of the vehicle entry gate and pedestrian entry gate;
d. OWTS;
e. Grading, retaining walls, and site drainage improvements, including a storm water detention system;
f. Non-irrigated low-growing native groundcover as necessary for erosion control; and

Discretionary requests:
   i. VAR No. 19-001 from City geotechnical standards for factor of safety;
   ii. SPR No. 19-001 for height in excess of 18 feet, up to 24 feet for a flat roof; and
   iii. MM No. No. 19-001 for a reduction of the side yard setback to 7 feet, 3 inches on the east only.

LCP Analysis

The LCP consists of the Land Use Plan (LUP) and the LIP. The LUP contains programs and policies implementing the Coastal Act in Malibu. The LIP contains provisions to carry out the policies of the LUP to which every project requiring a coastal development permit must adhere.

There are 14 LIP chapters that potentially apply depending on the nature and location of the proposed project. Of these, five are for conformance review only and contain no findings: 1) Zoning, 2) Grading, 3) Archaeological/Cultural Resources, 4) Water Quality, and 5) Onsite Wastewater Treatment Systems. Updated conformance reviews for these chapters are discussed in the LIP Conformance Analysis section.

The nine remaining LIP chapters do contain required findings: 1) Coastal Development Permit; 2) ESHA; 3) Native Tree Protection; 4) Scenic, Visual and Hillside Resource Protection; 5) Transfer of Development Credits; 6) Hazards; 7) Shoreline and Bluff Development; 8) Public Access; and 9) Land Division.

For the reasons described in this report, including the project site, the scope of work, and substantial evidence in the record, only the following chapters and associated findings are applicable to the project: Coastal Development Permit (including the required findings for
the VAR, SPR, and MM), and Hazards\(^3\). These findings are discussed in the *LIP Findings* section of this report.

**Conformance Analysis**

**Zoning (LIP Chapter 3)**

Development standards are contained in LIP Chapter 3. As shown in Table 2, the proposed development, with the inclusion of the site plan review and minor modification, conforms to the property development and design standards as set forth under LIP Sections 3.5 and 3.6.

<table>
<thead>
<tr>
<th>Table 2 – LCP Non-Beachfront Zoning Conformance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Development Requirement</td>
</tr>
<tr>
<td>SETBACKS</td>
</tr>
<tr>
<td>Front Yard</td>
</tr>
<tr>
<td>Rear Yard</td>
</tr>
<tr>
<td>Side Yard (15%, west, cabana)</td>
</tr>
<tr>
<td>Side Yard (15%, west, house)</td>
</tr>
<tr>
<td>Side Yard (10% - east)</td>
</tr>
<tr>
<td>PARKING</td>
</tr>
<tr>
<td></td>
</tr>
<tr>
<td>TDSF</td>
</tr>
<tr>
<td>HEIGHT</td>
</tr>
<tr>
<td>IMPERMEABLE COVERAGE</td>
</tr>
<tr>
<td>SLOPES</td>
</tr>
<tr>
<td>TWO-THIRDS RULE (1st Floor x 2/3rd = 2nd Floor (sq. ft.)</td>
</tr>
<tr>
<td>NON-EXEMPT GRADING (cu.yd.)</td>
</tr>
<tr>
<td>FENCES/WALLS/HEDGES</td>
</tr>
<tr>
<td>Front Yard</td>
</tr>
<tr>
<td>Rear Yard</td>
</tr>
<tr>
<td>Side Yards</td>
</tr>
<tr>
<td>Retaining Walls</td>
</tr>
</tbody>
</table>

\(^3\) The ESHA, Native Tree Protection, Scenic, Visual and Hillside Resource Protection, Transfer of Development Credits, Shoreline and Bluff Development, Public Access, and Land Division findings are neither applicable nor required for the proposed project.
Grading (LIP Chapter 8)

LIP Section 8.3 ensures that new development minimizes the visual resource impacts of grading and landform alteration by restricting the amount of non-exempt grading to a maximum of 1,000 cubic yards for a residential parcel. The total amount of grading is 1,010 cubic yards as provided for on the Total Grading Yardage Verification Certificate on the grading plan cover sheet. The total amount of proposed non-exempt grading is 210 cubic yards, which is less than the maximum allowable. The remaining grading is 800 cubic yards of exempt understructure grading, due to the project design, which sinks the ground-floor into the site. The project complies with grading requirements set forth under LIP Section 8.3.

Archaeological / Cultural Resources (LIP Chapter 11)

LIP Chapter 11 requires certain procedures be followed to determine potential impacts on archaeological resources. Staff conducted a preliminary review of the potential for archaeological resources on the site. The project is proposed within the same development footprint as the previous residence built in 1968. The City’s Cultural Resources Map indicates the property has a low potential for containing cultural resources. Given the past disturbance to the site and the cultural resources map designation, the Planning Director determined no further studies are required at this time. In the event that potentially important cultural resources are found during construction, the project has been conditioned to stop work until further evaluation.

Water Quality (LIP Chapter 17)

The City Public Works Department reviewed and approved the project for conformance to LIP Chapter 17 requirements for water quality protection. Standard conditions of approval are required to be implemented prior to the issuance of a grading permit and during construction. These conditions require the preparation and approval of a Water Quality Mitigation Plan and a Storm Water Pollution Prevention Plan prior to the issuance of grading or building permits to control erosion and to prevent run-off, slope stability, and water quality impacts from the development.

Onsite Wastewater Treatment Systems (LIP Chapter 18)

LIP Chapter 18 and MMC Chapters 15.40, 15.42, and 15.44 address OWTS. LIP Section 18.7 includes specific siting, design, and performance requirements. The project includes a new OWTS which has been reviewed by the City Environmental Health Administrator and found to meet the minimum requirements of the MMC and the LCP. The subject system will meet all applicable requirements and operating permits will be required. The new system will incorporate a 3,634 gallon MicroSepTec ES12 with UV disinfection unit with one existing and one new future seepage pit. The system details and conditions of approval are included in the review sheet included in Attachment 7.
An operation and maintenance contract and recorded covenant covering such shall be in compliance with City Environmental Health requirements. Conditions of approval are included which require continued operation, maintenance, and monitoring of onsite facilities as well as screening of any above-ground equipment.

**LIP Findings**

**A. General Coastal Development Permit (LIP Chapter 13)**

Pursuant to LIP Section 13.9, the following four findings need to be made for all CDPs.

*Finding 1. That the project as described in the application and accompanying materials, as modified by any conditions of approval, conforms with the certified City of Malibu Local Coastal Program.*

The proposed project has been reviewed for conformance with all relevant policies and provisions of the LCP by Planning Department staff, City Environmental Health Administrator, City geotechnical staff, City Public Works Department, and the Los Angeles County Fire Department (LACFD) (Attachment 7 – Department Review Sheets). As discussed herein, based on submitted reports and plans, visual analysis and site investigation, the project, as conditioned, conforms to the provisions of the LCP applicable to non-beachfront development in the SFL zone.

*Finding 2. If the project is located between the first public road and the sea, that the project conforms to the public access and recreation policies of Chapter 3 of the Coastal Act of 1976 (commencing with Sections 30200 of the Public Resources Code).*

The proposed project is not located between the first public road and the sea. Therefore, this finding does not apply.

*Finding 3. The project is the least environmentally damaging alternative.*

This analysis assesses whether alternatives to the proposed project would significantly lessen adverse impacts to coastal resources. No sensitive resource impacts such as ESHA or scenic, visual, or hillside resources are associated with the project site. Based on MMC and LCP conformance review, the project will not result in any significant adverse impacts. Nevertheless, the following alternatives to the project were considered.

Relocating the residence is precluded by the required setback from the steep slope of the property’s rear yard. There are no alternatives for developing the site with a single-family residence that would avoid the variance for geotechnical factors of safety. The size and scope of the landslide make it impossible for any development within the scope of the landslide to meet the factors of safety. However, the project has incorporated changes to
the foundation design as recommended by the City geotechnical staff to sufficiently address the on-site slope stability and soil erosion conditions.

A project with less square footage could be proposed on the site. However, compared to the previously approved CDP, the proposed project has a narrower design and a smaller footprint to provide wider private view corridors overall for nearby residents, and the residence has a lower finished floor to reduce the roof elevation. The proposed project minimizes private view impacts. As demonstrated by the story poles, an alternative project with the portion of the project above 18 feet in height removed would not change the view of the project from surrounding neighbors. For that reason, the site plan review finding pertaining to primary view blockage can be made because the portions that are over 18 feet in height are visually blocked by areas that are no higher than 18 feet.

The proposed project is below the maximum allowed TDSF for the parcel and has been sited in the general footprint of the previous residence, but with a larger side yard setback and a narrower building footprint as seen from existing residences on Inland Lane. While the proposed project includes a site plan review to allow the home to exceed 18 feet in height, it results in no protected primary view impacts. The proposed project involves a reduction only to a portion of the east side yard. The proposed setbacks are similar to those found throughout the neighborhood, including those of the property to the east, which has a zero side yard setback. Although the project does not meet the LCP requirement for the factor of safety, the City geotechnical staff has determined that the provisions of the extensive and comprehensive QCMM, described in detail in the Variance findings below, will be adequate to prevent onsite and offsite adverse impacts. The proposed two-story residence is not visible from PCH or other nearby scenic areas.

The project consists of construction of a new single-family residence and accessory development on land that is zoned for these purposes, and that was previously developed as such. As proposed and conditioned, the project has been determined to be the least environmentally damaging feasible alternative. There are no alternatives to the proposed design that would lessen any significant impacts as no significant adverse impacts are expected.

*Finding 4. If the project is located in or adjacent to an environmentally sensitive habitat area pursuant to Chapter 4 of the Malibu LIP (ESHA Overlay), that the project conforms with the recommendations of the Environmental Review Board, or if it does not conform with the recommendations, findings explaining why it is not feasible to take the recommended action.*

The subject parcel is not located in ESHA, an ESHA buffer zone or adjacent to any streams as designated in the LCP. Pursuant to LIP Section 4.4.4, the proposed project is exempt from providing a detailed biological study of the site and from ERB review, and the City Biologist determined it is consistent with the policies of the LCP. No ERB review is required.
B. VAR No. 19-001 from the Required Geologic Factor of Safety (LIP Section 13.26.5)

The factor of safety requirements as set forth in LIP Section 9.4(D) - Hazards are as follows: “New development proposed on landslides, steep slopes, unstable or weak soils or any other identified geologic hazard area, shall be permitted only where a factor of safety of 1.5 (static) and a factor of safety of 1.1 (pseudostatic) can be provided.”

Conditions of approval are included in Planning Commission Resolution No. 21-01 requiring implementation of a QCMM that sets forth instructions for monitoring site improvements such as, but not limited to, the structure, utility lines, the drainage system, hardscape, and the OWTS. The selected items for monitoring are thought to be the most important safety precautions and/or monitoring areas relative to the site. A final as-built inspection report is required to be prepared by the project geotechnical consultant after the development is completed to ensure that all recommendations have been followed and implemented in accordance with the site’s QCMM. Long-term implementation of the QCMM is required as a condition of CDP approval.

A QCMM dated September 19, 2017, along with supporting geotechnical reports, were prepared by the project geotechnical consultant to reflect the proposed project. Neither the geotechnical reports nor the QCMM identify a potential for increased threat of landslide, slope instability, or any other geologic hazard as a result of the proposed project. On January 16, 2019, City geotechnical staff approved the proposed project and QCMM, subject to conditions.

The findings required to approve VAR No. 19-001 below reflect the updated QCMM and City geotechnical staff review. All of the associated geotechnical reports referenced in the City geotechnical staff department review sheet are on file at the City and available for review.

The Planning Commission may approve and/or modify an application for a variance in whole or in part, with or without conditions, only if it makes all of the following findings of fact supported by substantial evidence.

Finding 1. There are special circumstances or exceptional characteristics applicable to the subject property, including size, shape, topography, location, or surroundings such that strict application of the zoning ordinance deprives such property of privileges enjoyed by other property in the vicinity and under the identical zoning classification.

The subject property was the focus of engineering geologic and geotechnical engineering studies by GeoConcepts, Inc. (as detailed in Section I below) in order to determine and evaluate the geologic and geotechnical engineering conditions of the subject property with respect to the proposed project. As discussed in the referenced engineering geologic reports, the subject property is underlain by the Active Big Rock Mesa Landslide. Though
the Big Rock Mesa Landslide Assessment District effectively de-waters the landslide area and increases stability, it is infeasible to rebuild a residence on the subject property in a fashion that would provide the code-required 1.5 static and 1.1 pseudostatic factors of safety specified by LIP Section 9.4(A)(D). In a report dated October 23, 2020 the consulting geologist provides detailed analysis of the infeasibility of achieving a factor of safety using site-specific stabilization measures and alternatives (Attachment 5).

The location, topography and surroundings of the subject property (i.e., a landslide area with substandard slope stability factor of safety) are special circumstances and exceptional characteristics, which if the requirements of LIP Section 9.4(A)(D) were applied, would prevent the construction of any structure on the property. Requiring the proposed development to provide a factor of safety of 1.5 (static) and a factor of safety of 1.1 (pseudostatic) would likely constitute a taking of private property. Therefore, the proposed project should be allowed to avoid a taking. As discussed in Section A above and Section I below, the project is consistent with all LIP provisions, including findings assuring site stability and structural integrity, and ensuring that the project would not create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area. Strict application of the requirement to meet the slope stability factor of safety would deprive the property owner of privileges enjoyed by other residential properties located in the vicinity and under the identical zoning classification.

There have been many single-family residences on adjacent or nearby properties which have been permitted by the City (post-1993) and subsequently been issued building permits and/or been constructed in the Big Rock Mesa Landslide. All of these residences are located on parcels that provide less than the LIP standard 1.5 static and/or 1.1 pseudostatic factors of safety. Any development on the subject site would require a variance from this standard.

**Finding 2.** *The granting of such variance will not be detrimental to the public interest, safety, health or welfare, and will not be detrimental or injurious to the property or improvements in the same vicinity and zone(s) in which the property is located.*

Even though the proposed project does not provide the code-required 1.5 static and 1.1 pseudostatic factors of safety, site design and construction measures will be implemented as part of the proposed project which are anticipated to produce a higher degree of site / structural performance than what previously existed onsite. The intent of LIP Chapter 9 – Hazards is to ensure that new development shall minimize risks to life and property in areas of high geologic, flood and fire hazard. This section of the LIP requires that permitted development be sited and designed to assure site stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area. The site/structural design measures implemented in the proposed project meet the intent of LIP Chapter 9.
For the residence, the site design and construction measures include a deepened cast-in-place pile and grade beam foundation. For the utilities, water lines shall be provided with flexible couplings, gas lines shall be provided with swing joints, and electrical cables will be provided with coil loops in order to protect against breakage and service interruption in the event of ground movement. Furthermore, all utility lines will be placed in shallow vaults or channels to allow for easy inspection and/or repairs. To control site drainage and runoff, the project includes a drainage system, designed by the project civil engineer, in order to collect and transfer runoff from the roof, building pad, hardscape, and slopes in order to protect against erosion and excessive infiltration of storm water. The proposed design and construction measures recommended by the Project Engineering Geologist, Project Geotechnical Engineer, and Project Civil/Structural Engineers will be incorporated into the structural, grading, and drainage plans. The Project Engineering Geologist, Project Geotechnical Engineer, and Project Civil/Structural Engineers must verify that the recommended design and construction measures are properly incorporated into the final structural, grading, and drainage plans.

Comprehensive site maintenance and reporting measures have also been established as part of the proposed project which are anticipated to produce a higher degree of site and structure performance than what previously existed on the site. These measures have been recommended by the Project Engineering Geologist, Project Geotechnical Engineer, and Project Civil/Structural Engineers and included in a comprehensive QCMM that has been prepared specific to the subject property and the proposed project.

The QCMM calls for periodic inspection of site improvements at designated monitoring stations and areas, including but not limited to the residence window frames, utility lines, drainage system, site hardscape, and OWTS. Monitoring is required following any rainstorm producing an inch or more of rain within a week. An acceptable threshold of nominal cosmetic distress has been designated for each monitoring station and area, along with recommendations for maintenance and repair, and an annual monitoring report. Monitoring of the site will be performed by the “servicer”, which can be a licensed professional such as GeoConcepts, a licensed certified engineering geologist, and/or a licensed civil engineer, or a non-licensed professional such as any prudent person skilled in this type of service. If or when the monitoring stations or areas exceed the accepted threshold, the servicer shall evaluate the site and provide appropriate recommendations. Non-professional servicers shall notify appropriate licensed engineers or geologists to perform field evaluations and provide appropriate recommendations.

The QCMM has been reviewed and approved by City geotechnical staff, the Project Engineering Geologist, Project Geotechnical Engineer, and Project Civil/Structural Engineers. The QCMM will be recorded against the property as a condition of CDP approval. Any future owner(s) of the subject property will be properly notified of the conditions and recommendations set forth in the QCMM.
Based on the findings of the engineering geologic studies of the subject property and review of the current site development plans and project information, the project consulting geologist, GeoConcepts, determined that the proposed residential development of the subject property provides an increase in safety relative to the current conditions and previous development on the subject site, and that the project will not geotechnically reduce the stability of the area outside the proposed work. In addition, the proposed project will not be detrimental to the public interest, safety, health or welfare, and will not be detrimental or injurious to the property or improvements in the same vicinity and zones in which the property is located provided: 1) the recommendations of the Project Engineering Geologist, Project Geotechnical Engineer, and Project Civil/Structural Engineers are properly incorporated into the plans and implemented during construction; and 2) the subject property and proposed structures are properly maintained.

Finally, the City geotechnical staff has reviewed the extensive geologic supporting documentation for the proposed project and in the approval letter dated February 20, 2020 states “the applicant and his consultants have provided the City with reports that adequately support the findings in the variance.”

Finding 3. The granting of the variance will not constitute a special privilege to the applicant or property owner.

The granting of the variance will not constitute a special privilege to the applicant or property owner in that single-family residences have been developed on properties in the immediate vicinity which also do not satisfy code-required 1.5 static and 1.1 pseudostatic factors of safety. The properties in the immediate area are all located within the Big Rock Mesa Landslide. The construction of the residence on the subject parcel will incorporate extensive site design and construction measures through the implementation of the QCMM. Other properties located in the vicinity of the subject site which were reconstructed after the 1993 Topanga Fire were built in accordance to the City’s Fire Rebuilding Geology and Geotechnical Guidelines. These guidelines provided a waiver from the requirement for re-development projects to meet the slope stability factor of safety. Approval of the subject variance will grant relief from a technical development standard and would not grant a special privilege to the property owner. The variance is only granted for site-specific conditions on the subject property and shall not be determined to be precedent setting.

Finding 4. The granting of such variance will not be contrary to or in conflict with the general purposes and intent of this Chapter, nor to the goals, objectives and policies of the LCP.

The granting of the variance from the code-required 1.5 static and 1.1 pseudostatic factors of safety will not be contrary to or in conflict with the general purposes and intent of the zoning provisions nor contrary to or in conflict with the goals, objectives and policies of the LCP. As discussed in Findings 1 and 3, granting the requested variance will allow the
subject property to be developed in a similar manner to abutting properties. No alternatives exist that would eliminate the need for the requested variance. Additionally, as previously discussed in Finding 2, the site design and construction measures incorporated into the proposed project meet the intent of LIP Chapter 9. The proposed project has been reviewed and approved for conformance with the LCP and applicable City and County goals and policies by the LACFD and City staff.

Finding 5. For variances to environmentally sensitive habitat area buffer standards or other environmentally sensitive habitat area protection standards, that there is no other feasible alternative for siting the structure and that the development does not exceed the limits on allowable development area set forth in LIP Section 4.7.

This finding does not apply as the variance does not pertain to ESHA buffer standards.

Finding 6. For variances to stringline standards, that the project provides maximum feasible protection to public access as required by LIP Chapter 12.

This finding does not apply as the variance does not pertain to stringline standards.

Finding 7. The variance request is consistent with the purpose and intent of the zone(s) in which the site is located. A variance shall not be granted for a use or activity which is not otherwise expressly authorized by the zone regulation governing the parcel of property.

The subject property is zoned SFL, which allows for residential development. The proposed project includes the construction of a two-story single-family residence, which is a permitted use in the subject zone, with approval of a site plan review and minor modification. Approval of the variance from the required geotechnical standard for factor of safety will permit the construction of the residence on the property; otherwise, the property could not be developed. Any development on the site would require a variance from this standard. The request is consistent with the purpose and intent of the zone in which the site is located.

Finding 8. The subject site is physically suitable for the proposed variance.

The project will consist of the construction of a single-family residence on the subject property that is similar in size and footprint to what previously existed on the site. Based on the findings of the engineering geologic studies completed for the subject property, the geologic and topographic conditions of the subject property have not changed significantly since the demolition of the prior residence.

The subject property is physically suitable for the proposed residence because: 1) the subject property was physically suitable for the construction of the previous residence; and 2) the geologic and topographic conditions of the subject property have not changed
significantly since the demolition of the previous residence. Specifically, the subject property is physically suitable for the construction of a single-family residence and:

- The proposed construction of deepened cast-in-place pile and grade beam foundation system;
- The proposed construction of flexible couplings, swing joints, and coil loops for the proposed utility lines to protect against breakage and service interruption in the event of ground movement; and
- The proposed construction of a site drainage control system. The residence and site shall be provided with a drainage system, designed by the project civil engineer, in order to collect and transfer runoff from the roof, building pad, hardscape, and slopes in order to protect against erosion and excessive infiltration of storm water.

The proposed site design and construction measures are anticipated to produce a higher degree of site and structure performance than what previously existed on the site. With the implementation of the extensive consulting geologist and geotechnical engineer's recommendations and the requirements of the QCMM, the subject site is physically suitable for the proposed variance.

Finding 9. The variance complies with all requirements of state and local law.

The variance complies with all requirements of state and local law. Construction of the proposed improvements will comply with all building code requirements and will incorporate all recommendations from applicable City and County agencies.

Finding 10. A variance shall not be granted that would allow reduction or elimination of public parking for access to the beach, public trails or parklands.

This finding does not apply as the variance does not pertain to public parking.

C. Site Plan Review 19-001 for a height greater than 18 feet and not exceeding 24 feet [LIP Section 13.27.5(A)]

Pursuant to LIP Section 13.27.1, a site plan review is required to allow the proposed residence to exceed 18 feet, up to a height of 24 feet with a flat roof. LIP Section 13.27.5(A) requires the City to make four findings to approve a site plan review. Two additional findings are required by MMC Section 17.62.040(D). Based on the foregoing evidence contained within the record, the required findings for SPR No. 19-001 are made as follows.

Finding 1. The project is consistent with policies and provisions of the Malibu LCP.

As described herein, the proposed project has been reviewed and found in conformance with the LCP, including the variance, site plan review and minor modification.
Finding 2. That the project does not adversely affect neighborhood character.

The surrounding neighborhood consists of one- and two-story single-family residences. The proposed residence is designed to be consistent with the prevailing siting, mass, and height of existing residences in the neighborhood. The proposed project complies with the required size limitations and the required front, rear, and west side yard setbacks. A portion of the east side yard setback is slightly reduced by the project design, as discussed in the minor modification findings below, but because the same property owner owns the abutting property to the east, the reduced setback would not adversely affect the adjacent property.

Most residences on the south side of Inland Lane are single-story. The 1,921 square foot ground-floor would be visible from Inland Lane, and the 2,018 square foot lower level of the proposed project would be tucked under the ground-floor and would not be visible. The project does not exceed 24 feet in height, and the majority of the square footage of the proposed residence would not be visible from Inland Lane.

Staff reviewed neighborhood context and views from Inland Lane. As shown in Figures 1, 3, and 4 above, most of the residences on Inland Lane are located closer to the street with smaller front yard setbacks than the proposed residence. Due to the irregular shape of the subject property, the proposed project is 95 feet, 8 inches from the front property line, and would be less visible than nearby residences as viewed from Inland Lane, as shown in the story pole photographs (Attachment 3 – Site and Story Pole Photographs). The project does not adversely affect neighborhood character.

Finding 3. That the project provides maximum feasible protection to significant public views as required by Chapter 6 of the Malibu LIP.

Staff visited the site after story poles were placed and evaluated the project as it relates to public views. The project site is not visible from scenic viewing areas. The design and location of the proposed residence will not create significant obstructions or encroachments into public views. The project provides maximum feasible protection to public views as required by the LCP.

Finding 4. The proposed project complies with all applicable requirements of state and local law.

The project has received LCP conformance review from the City geotechnical staff, City Biologist, City Public Works Department, the City Environmental Health Administrator, as well as the LACFD. Prior to issuance of building permits, the project must have a final approval by the City Building Safety Division. The project complies with all applicable requirements of State and local law.
Finding 5. The project is consistent with the City’s general plan and local coastal program.

The project is consistent with the Single-family General Plan designation for the site. As discussed herein, the project is consistent with the LCP.

Finding 6. The portion of the project that is in excess of 18 feet in height does not obstruct visually impressive scenes of the Pacific Ocean, off-shore islands, Santa Monica Mountains, canyons, valleys, or ravines from the main viewing area of any affected principal residence as defined in MMC Section 17.40.040(A)(17).

The project site was previously developed with a single-family residence prior to the 1993 wildfire. No significant impact to private views is anticipated to occur because the proposed development is similar in profile when viewed from the street compared to the existing neighboring residences. There are three Primary View Determinations (PVDs) located within 1,000 feet of the property. Portions of the residence below 18 feet in height block portions of bluewater views for three neighbors (Liewald, Wong, Schiro). These areas obstruct the portions of the residence that are above 18 feet in height. Therefore, the portions of the residence above 18 feet in height do not block the primary view corridor of surrounding residences. Removing the portions of the residence above 18 feet in height would have no benefit in terms of primary view to any of the neighboring properties. Based on the PVD review, it has been determined that the design and location of the residence will not obstruct visually impressive scenes of the Pacific Ocean, off-shore islands, Santa Monica Mountains, canyons, valleys, or ravines from the main viewing area of any affected principal residence as defined in MMC Section 17.40.040(A)(17).

D. MM No. 19-001 for Reduction of the Side Yard Setback (LIP Section 13.27)

The LCP requires that the City make three findings in the consideration and approval of a minor modification to reduce a required side yard setback by up to 20 percent. As designed, MM No. 19-001 would only apply to a proposed 20 percent reduction in a portion of the project’s east side yard setback from 9 feet, 1 inch to 7 feet, 3 inches. The required findings for MM No. 19-001 can be made as follows:

Finding 1. That the project is consistent with policies and provisions of the Malibu LCP.

As discussed in the LIP Conformance Section and the findings of Section A, the proposed project has been reviewed and found in conformance with all relevant policies and provisions of the LCP. The reduction in the east side yard setback is consistent with the policies and provisions of the LCP based on the smaller setbacks of the original 1968 house that burned in 1993, and the property’s constraints, consisting of an irregular wedge shape that narrows within an existing flat pad, and a geologic hazard area that extends south from the pad area. These factors limit the design options for the site. The proposed project minimizes the need for further reduced side yard setbacks and is consistent with the policies and provisions of the LCP.
Finding 2. That the project does not adversely affect neighborhood character.

The subject property was bought by the owner of the adjacent property to the east, so the current owner of the subject property now owns both properties. The project applies the larger 15 percent setback to the west side of the property, and the 10 percent minimum setback of 9 feet, 1 inch to the east property line. The project only requires a reduction over a portion of the east side yard setback, as illustrated previously in Figure 2, which depicts the 20 percent reduction setback area in no. 1 along the driveway shared with the applicant’s neighboring lot to the east to 7 feet, 3 inches. Thus, the proposed minor modification does not result in development set closer to any other neighboring property owners.

Story poles were installed on the site in August 2020 to reflect the project design. Staff reviewed project plans, historic aerial photographs and conducted a site visit on August 20, 2020 to photograph the story poles and surrounding area, and to assess the potential for adverse neighborhood impacts. Other properties in the neighborhood are developed with similar reduced side yard setbacks, including the adjacent property to the east, which has a zero side yard setback. The proposed project is similar in height, siting and bulk to surrounding development. The project does not adversely affect neighborhood character.

Finding 3. The proposed project complies with all applicable requirements of state and local law.

The proposed project complies with all requirements of State and local law. Construction of the proposed improvements will comply with all building code requirements and will incorporate all recommendations from applicable City and County departments.

E. Environmentally Sensitive Habitat Area Overlay (LIP Chapter 4)

As previously discussed in Section A, the City Biologist has determined that a biological assessment is not required for the proposed project pursuant to LIP Section 4.4.4. The subject property is not identified as ESHA and is not located within 200 feet of ESHA as shown on the LCP ESHA Overlay Map. The supplemental ESHA findings required by LIP Section 4.7.6 are not required.

F. Native Tree Protection (LIP Chapter 5)

No native trees exist on the site. Therefore, the findings of Chapter 5 are not applicable.

G. Scenic Visual and Hillside Resource Protection (LIP Chapter 6)

The Scenic, Visual and Hillside Resource Protection Chapter governs those CDP applications concerning any parcel of land that is located along, within, provides views to or is visible from any scenic area, scenic road or public viewing area. The subject property
abuts PCH, an LCP-designated scenic road; however, the elevation of PCH at street level is about 30 feet above sea level, while the proposed building pad is located at the top of the steeply ascending slope at more than 200 feet above sea level. A line of sight analysis submitted by the applicant and on file with the City and storypoles installed on the site demonstrate that drivers or passersby on PCH are not likely to have any view of the proposed residence due to the intervening topography. Similarly, Tuna Canyon Park, also considered a scenic area per the LCP, is located east of Big Rock Drive; however, the project site is not expected to be visible due to intervening development and topography. Therefore, the project will have no significant adverse scenic or visual impacts, and the findings set forth in LIP Chapter 6 need not be made.

H. Transfer of Development Credits (LIP Chapter 7)

According to LIP Section 7.2, transfer of development credits apply to land divisions and multi-family development in specified zones. The proposed project does not include a land division or multi-family development; therefore, LIP Chapter 7 does not apply.

I. Hazards (LIP Chapter 9)

Pursuant to LIP Section 9.3, written findings of fact, analysis and conclusions addressing geologic, flood and fire hazards, structural integrity or other potential hazards must be included in support of all approvals, denials or conditional approvals of development located on a site or in an area where it is determined that the proposed project causes the potential to create adverse impacts upon site stability or structural integrity. The proposed project was analyzed by staff for the hazards listed in LIP Section 9.2(A)(1-7).

The proposed project consists of a new two-story, single-family residence and the installation of a new OWTS. The proposed project has been reviewed by the City geotechnical staff, City Public Works Department and the LACFD, and has been determined to be consistent with all relevant policies and regulations of the LCP. The findings reflect the geotechnical reports and corresponding addenda. Staff determined that “the project is located on a site or in an area where the proposed project does not cause the potential to create adverse impacts upon site stability or structural integrity after extensive mitigation measures are incorporated.”

Finding 1. The project, as proposed will neither be subject to nor increase instability of the site or structural integrity from geologic, flood, or fire hazards due to project design, location on the site or other reasons.

28, 2016, and a letter by Norman R. Haynie dated December 20, 2018, which are available on file with the City which are available on file with the City.

Based upon review of the above referenced information, it has been determined that:

1. The subject property does not contain known or mapped active faults.
2. The subject property could be subject to seismic ground shaking.
3. The project site is not anticipated to be subject to hazards from seismically-induced liquefaction, settlement, hydroconsolidation, but does contain expansive soils.
4. The subject property could be subject to landslides.
5. The property is not located within the Federal Emergency Management Act's (FEMA) 100-year flood zone.
6. The project site is inland, not subject to seiches and highly unlikely to be subject to tsunami inundation.
7. The project site is in an extreme fire hazard area.

The City geotechnical staff, City Public Works Department, and the LACFD have reviewed the project and found that there were no substantial risks to life and property related to any of the above hazards provided that their recommendations and those contained in the associated geotechnical engineering reports are incorporated into the project design.

Seismic Ground Shaking

The January 14, 2011 GeoConcepts report states, “Ground motion caused by an earthquake is likely to occur at the site during the lifetime of the development due to the proximity of several active and potentially active faults,” and a seismic hazard evaluation was performed for the subject property. The report states, “Proper maintenance of properties can mitigate some of the potential for these types of manifestations, but the potential cannot be completely eliminated.” Furthermore, mitigation of ground shaking effects is provided through enforcement of structural and nonstructural seismic design provisions defined in the Uniform Building Code. These codes are updated every three years and through this update process, will incorporate new design provisions as needed.

Expansive Soils

The December 20, 2011 GeoConcepts report notes that expansive soils were encountered on the subject property, and that these soils can be a problem as variation in moisture content will cause a volume change in the soil. Repeated cycles of expansion and contraction can cause pavement, slabs on grade and foundations to crack that can also result in a misalignment of doors and windows. The report states that deepened foundation systems, additional structural reinforcement, and maintaining uniform moisture conditions around structures can reduce, but will not eliminate, deflection and cracking.
Landslide Hazard

The subject site is located within an earthquake induced landslide hazard zone on the State of California Seismic Hazard Map. According to the submitted geotechnical reports⁴, the deep-seated Big Rock Mesa Landslide is considered to be active; however, no recent surficial slope failures or slumps were observed within the proposed project area on the property. The Big Rock Mesa Landslide Assessment District was established in 1989 by the County of Los Angeles to provide funding to maintain and monitor facilities to reduce landslide movements. The City has administered the district since 1991. According to GeoConcepts, the dewatering program during the dryer than average years appears to have stemmed movement of the landslide; however, during wetter than average years, very minor creep movements have been measured. Since July 1, 2020, the City’s consultants have been conducting an inventory and evaluation of all the existing dewatering facilities and determined that the current dewatering system is functioning properly to maintain the lower groundwater levels.

Detailed geologic and geotechnical investigations and slope stability analyses were performed on the subject site for the proposed development. The analyses determined the factors of safety for both wet (1.37 static) and dry (1.4 static) periods. The report also discussed review of previous public reports and a detailed site review for surface distress at the subject site. The report concludes, “These geologic findings indicate that significant landslide distress was not exhibited in the area of the proposed redevelopment.”

Because the required factors of safety cannot be achieved for the site, GeoConcepts completed the QCMM, dated September 19, 2017. The QCMM is designed to educate the property owner and servicer about monitoring the subject site and includes instructions for monitoring site improvements such as, but not limited to, the structure, utility lines, the drainage system, hardscape, and the OWTS. The QCMM incorporates recommendations from the project consultants (GeoConcepts), and the selected items for monitoring are thought to be the most important safety precautions and/or monitoring areas relative to the site.

The April 5, 2012 letter from Project Engineering Group, the project civil/structural engineering consultant, states:

“In our opinion, all specific designs and measures included in the QCMM will increase the safety of the site as well as adjacent properties. PEG agrees that implementation of the site monitoring measures proposed by the QCMM will provide additional safety to the occupants and improve stability of the proposed site improvements as well as the ones in the vicinity of the subject property.”

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⁴ GeoConcepts report dated December 20, 2011. Subsequent reports have been submitted to reflect project changes.
In the February 23, 2012 report, GeoConcepts states, “Our recommendations provide an increase in safety relative to the current conditions and previous development on the subject site such as, but not limited to improving the structural elements of the proposed dwelling, foundation, grading, drainage, hardscape, and septic plans.” GeoConcepts concludes that the project will not increase the risk of landslide movement for the surrounding area, and that the improvements and recommendations serve to provide a safer development than in the past. Review of the geotechnical report dated March 8, 2016 and QCMM dated September 19, 2017 indicate that the proposed project does not affect the conclusions from the previous reports.

Based on review of the project plans and technical reports, City geotechnical staff approved the proposed project on February 20, 2020, subject to conditions. All recommendations of the consulting Certified Engineering Geologist or Geotechnical Engineer and/or City geotechnical staff shall be incorporated into all final design and construction including foundations, grading, sewage disposal, and drainage. Final plans shall be reviewed and approved by City geotechnical staff prior to the issuance of a grading permit. The property owner is also required to record the QCMM against the title of the property prior to final planning approval.

Fire Hazard

The entire city limits of Malibu are located within a high fire hazard zone; however, the proposed development will incorporate all required measures of the LACFD to minimize risks from wildfire. On April 25, 2019, the LACFD reviewed the plans and determined that standard LACFD plan check and development fees will be required. The existing shared driveway will be widened onsite to meet the 20 foot wide access requirement, a 5-foot clear to sky path will be provided around the residence and interior fire sprinklers will be installed.

A standard condition of approval is included in Planning Commission Resolution No. 21-01, which requires that the property owner indemnify and hold the City harmless from hazards associated with wildfire.

The proposed project will incorporate all recommendations contained in the above cited documents, geologic and geotechnical reports; as such, the proposed project will not increase instability of the site or structural integrity from geologic, flood or any other hazards.

Finding 2. The project, as conditioned, will not have significant adverse impacts on site stability or structural integrity from geologic, flood or fire hazards due to required project modifications, landscaping or other conditions.

As discussed in Finding 1, the proposed project as designed, conditioned, and approved by the City geotechnical staff, City Public Works Department and the LACFD, will not have
any significant adverse impacts on the site stability or structural integrity from geologic or other hazards due to project modifications or other conditions. The recommendations and measures that will be incorporated into the final project have been specifically designed as a result of thorough study of onsite geologic conditions.

Finding 3. The project, as proposed or as conditioned, is the least environmentally damaging alternative.

The project will not result in potentially significant environmental impacts because: 1) conditions of approval have been incorporated to substantially lessen any potentially significant adverse effects of the development on the environment; and 2) there are no other feasible alternatives that would substantially lessen any potentially significant adverse impacts of the development on the environment. Section A, Finding 3 contains further discussion supporting the conclusion that the proposed project is the least environmentally damaging alternative.

Finding 4. There are no alternatives to development that would avoid or substantially lessen impacts on site stability or structural integrity.

As discussed in Findings 1 through 3, the proposed project as designed, conditioned, and approved by the City geotechnical staff, City Public Works Department and LACFD, will not have any significant adverse impacts on the site stability or structural integrity of the project site. Development of any residential development, regardless of the size or location, on the site would not meet the required geologic factor of safety and therefore there are no alternatives to the development that could potentially avoid or lessen impacts on site stability or structural integrity.

Finding 5. Development in a specific location on the site may have adverse impacts but will eliminate, minimize or otherwise contribute to conformance to sensitive resource protection policies contained in the certified Malibu LCP.

As discussed in Findings 1 through 4, the proposed project, as conditioned and approved by City departments and the LACFD, will not have any significant adverse impacts on site stability or structural integrity with the incorporation of all recommendations and conditions. Therefore, no adverse impacts are anticipated to hazards or to sensitive resource protection policies contained in the LCP.

J. Shoreline and Bluff Development (LIP Chapter 10)

LIP Section 10.3 requires that shoreline and bluff development findings be made if the project is anticipated to result in potentially significant adverse impacts on coastal resources, including public access and shoreline sand supply. The project site is located inland of PCH; therefore, the findings from LIP Section 10.3 do not apply.
K. Public Access (LIP Chapter 12)

LIP Section 12.4 requires public access for lateral, bluff-top, and vertical access near the ocean, trails, and recreational access for the following cases:

A. New development on any parcel or location specifically identified in the Land Use Plan or in the LCP zoning districts as appropriate for or containing a historically used or suitable public access trail or pathway.
B. New development between the nearest public roadway and the sea.
C. New development on any site where there is substantial evidence of a public right of access to or along the sea or public tidelands, a blufftop trail or an inland trail acquired through use or a public right of access through legislative authorization.
D. New development on any site where a trail, bluff top access or other recreational access is necessary to mitigate impacts of the development on public access where there is no feasible, less environmentally damaging, project alternative that would avoid impacts to public access.

As described herein, the subject property and the proposed project do not meet any of these criteria in that no trails are identified on the LCP Park Lands Map on or adjacent to the property, and the property is not located between the first public road and the sea, or on a bluff or near a recreational area. The requirement for public access of LIP Section 12.4 does not apply and further findings are not required.

L. Land Division (LIP Chapter 15)

The proposed project does not include a land division. Therefore, LIP Chapter 15 does not apply.

ENVIRONMENTAL REVIEW: Pursuant to the authority and criteria contained in CEQA, the Planning Department has analyzed the proposed project. The Planning Department has found that this project is listed among the classes of projects that have been determined not to have a significant adverse effect on the environment. Therefore, the project is exempt from the provisions of CEQA according to CEQA Guidelines Section 15303(a) – New Construction or Conversion of Small Structures. The Planning Department has further determined that none of the six exceptions to the use of a categorical exemption applies to this project (CEQA Guidelines Section 15300.2).

CORRESPONDENCE: The following written correspondence has been submitted to date (Attachment 8 – Public Correspondence):

1. Email from Hak Wong dated August 24, 2020 voicing concern about the project and its effect on the neighborhood;
2. Email from Joanne Gorby dated August 24, 2020 voicing concern about the project and its effect on the neighborhood;
3. Emails from Jo Drummond and Hak Wong dated September 27, 2020 requesting a continuance of the project from the October 5, 2020 Planning Commission meeting until a status of the dewatering equipment is presented.
   a. Attachment: Initial Review: Geologic Aspects of Redevelopment Big Rock Mesa Landslide with special reference to 20238 Piedra Chica Road, dated November 20, 2018
4. Email from Jo Drummond dated October 3, 2020 expressing opposition of project
   a. Photographs
   b. Dewatering charts
   c. Preserve Big Rock Mesa Petition
   d. Declaration of Establishment of Covenants, Conditions and Restrictions
   e. Excerpt from Ordinance No. 378
   f. Projects since 1992
5. Two emails from Ron Underwood dated November 2, 2020 opposing the project, including the variance from the factor of safety.
6. Letter from Fred Gaines dated November 25, 2020 representing the applicant in support of the project.
7. Email from Connie Goetz opposing the project due to increased landslide danger
8. Email from Sadiqa Stelzner dated December 3, 2020 requesting a continuance and describing potential landslide issues
9. Email from Norman Haynie representing the applicant requesting a continuance to January 4, 2020
10. Emails from Hak Wong and Jo Drummond dated December 19, 2020 requesting a continuance from the January 4, 2021 Planning Commission meeting to a date uncertain.

PUBLIC NOTICE: Staff published a Notice of Public Hearing in a newspaper of general circulation within the City of Malibu on November 12, 2020 and mailed the notice to all property owners and occupants within a 500-foot radius of the subject property (Attachment 10).

SUMMARY: The required findings can be made that the proposed project complies with the LCP. Further, the Planning Department’s findings of fact are supported by substantial evidence in the record. Based on the analysis contained in this report, staff recommends approval of this project subject to the conditions of approval contained in Section 5 (Conditions of Approval) of Planning Commission Resolution No. 21-01. The proposed project has been reviewed and conditionally approved for conformance with the LCP by Planning Department staff, appropriate City departments, and the LACFD.
ATTACHMENTS:

1. Planning Commission Resolution No. 21-01
2. Project Plans
3. Site and Story Pole Photographs
4. Nearby Residences – Habitable Area
5. GeoConcepts report dated October 23, 2020
7. Departmental Review Sheets
8. Public Correspondence
9. Radius Map
10. Public Hearing Notice
A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MALIBU, DETERMINING THE PROJECT IS CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, AND APPROVING COASTAL DEVELOPMENT PERMIT NO. 19-001 FOR THE CONSTRUCTION OF A NEW 3,792 SQUARE FOOT TWO-STORY SINGLE-FAMILY RESIDENCE, PLUS AN ATTACHED GARAGE, CABANA, HARDSCAPE, GRADING, DRAINAGE, AND INSTALLATION OF A NEW ONSITE WASTEWATER TREATMENT SYSTEM; INCLUDING VARIANCE NO. 19-001 FROM THE CITY’S GEOTECHNICAL STANDARDS FOR FACTOR OF SAFETY, SITE PLAN REVIEW NO. 19-001 FOR CONSTRUCTION IN EXCESS OF 18 FEET IN HEIGHT UP TO 24 FEET FOR A FLAT ROOF, AND MINOR MODIFICATION NO. 19-001 FOR THE REDUCTION OF THE REQUIRED SIDE YARD SETBACK BY NO MORE THAN 20 PERCENT, LOCATED IN THE SINGLE-FAMILY LOW DENSITY ZONING DISTRICT AT 20272 INLAND LANE (JONATHAN L. CONGDON REVOCABLE TRUST)

The Planning Commission of the City of Malibu does hereby find, order and resolve as follows:

SECTION 1. Recitals.

A. On January 3, 2019, an application for Coastal Development Permit (CDP) No. 19-001 was submitted to the Planning Department by Johnathen Day on behalf of the property owner, Jonathan L. Congdon Revocable Trust. The application was routed to the City geotechnical staff, City Environmental Health Administrator, City Public Works Department, City Biologist, and Los Angeles County Fire Department (LACFD) for review.

B. In August 2020, the applicant installed story poles to demonstrate the design of the residence.

C. On August 28, 2019, Planning Department staff conducted a story pole inspection and observed that the story poles were not consistent with the approved story pole plan.

D. On September 9, 2019, a Notice of CDP Application was posted on the subject property.

E. In August 2020, the applicant installed story poles to demonstrate the design of the residence.

F. On August 27, 2020, staff deemed the application complete.

G. On September 10, 2020, a Notice of Planning Commission Public Hearing was published in a newspaper of general circulation within the City of Malibu and was mailed to all property owners and occupants within a 500-foot radius of the subject property.

H. On October 5, 2020, the Planning Commission continued the item to November 2, 2020.

I. On November 2, 2020, the Planning Commission continued the item to November 16, 2020.
J. On November 16, 2020, the Planning Commission continued the item to December 7, 2020.

K. On November 12, 2020, a Notice of Planning Commission Public Hearing was published in a newspaper of general circulation within the City of Malibu and was mailed to all property owners and occupants within a 500-foot radius of the subject property.

L. On December 7, 2020, the Planning Commission continued the item to January 4, 2021.

M. On January 4, 2021, the Planning Commission held a duly noticed public hearing on the subject application, reviewed and considered the staff report, reviewed and considered written reports, public testimony, and other information in the record.

SECTION 2. Environmental Review.

Pursuant to the authority and criteria contained in the California Environmental Quality Act (CEQA), the Planning Commission has analyzed the proposed project. The Planning Commission has found that this project is listed among the classes of projects that have been determined not to have a significant adverse effect on the environment. Therefore, the project is exempt from the provisions of CEQA according to CEQA Guidelines Section 15303(a) – construction of one new single-family residence. The Planning Commission has further determined that none of the six exceptions to the use of a categorical exemption applies to this project (CEQA Guidelines Section 15300.2).

SECTION 3. Coastal Development Permit Findings.

Based on substantial evidence contained within the record and pursuant to Local Coastal Program (LCP) Local Implementation Plan (LIP) Sections 13.7(B) and 13.9, the Planning Commission adopts the analysis in the agenda report, incorporated herein, the findings of fact below, approving CDP No. 19-001 for the construction of a new 3,792 square foot two-story single-family residence, plus an attached garage, cabana, hardscape, grading, drainage, and installation of a new onsite wastewater treatment system; including Variance (VAR) No. 19-001 from the City’s geotechnical standards for factor of safety, Site Plan Review (SPR) No. 19-001 for construction in excess of 18 feet in height up to 24 feet for a flat roof, and Minor Modification (MM) No. 19-001 for the reduction of the required side yard setback by no more than 20 percent, located in the Single-Family Low Density (SFL) zoning district at 20272 Inland Lane.

The project is consistent with the LCP’s zoning, grading, cultural resources, water quality, and wastewater treatment system standards requirements. With the inclusion of the proposed variance, site plan review, and minor modification, the project, as conditioned, has been determined to be consistent with all applicable LCP codes, standards, goals, and policies. The required findings are made herein.

A. General Coastal Development Permit (LIP Chapter 13)

1. The project has been reviewed and conditionally approved by the Planning Department, City Biologist, City Environmental Health Administrator, City geotechnical staff, City Public Works Department, and the LACFD. As discussed herein, based on submitted reports, project plans, visual analysis, and detailed site investigation, the proposed project with the inclusion of the variance, site plan review, and minor modification, as conditioned, conforms to the LCP in that it meets all applicable residential zone development standards.
2. The proposed project is below the maximum allowed total development square footage (TDSF) for the parcel and has been sited in the general footprint of the previous residence, but with a larger side yard setback and a narrower building footprint as seen from existing residences on Inland Lane. The portions of the residence that exceed 18 feet in height do not encroach into protected primary views, and the proposed project involves a reduction only to the east side yard. The proposed setbacks are similar to those found throughout the neighborhood, including those of the property to the east, which has a zero side yard setback. There are no alternatives for developing the site with a single-family residence that would avoid the variance for geotechnical factors of safety. However, the project has incorporated changes to the foundation design as recommended by the City geotechnical staff to sufficiently address the onsite slope stability and soil erosion conditions. Although the project does not meet the LCP requirement for the factor of safety, the City geotechnical staff has determined that the provisions of the extensive and comprehensive Quality Control and Maintenance Manual (QCMM) will be adequate to prevent onsite and offsite adverse impacts. The proposed project, as designed and conditioned, is the least environmentally damaging alternative.

B. Variance Findings from the Required Geologic Factor of Safety (LIP Section 13.26.5)

1. The subject property was the focus of updated engineering geologic and geotechnical engineering studies by GeoConcepts, Inc. dated March 9, 2016 and April 12, 2016, and a landscaping letter prepared by Coscia Day Architecture and Design dated March 28, 2016 in order to determine and evaluate the engineering geologic and geotechnical engineering conditions of the subject property with respect to the proposed project. As discussed in the referenced engineering geologic reports, the subject property is underlain by the Active Big Rock Mesa Landslide. Though the Big Rock Mesa Landslide Assessment District effectively de-waters the landslide area and increases stability, it is infeasible to rebuild a residence on the subject property in a fashion that would provide the code-required 1.5 static and 1.1 pseudostatic factors of safety specified by LIP Section 9.4(A)(D).

The location, topography and surroundings of the subject property (i.e., a landslide area with substandard slope stability factor of safety) are special circumstances and exceptional characteristics, which if the requirements of LIP Section 9.4(A)(D) were applied, would prevent the construction of any structure on the property. Strict application of the requirement to meet the slope stability factor of safety would deprive the property owner of privileges enjoyed by other residential properties located in the vicinity and under the identical zoning classification. There have been many single-family residences on adjacent or nearby properties which have been permitted by the City (post-1993) and subsequently been issued building permits and/or been constructed in the Big Rock Mesa Landslide. All of these residences are located on parcels that provide less than the LIP standard 1.5 static and/or 1.1 pseudostatic factors of safety. Any development on the subject site would require a variance from this standard.

2. Even though the proposed project does not provide the code-required 1.5 static and 1.1 pseudostatic factors of safety, site design and construction measures will be implemented as part of the proposed project which are anticipated to produce a higher degree of site / structural performance than what previously existed onsite. The intent of LIP Chapter 9 (Hazards) is to ensure that new development shall minimize risks to life and property in areas of high geologic, flood and fire hazard. This section of the LIP requires that permitted development be sited and designed to assure site stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area. The site/structural design measures implemented in the proposed project meet the intent of LIP Chapter 9.
For the residence, the site design and construction measures include a deepened cast-in-place pile and grade beam foundation. For the utilities, water lines shall be provided with flexible couplings, gas lines shall be provided with swing joints, and electrical cables shall be provided with coil loops in order to protect against breakage and service interruption in the event of ground movement. Furthermore, all utility lines shall be placed in shallow vaults or channels to allow for easy inspection and/or repairs. To control site drainage and runoff, the project includes a drainage system, designed by the project civil engineer, in order to collect and transfer runoff from the roof, building pad, hardscape, and slopes in order to protect against erosion and excessive infiltration of storm water. The proposed design and construction measures recommended by the project engineering geologist, project geotechnical engineer, and project civil/structural engineers will be incorporated into the structural, grading, and drainage plans. The project engineering geologist, project geotechnical engineer, and project civil/structural engineers must verify that the recommended design and construction measures are properly incorporated into the final structural, grading, and drainage plans.

Comprehensive site maintenance and reporting measures have also been established as part of the proposed project which are anticipated to produce a higher degree of site and structure performance than what previously existed on the site. These measures have been recommended by the project engineering geologist, project geotechnical engineer, and project civil/structural engineers and included in a comprehensive Quality Control and Maintenance Manual (QCMM) that has been prepared specific to the subject property, and updated September 19, 2017, for the proposed project.

The QCMM calls for periodic inspection of site improvements at designated monitoring stations and areas, including but not limited to the residence window frames, utility lines, drainage system, site hardscape, and OWTS. Monitoring is required following any rainstorm producing an inch or more of rain within a week. An acceptable threshold of nominal cosmetic distress has been designated for each monitoring station and area, along with recommendations for maintenance and repair, and an annual monitoring report. Monitoring of the site will be performed by the “servicer”, which can be a licensed professional such as GeoConcepts, a licensed certified engineering geologist, and/or a licensed civil engineer, or a non-licensed professional such as any prudent person skilled in this type of service. If or when the monitoring stations or areas exceed the accepted threshold, the servicer shall evaluate the site and provide appropriate recommendations. Non-professional servicers shall notify appropriate licensed engineers or geologists to perform field evaluations and provide appropriate recommendations.

The QCMM has been reviewed and approved by City geotechnical staff, project engineering geologist, project geotechnical engineer, and project civil/structural engineers. The QCMM will be recorded against the property as a condition of CDP approval. Any future owner(s) of the subject property will be properly notified of the conditions and recommendations set forth in the QCMM.

Based on the findings of the engineering geologic studies of the subject property and review of the current site development plans and project information, the project consulting geologist, GeoConcepts, determined that the proposed residential re-development of the subject property provides an increase in safety relative to the current conditions and previous development on the subject site, and that the project will not geotechnically reduce the stability of the area outside the proposed work. In addition, the proposed project will not be detrimental to the public interest, safety, health or welfare, and will not be detrimental or injurious to the property or improvements in the same vicinity and zones in which the property is located provided: 1) the recommendations
of the project engineering geologist, project geotechnical engineer, and project civil/structural engineers are properly incorporated into the plans and implemented during construction; and 2) the subject property and proposed structures are properly maintained.

Finally, City geotechnical staff has reviewed the extensive geologic supporting documentation for the proposed project and in the approval letter dated January 16, 2019 states “the applicant and his consultants have provided the City with reports that adequately support the findings in the variance.”

3. The granting of the variance will not constitute a special privilege to the applicant or property owner in that single-family residences have been developed on properties in the immediate vicinity which also do not satisfy code-required 1.5 static and 1.1 pseudostatic factors of safety. The properties in the immediate area are all located within the Big Rock Mesa Landslide. The construction of the residence on the subject parcel will incorporate extensive site design and construction measures through the implementation of the QCMM. Other properties located in the vicinity of the subject site which were reconstructed after the 1993 Topanga Fire were built in accordance to the City’s Fire Rebuilding Geology and Geotechnical Guidelines. These guidelines provided a waiver from the requirement for re-development projects to meet the slope stability factor of safety. Approval of the subject variance will grant relief from a technical development standard and would not grant a special privilege to the property owner. The variance is only granted for site-specific conditions on the subject property and shall not be determined to be precedent setting.

4. The granting of the variance from the code-required 1.5 static and 1.1 pseudostatic factors of safety will not be contrary to or in conflict with the general purposes and intent of the zoning provisions nor contrary to or in conflict with the goals, objectives and policies of the LCP. Granting the requested variance will allow the subject property to be developed in a similar manner to abutting properties. No alternatives exist that would eliminate the need for the requested variance. Additionally, the site design and construction measures incorporated into the proposed project meet the intent of LIP Chapter 9. The proposed project has been reviewed and approved for conformance with the LCP and applicable City and County goals and policies by the LACFD and City staff.

5. The subject property is zoned SFL, which allows for residential development. The proposed project includes the construction of a two-story single-family residence, which is a permitted use in the subject zone, with approval of a site plan review and minor modification. Approval of the variance from the required geotechnical standard for factor of safety will permit the construction of the residence on the property; otherwise, the property could not be developed. Any development on the site would require a variance from this standard. The request is consistent with the purpose and intent of the zone in which the site is located.

6. The project will consist of the construction of a single-family residence on the subject property that is similar in size and footprint to what previously existed on the site. Based on the findings of the engineering geologic studies completed for the subject property, the geologic and topographic conditions of the subject property have not changed significantly since the demolition of the prior residence.
The subject property is physically suitable for the proposed residence because: 1) the subject property was physically suitable for the construction of the previous residence; and 2) the geologic and topographic conditions of the subject property have not changed significantly since the demolition of the previous residence. Specifically, the subject property is physically suitable for the construction of a single-family residence and:

- The proposed construction of deepened cast-in-place pile and grade beam foundation system;
- The proposed construction of flexible couplings, swing joints, and coil loops for the proposed utility lines to protect against breakage and service interruption in the event of ground movement; and
- The proposed construction of a site drainage control system. The residence and site shall be provided with a drainage system, designed by the project civil engineer, in order to collect and transfer runoff from the roof, building pad, hardscape, and slopes in order to protect against erosion and excessive infiltration of storm water.

The proposed site design and construction measures are anticipated to produce a higher degree of site and structure performance than what previously existed on the site. With the implementation of the extensive consulting geologist and geotechnical engineer’s recommendations and the requirements of the QCMM, the subject site is physically suitable for the proposed variance.

7. The variance complies with all requirements of state and local law. Construction of the proposed improvements will comply with all building code requirements and will incorporate all recommendations from applicable City and County agencies.

C. SPR No. 19-001 Findings for a Height Greater than 18 feet and not Exceeding 24 feet [LIP Section 13.27.5(A)]

1. The proposed project has been reviewed and analyzed for conformance with the LCP. The project is consistent with the policies and provisions of the LCP.

2. The surrounding neighborhood consists of one and two story single-family residences. The proposed residence is designed to be consistent with the prevailing siting, mass, and height of existing residences in the neighborhood. The proposed project complies with the required size limitations and the required front, rear, and side yard setbacks with the inclusion of the site plan review and minor modification. The 1,921 square foot ground floor would be visible from Inland Lane, and the 2,018 square foot lower level of the proposed project would be tucked under the ground floor and would not be visible. The project does not adversely affect neighborhood character.

3. The project site is not visible from any scenic roads, trails, parkland or beaches. The proposed single-family residence would be 24 feet in height. The design and location of the proposed residence will not create significant obstructions or encroachments into public views. The project provides maximum feasible protection to public views as required by the LCP.

4. The project has received LCP conformance review from the City geotechnical staff, City Biologist, City Public Works Department, City Environmental Health Administrator, as well as the LACFD. The project as conditioned complies with all applicable requirements of State and local law.
5. The project is consistent with the General Plan designation for the site. As discussed herein, the project is consistent with the LCP.

6. Based on the three Primary View Determinations (PVDs) conducted within 1,000 feet of the property, portions of the residence below 18 feet in height block portions of bluewater views for three neighbors (Liewald, Wong, Schiro). These areas obstruct the portions of the residence that are above 18 feet in height. Therefore, the portions of the residence above 18 feet in height do not block the primary view corridor of surrounding residences. The design and location of the residence will not obstruct visually impressive scenes of the Pacific Ocean, off-shore islands, Santa Monica Mountains, canyons, valleys, or ravines from the main viewing area of any affected principal residence as defined in MMC Section 17.40.040(A)(17).

D. MM No. 19-001 Findings for Reduction of the Side Yard Setback (LIP Section 13.27)

1. The proposed project has been reviewed and found in conformance with all relevant policies and provisions of the LCP. The reduction in the east side yard setback is consistent with the policies and provisions of the LCP based on the smaller setbacks of the original 1968 house that burned in 1993, and the property’s constraints, consisting of an irregular wedge shape that narrows within an existing flat pad, and a geologic hazard area that extends south from the pad area. These factors limit the design options for the site. The proposed project minimizes the need for reduced side yard setbacks and is consistent with the policies and provisions of the LCP.

2. Aerial photographs, site visits and story poles depicting the project design demonstrate that the proposed project is similar in height, siting and bulk to surrounding development. The proposed project does not adversely affect neighborhood character.

3. The project complies with all requirements of State and local law. Construction of the proposed improvements will comply with all building code requirements and will incorporate all recommendations from applicable City and County departments.

E. Hazards (LIP Chapter 9)

1. Analysis for the proposed project for hazards included review of engineering geologic and geotechnical engineering studies dated January 14, 2011, December 20, 2011, February 23, 2012 and March 8, 2016, and a landscaping letter prepared by Coscia Day Architecture and Design dated March 28, 2016. Based upon review of the above referenced information, it has been determined that:

   a. The subject property does not contain known or mapped active faults.
   b. The subject property could be subject to seismic ground shaking.
   c. The project site is not anticipated to be subject to hazards from seismically-induced liquefaction, settlement, hydroconsolidation, but does contain expansive soils.
   d. The subject property could be subject to landslides.
   e. The property is not located within the Federal Emergency Management Act’s (FEMA) 100-year flood zone.
   f. The project site is inland, not subject to seiches and highly unlikely to be subject to tsunami inundation.
   g. The project site is in an extreme fire hazard area.
The City geotechnical staff, City Public Works Department, and the LACFD have reviewed the project and found that there were no substantial risks to life and property related to any of the above hazards provided that their recommendations and those contained in the associated geotechnical engineering reports are incorporated into the project design.

Seismic Ground Shaking

The January 14, 2011 GeoConcepts report states, “Ground motion caused by an earthquake is likely to occur at the site during the lifetime of the development due to the proximity of several active and potentially active faults,” and a seismic hazard evaluation was performed for the subject property. The report states, “Proper maintenance of properties can mitigate some of the potential for these types of manifestations, but the potential cannot be completely eliminated.” Furthermore, mitigation of ground shaking effects is provided through enforcement of structural and nonstructural seismic design provisions defined in the Uniform Building Code. These codes are updated every three years and through this update process, will incorporate new design provisions as needed.

Expansive Soils

The December 20, 2011 GeoConcepts report notes that expansive soils were encountered on the subject property, and that these soils can be a problem as variation in moisture content will cause a volume change in the soil. Repeated cycles of expansion and contraction can cause pavement, slabs on grade and foundations to crack that can also result in a misalignment of doors and windows. The report states that deepened foundation systems, additional structural reinforcement, and maintaining uniform moisture conditions around structures can reduce, but will not eliminate, deflection and cracking.

Landslide Hazard

The subject site is located within an earthquake induced landslide hazard zone on the State of California Seismic Hazard Map. According to the GeoConcepts report dated December 20, 2011, the deep-seated Big Rock Mesa Landslide is considered to be active; however, no recent surficial slope failures or slumps were observed within the proposed project area on the property. The Big Rock Mesa Landslide Assessment District was established in 1989 by the County of Los Angeles to provide funding to maintain and monitor facilities to reduce landslide movements. The City has administered the district since 1991. According to GeoConcepts, the dewatering program during the dryer than average years appears to have stemmed movement of the landslide; however, during wetter than average years, very minor creep movements have been measured.

Detailed geologic and geotechnical investigations and slope stability analyses were performed on the subject site for the proposed development. The analyses determined the factors of safety for both wet (1.37 static) and dry (1.4 static) periods. The report also discussed review of previous public reports and a detailed site review for surface distress at the subject site. The report concludes, “These geologic findings indicate that significant landslide distress was not exhibited in the area of the proposed redevelopment.”

Because the required factors of safety cannot be achieved for the site, GeoConcepts completed the QCMM, dated September 19, 2017. The QCMM is designed to educate the property owner and servicer about monitoring the subject site and includes instructions for monitoring site improvements such as, but not limited to, the structure, utility lines, the drainage system,
hardscape, and the OWTS. The QCMM incorporates recommendations from the project consultants (GeoConcepts, Project Engineering Group, and Barsocchini & Associates), and the selected items for monitoring are thought to be the most important safety precautions and/or monitoring areas relative to the site.

The April 5, 2012 letter from Project Engineering Group, the project civil/structural engineering consultant, states:

“In our opinion, all specific designs and measures included in the QCMM will increase the safety of the site as well as adjacent properties. PEG agrees that implementation of the site monitoring measures proposed by the QCMM will provide additional safety to the occupants and improve stability of the proposed site improvements as well as the ones in the vicinity of the subject property.”

In the February 23, 2012 report, GeoConcepts states, “Our recommendations provide an increase in safety relative to the current conditions and previous development on the subject site such as, but not limited to improving the structural elements of the proposed dwelling, foundation, grading, drainage, hardscape, and septic plans.” GeoConcepts concludes that the project will not increase the risk of landslide movement for the surrounding area, and that the improvements and recommendations serve to provide a safer development than in the past. Review of the updated geotechnical report dated March 8, 2016 and QCMM dated September 19, 2017 indicate that the proposed project does not affect the conclusions from the previous reports.

Based on review of the project plans and technical reports, City geotechnical staff approved the proposed project on January 16, 2019, subject to conditions. All recommendations of the consulting Certified Engineering Geologist or Geotechnical Engineer and/or City geotechnical staff shall be incorporated into all final design and construction including foundations, grading, sewage disposal, and drainage. Final plans shall be reviewed and approved by City geotechnical staff prior to the issuance of a grading permit. The property owner is also required to record the QCMM against the title of the property prior to final planning approval.

Fire Hazard

The entire city limits of Malibu are located within a high fire hazard zone; however, the proposed development will incorporate all required measures of the LACFD to minimize risks from wildfire. On April 25, 2019, the LACFD reviewed the plans and determined that standard LACFD plan check and development fees will be required. The existing shared driveway will be widened onsite to meet the 20 foot wide access requirement, a 5 foot clear to sky path will be provided around the residence and interior fire sprinklers will be installed.

The proposed project will incorporate all recommendations contained in the above cited documents, geologic and geotechnical reports; as such, the proposed project will not increase instability of the site or structural integrity from geologic, flood or any other hazards.

2. The proposed project as designed, conditioned, and approved by the City geotechnical staff, City Public Works Department, and the LACFD, will not have any significant adverse impacts on the site stability or structural integrity from geologic or other hazards due to project modifications or other conditions. The recommendations and measures that will be incorporated into the final project have been specifically designed as a result of thorough study of onsite geologic conditions.
3. The proposed project, as conditioned, is the least environmentally damaging alternative.

4. There are no alternatives that would avoid or substantially lessen impacts on site stability or structural integrity.

5. No adverse impacts to sensitive resources are expected as a result of the project.


Based on the foregoing findings and evidence contained within the record, the Planning Commission hereby approves CDP No. 19-001, VAR No. 19-001, SPR No. 19-001, and MM No. 19-001, subject to the following conditions.

SECTION 5. Conditions of Approval.

Standard Conditions

Based on the foregoing findings and evidence contained within the record, the Planning Commission hereby approves CDP No. 19-001, VAR No. 19-001, SPR No. 19-001, and MM No. 19-001, subject to the conditions listed below.

1. The property owners, and their successors in interest, shall indemnify and defend the City of Malibu and its officers, employees and agents from and against all liability and costs relating to the City's actions concerning this project, including (without limitation) any award of litigation expenses in favor of any person or entity who seeks to challenge the validity of any of the City's actions or decisions in connection with this project. The City shall have the sole right to choose its counsel and property owners shall reimburse the City’s expenses incurred in its defense of any lawsuit challenging the City’s actions concerning this project.

2. Approval of this application is to allow for the project described herein. The scope of work approved includes:
   a. Construction of a new 3,792 square foot two-story single-family residence, plus a 602 square foot attached garage and storage, 618 square feet of covered patio areas, and a detached 192 square foot cabana for a TDSF of 5,204 square feet;
   b. Hardscape improvements, including patios, walkways and extending the existing driveway to the new garage and widening it toward the east property line to meet Fire Department requirements;
   c. Replacement of the vehicle entry gate and pedestrian entry gate;
   d. OWTS;
   e. Grading, retaining walls, and site drainage improvements, including a storm water detention system;
   f. Non-irrigated low-growing native groundcover as necessary for erosion control; and
   g. Discretionary requests:
      i. VAR No. 19-001 from City geotechnical standards for factor of safety;
      ii. SPR No. 19-001 for height in excess of 18 feet, up to 24 feet for a flat roof; and
      iii. MM No. No. 19-001 for a reduction of the side yard setback to 7 feet, 3 inches on the east only.
3. Except as specifically changed by conditions of approval, the proposed development shall be constructed in substantial conformance with the approved scope of work, as described in Condition No. 2 and depicted on plans on file with the Planning Department date stamped March 31, 2020. The proposed development shall further comply with all conditions of approval stipulated in this resolution and Department Review Sheets attached hereto. In the event project plans conflict with any condition of approval, the condition shall take precedence.

4. Pursuant to LIP Section 13.18.2, this permit and rights conferred in this approval shall not be effective until the property owner signs, notarizes and returns the Acceptance of Conditions Affidavit accepting the conditions of approval set forth herein. The applicant shall file this form with the Planning Department prior to issuance of any development permits.

5. The applicant shall submit three (3) complete sets of plans, including the items required in Condition No. 6 to the Planning Department for consistency review and approval prior to plan check and again prior to the issuance of any building or development permits.

6. This resolution, signed and notarized Acceptance of Conditions Affidavit and all Department Review Sheets attached to the agenda report for this project shall be copied in their entirety and placed directly onto a separate plan sheet behind the cover sheet of the development plans submitted to the City of Malibu Environmental Sustainability Department for plan check, and the City of Malibu Public Works Department for an encroachment permit (as applicable).

7. The CDP shall expire if the project has not commenced within three (3) years after issuance of the permit, unless a time extension has been granted. Extension of the permit may be granted by the approving authority for due cause. Extensions shall be requested in writing by the applicant or authorized agent prior to expiration of the three-year period and shall set forth the reasons for the request. In the event of an appeal, the CDP shall expire if the project has not commenced within three years from the date the appeal is decided by the decision-making body or withdrawn by the appellant.

8. Any questions of intent or interpretation of any condition of approval will be resolved by the Planning Director upon written request of such interpretation.

9. All development shall conform to requirements of the City of Malibu Environmental Sustainability Department, City Biologist, City Coastal Engineer, City Environmental Health Administrator, City geotechnical staff, City Public Works Department, Los Angeles County Waterworks District No. 29 and LACFD, as applicable. Notwithstanding this review, all required permits shall be secured.

10. Minor changes to the approved plans or the conditions of approval may be approved by the Planning Director, provided such changes achieve substantially the same results and the project is still in compliance with the Malibu Municipal Code and the Local Coastal Program. Revised plans reflecting the minor changes and additional fees shall be required.

11. Pursuant to LIP Section 13.20, development pursuant to an approved CDP shall not commence until the CDP is effective. The CDP is not effective until all appeals, including those to the California Coastal Commission (CCC), have been exhausted. In the event that
the CCC denies the permit or issues the permit on appeal, the coastal development permit approved by the City is void.

12. The property owner must submit payment for all outstanding fees payable to the City prior to issuance of any building permit, including grading or demolition.

13. The property owner must submit payment for all outstanding fees payable to the City prior to issuance of any building permit, including grading or demolition.

**Cultural Resources**

14. In the event that potentially important cultural resources are found in the course of geologic testing or during construction, work shall immediately cease until a qualified archaeologist can provide an evaluation of the nature and significance of the resources and until the Planning Director can review this information. Thereafter, the procedures contained in LIP Chapter 11 and those in MMC Section 17.54.040(D)(4)(b) shall be followed.

15. If human bone is discovered during geologic testing or during construction, work shall immediately cease and the procedures described in Section 7050.5 of the California Health and Safety Code shall be followed. Section 7050.5 requires notification of the coroner. If the coroner determines that the remains are those of a Native American, the applicant shall notify the Native American Heritage Commission by phone within 24 hours. Following notification of the Native American Heritage Commission, the procedures described in Section 5097.94 and Section 5097.98 of the California Public Resources Code shall be followed.

**Lighting**

16. Exterior lighting must comply with the Dark Sky Ordinance and shall be minimized, shielded, or concealed and restricted to low intensity features, so that no light source is directly visible from public view. Permitted lighting shall conform to the following standards:
   a. Lighting for walkways shall be limited to fixtures that do not exceed two feet in height and are directed downward, and limited to 850 lumens (equivalent to a 60 watt incandescent bulb);
   b. Security lighting controlled by motion detectors may be attached to the residence provided it is directed downward and is limited to 850 lumens;
   c. Driveway lighting shall be limited to the minimum lighting necessary for safe vehicular use. The lighting shall be limited to 850 lumens;
   d. Lights at entrances as required by the Building Code shall be permitted provided that such lighting does not exceed 850 lumens;
   e. Site perimeter lighting shall be prohibited; and
   f. Outdoor decorative lighting for aesthetic purposes is prohibited.

17. Night lighting for sports courts or other private recreational facilities shall be prohibited.

18. No permanently installed lighting shall blink, flash, or be of unusually high intensity or brightness. Lighting levels on any nearby property from artificial light sources on the subject property(ies) shall not produce an illumination level greater than one foot candle.
19. Night lighting from exterior and interior sources shall be minimized. All exterior lighting shall be low intensity and shielded directed downward and inward so there is no offsite glare or lighting of natural habitat areas. High intensity lighting of the shore is prohibited.

20. String lights are allowed in occupied dining and entertainment areas only and must not exceed 3,000 Kelvin.

21. Motion sensor lights shall be programmed to extinguish ten minutes after activation.

22. Three violations of the conditions by the same property owner will result in a requirement to permanently remove the outdoor light fixture(s) from the site.

**Fencing and Walls**

23. The applicant shall include an elevation of the proposed electronic driveway gate on the architectural plans that are submitted for building plan check. The gate and all fencing along the front property line shall comply with the regulations set forth in LIP Section 3.5.

24. The height of fences and walls shall comply with LIP Section 3.5.3(A). No retaining wall shall exceed six feet in height or 12 feet in height for a combination of two or more walls.

**Geology**

25. All recommendations of the consulting certified engineering geologist or geotechnical engineer and/or the City geotechnical staff shall be incorporated into all final design and construction including foundations, grading, sewage disposal, and drainage. Final plans shall be reviewed and approved by the City geotechnical staff prior to the issuance of a grading permit.

26. Final plans approved by the City geotechnical staff shall be in substantial conformance with the approved CDP relative to construction, grading, sewage disposal and drainage. Any substantial changes may require a CDP amendment or a new CDP.

27. The project, including the QCMM, shall comply with all conditions of approval and building plan check stage comments of the City geotechnical staff as shown on the referral sheet dated February 20, 2020.

28. An annual monitoring report, as described in the final Quality Control and Maintenance Manual (QCMM) approved by the City geotechnical staff, shall be submitted to the Big Rock Mesa Landslide Maintenance District No. 98-1. The monitoring report shall detail the monitoring and maintenance activities completed between July 1 and June 30 to coincide with the district’s annual reporting activities.
**Onsite Wastewater Treatment System**

29. Prior to the issuance of a building permit the applicant shall demonstrate, to the satisfaction of the Building Official, compliance with the City of Malibu’s onsite wastewater treatment regulations including provisions of MMC Chapters 15.40, 15.42, 15.44, and LIP Chapter 18 related to continued operation, maintenance and monitoring of the OWTS.

30. Prior to final Environmental Health approval, a final OWTS plot plan shall be submitted showing an OWTS design meeting the minimum requirements of the MMC and the LCP, including necessary construction details, the proposed drainage plan for the developed property and the proposed landscape plan for the developed property. The OWTS plot plan shall show essential features of the OWTS and must fit onto an 11 inch by 17 inch sheet leaving a five inch margin clear to provide space for a City applied legend. If the scale of the plans is such that more space is needed to clearly show construction details and/or all necessary setbacks, larger sheets may also be provided (up to a maximum size of 18 inches by 22 inches).

31. A final design and system specifications shall be submitted as to all components (i.e., alarm system, pumps, timers, flow equalization devices, backflow devices, etc.) proposed for use in the construction of the proposed OWTS. For all OWTS, final design drawings and calculations must be signed by a California registered civil engineer, a registered environmental health specialist or a professional geologist who is responsible for the design. The final OWTS design drawings shall be submitted to the City Environmental Health Administrator with the designer’s wet signature, professional registration number and stamp (if applicable).

32. Any above-ground equipment associated with the installation of the OWTS shall be screened from view by a solid wall or fence on all four sides. The fence or walls shall not be higher than 42 inches tall.

33. The final design report shall contain the following information (in addition to the items listed above).
   a. Required treatment capacity for wastewater treatment and disinfection systems. The treatment capacity shall be specified in terms of flow rate, gallons per day, and shall be supported by calculations relating the treatment capacity to the number of bedroom equivalents, plumbing fixture equivalents, and/or the subsurface effluent dispersal system acceptance rate. The fixture unit count must be clearly identified in association with the design treatment capacity, even if the design is based on the number of bedrooms. Average and peak rates of hydraulic loading to the treatment system shall be specified in the final design;
   b. Description of proposed wastewater treatment and/or disinfection system equipment. State the proposed type of treatment system(s) (e.g., aerobic treatment, textile filter ultraviolet disinfection, etc.); major components, manufacturers, and model numbers for "package" systems; and conceptual design for custom engineered systems;
   c. Specifications, supporting geology information, and percolation test results for the subsurface effluent dispersal portion of the onsite wastewater disposal system. This must include the proposed type of effluent dispersal system (drainfield, trench, seepage pit subsurface drip, etc.) as well as the system’s geometric dimensions and basic construction features. Supporting calculations shall be presented that relate
the results of soils analysis or percolation/infiltration tests to the projected subsurface effluent acceptance rate, including any unit conversions or safety factors. Average and peak rates of hydraulic loading to the effluent dispersal system shall be specified in the final design. The projected subsurface effluent acceptance rate shall be reported in units of total gallons per day and gallons per square foot per day. Specifications for the subsurface effluent dispersal system shall be shown to accommodate the design hydraulic loading rate (i.e., average and peak OWTS effluent flow, reported in units of gallons per day). The subsurface effluent dispersal system design must take into account the number of bedrooms, fixture units and building occupancy characteristics;

d. All final design drawings shall be submitted with the wet signature and typed name of the OWTS designer. If the scale of the plan is such that more space is needed to clearly show construction details, larger sheets may also be provided (up to a maximum size of 18 inch by 22 inch, for review by Environmental Health). Note: For OWTS final designs, full-size plans are required for review by the Building Safety Division and/or the Planning Department; and

e. H2O Traffic Rated Slab: Submit plans and structural calculations for review and approval by the Building Safety Division prior to Environmental Health final approval.

34. Prior to final Environmental Health approval, the construction plans for all structures and/or buildings with reduced setbacks must be approved by the City Building Safety Division. The architectural and/or structural plans submitted to Building and Safety plan check must detail methods of construction that will compensate for the reduction in setback (e.g., waterproofing, concrete additives, etc.). For complex waterproofing installations, submittal of a separate waterproofing plan may be required. The architectural/structural/waterproofing plans must show the location of OWTS components in relation to those structures from which the setback is reduced, and the plans must be signed and stamped by the architect, structural engineer, and geotechnical consultants (as applicable).

35. Prior to final Environmental Health approval, the applicant shall provide engineer’s certification for reduction in setbacks to buildings or structures: All proposed reductions in setback from the OWTS to structures (i.e., setbacks less than those shown in MMC Table 15.42.030(E)) must be supported by a letter from the project structural engineer and a letter from the project soils engineer (i.e., a geotechnical engineer or civil engineer practicing in the area of soils engineering). Both engineers must certify unequivocally that the proposed reduction in setbacks from the treatment tank and effluent dispersal area will not adversely affect the structural integrity of the OWTS, and will not adversely affect the structural integrity of the structures for which the Table 15.42.030(E) setback is reduced. Construction drawings submitted for plan check must show OWTS components in relation to those structures from which the setback is reduced. All proposed reductions in setback from the OWTS to buildings (i.e., setbacks less than those shown in Table 15.42.030(E)) also must be supported by a letter from the project architect, who must certify unequivocally that the proposed reduction in setbacks will not produce a moisture intrusion problem for the proposed building(s). If the building designer is not a California-licensed architect, then the required architect’s certification may be supplied by an engineer who is responsible for the building design with respect to mitigation of potential moisture intrusion from reduced setbacks to the wastewater system. In this case, the engineer must include in his/her letter an explicit statement of responsibility for mitigation of potential moisture intrusion. If any specific construction features are proposed as part of a moisture
intrusion mitigation system in connection with the reduced setback, then the architect or engineer must provide associated construction documents for review and approval during Building Safety Division plan check. The wastewater plans and the construction plans must be specifically referenced in all certification letters.

36. The following note shall be added to the plan drawings included with the OWTS final design: “Prior to commencing work to abandon, remove, or replace the existing Onsite Wastewater Treatment System (OWTS) components, an ‘OWTS Abandonment Permit’ shall be obtained from the City of Malibu. All work performed in the OWTS abandonment, removal or replacement area shall be performed in strict accordance with all applicable federal, state, and local environmental and occupational safety and health regulatory requirements. The obtainment of any such required permits or approvals for this scope of work shall be the responsibility of the applicant and their agents.”

37. Final plans shall clearly show the locations of all existing OWTS components (serving pre-existing development) to be abandoned and provide procedures for the OWTS’ proper abandonment in conformance with the MMC.

38. A covenant running with the land shall be executed by the property owner and recorded with the Los Angeles County Recorder’s Office. Said covenant shall serve as constructive notice to any successors in interest that: 1) the private sewage disposal system serving the development on the property does not have a 100 percent expansion effluent dispersal area (i.e., replacement disposal field(s) or seepage pit(s)), and 2) if the primary effluent dispersal area fails to drain adequately, the City of Malibu may require remedial measures including, but not limited to, limitations on water use enforced through operating permit and/or repairs, upgrades or modifications to the private sewage disposal system. The recorded covenant shall state and acknowledge that future maintenance and/or repair of the private sewage disposal system may necessitate interruption in the use of the private sewage disposal system and, therefore, any building(s) served by the private sewage disposal system may become non-habitable during any required future maintenance and/or repair. Said covenant shall be in a form acceptable to the City Attorney and approved by the City Environmental Sustainability Department.

39. Proof of ownership of subject property shall be submitted to the City Environmental Health Administrator.

40. All project architectural plans and grading/drainage plans shall be submitted for Environmental Health review and approval. The floor plans must show all drainage fixtures, including in the kitchen and laundry areas. These plans must be approved by the Building Safety Division prior to receiving Environmental Health final approval.

41. An operations and maintenance manual specified by the OWTS designer shall be submitted to the property owner and maintenance provider of the proposed advanced OWTS.

42. Prior to final Environmental Health approval, a maintenance contract executed between the owner of the subject property and an entity qualified in the opinion of the City of Malibu to maintain the proposed OWTS after construction shall be submitted. Only original wet signature documents are acceptable and shall be submitted to the City Environmental Health Administrator.
43. Prior to final Environmental Health approval, a covenant running with the land shall be executed between the City of Malibu and the holder of the fee simple absolute as to subject real property and recorded with the City of Malibu Recorder’s Office. Said covenant shall serve as constructive notice to any future purchaser for value that the onsite wastewater treatment system serving subject property is an advanced method of sewage disposal pursuant to the City of Malibu MMC. Said covenant shall be provided by the City of Malibu Environmental Health Administrator.

44. The City geotechnical staff final approval shall be submitted to the City Environmental Health Administrator.

45. In accordance with MMC Chapter 15.44, prior to Environmental Health approval, an application shall be made to the Environmental Sustainability Department for an OWTS operating permit.

Grading/Drainage/Hydrology

46. Non-exempt grading of 210 cubic yards is proposed for the project and 800 cubic yards of exempt understructure grading is proposed. In no event shall non-exempt grading exceed 1,000 cubic yards.

47. The Total Grading Yardage Verification Certificate shall be copied onto the coversheet of the Grading Plan. No alternative formats or substitutes will be accepted.

48. Exported soil from a site shall be taken to the Los Angeles County Landfill or to a site with an active grading permit and the ability to accept the material in compliance with LIP Section 8.3.

49. A grading and drainage plan containing the following information shall be approved, and submitted to the Public Works Department, prior to the issuance of grading permits for the project:
   a. Public Works Department general notes;
   b. The existing and proposed square footage of impervious coverage on the property shall be shown on the grading plan (including separate areas for buildings, driveways, walkways, parking, tennis courts and pool decks);
   c. The limits of land to be disturbed during project development shall be delineated and a total area shall be shown on this plan. Areas disturbed by grading equipment beyond the limits of grading, areas disturbed for the installation of the septic system, and areas disturbed for the installation of the detention system shall be included within the area delineated;
   d. The limits to land to be disturbed during project development shall be delineated and a total area of disturbance should be shown on this plan. Areas disturbed by grading equipment beyond the limits of grading shall be included within the area delineated;
   e. If the property contains rare, endangered or special status species as identified in the Biological Assessment, this plan shall contain a prominent note identifying the areas to be protected (to be left undisturbed). Fencing of these areas shall be delineated on this plan if required by the City Biologist;
   f. The grading limits shall include the temporary cuts made for retaining walls, buttresses and over excavations for fill slopes; and
g. Private storm drain systems shall be shown on this plan. Systems greater than 12 inches in diameter shall also have a plan and profile for the system included with this plan.

50. A wet weather erosion and sediment control plan is required, and shall be submitted to the Public Works Department prior to the issuance of grading permits as grading or construction activity is anticipated to occur during the rainy season. The following elements shall be included in this plan:
   a. Locations where concentrated runoff will occur;
   b. Plans for the stabilization of disturbed areas of the property, landscaping and hardscape, along with the proposed schedule for the installation of protective measures;
   c. Location and sizing criteria for silt basins, sandbag barriers and silt fencing; and
   d. Stabilized construction entrance and a monitoring program for the sweeping of material tracked offsite.

51. A Local Storm Water Pollution Prevention Plan (LSWPPP) shall be provided prior to issuance of grading/building permits. This plan shall include an Erosion and Sediment Control Plan (ESCP) that includes, but not limited to:

<table>
<thead>
<tr>
<th>Erosion Controls Scheduling</th>
<th>Erosion Controls Scheduling</th>
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<tbody>
<tr>
<td>Preservation of Existing Vegetation</td>
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<tr>
<td>Sediment Controls Silt Fence</td>
<td>Sediment Controls Silt Fence</td>
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<tr>
<td>Sand Bag Barrier</td>
<td>Stabilized Construction Entrance</td>
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<td>Non-Storm Water Management</td>
<td>Water Conservation Practices</td>
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<td>Dewatering Operations</td>
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<tr>
<td>Waste Management</td>
<td>Material Delivery and Storage</td>
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<td>Stockpile Management</td>
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<td>Spill Prevention and Control</td>
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<td>Solid Waste Management</td>
<td>Concrete Waste Management</td>
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<tr>
<td>Sanitary/Septic Waste Management</td>
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</table>

All Best Management Practices (BMPs) shall be in accordance to the latest version of the California Stormwater Quality Association (CASQA) BMP Handbook. Designated areas for the storage of construction materials, solid waste management, and portable toilets must not disrupt drainage patterns or subject the material to erosion by site runoff.

52. Storm drainage improvements are required to mitigate increased runoff generated by property development. The applicant shall have the choice of one method specified within LIP Section 17.3.2.B.2.

53. The applicant should use the existing concrete swale located on the hillside slope, to the south of the property, to collect all stormwater drainage flow created by the development project.

54. Geology and geotechnical reports shall be submitted with all applications for plan review to the Public Works Department. Approval by Geology and Geotechnical Engineering shall
be provided prior to the issuance of any permit for the project. The project consulting engineer shall sign the final plans prior to the issuance of permits.

55. A Storm Water Management Plan (SWMP) shall be submitted for review and approval to the Public Works Director. The SWMP shall be prepared in accordance with the LIP Section 17.3.2 and all other applicable ordinances and regulations. The SWMP shall be supported by a hydrology and hydraulic study that identifies all areas contributory to the property and an analysis of the pre-development and post-development drainage of the site. The SWMP shall identify the site design and source control BMPs that have been implemented in the design of the project. The SWMP shall be reviewed and approved by the Public Works Department prior to the issuance of the grading or building permit for this project.

56. Clearing and grading during the rainy season (extending from November 1 to March 31) shall be prohibited for development that:
   a. Is located within or adjacent to ESHA, or
   b. Includes grading on slopes greater than 4 to 1.

Approved grading for development that is located within or adjacent to ESHA or on slopes greater than 4 to 1 shall not be undertaken unless there is sufficient time to complete grading operations before the rainy season. If grading operations are not completed before the rainy season begins, grading shall be halted and temporary erosion control measures shall be put into place to minimize erosion until grading resumes after March 31, unless the City determines that completion of grading would be more protective of resources.

57. A Water Quality Mitigation Plan (WQMP) shall be submitted for review and approval of the Public Works Director. The WQMP shall be supported by a hydrology and hydraulic study that identifies all areas contributory to the property and an analysis of the predevelopment and post development drainage on the site. The QQMP shall meet all the requirements of the City's current Municipal Separate Stormwater Sewer System (MS4) permit. The following elements shall be included within the WQMP:
   a. Site Design Best Management Practices (BMPs):
   b. Source Control BMPs;
   c. Treatment Control BMPs that retain on-site Stormwater Quality Design Volume (SWQDv). Or where it is technically infeasible to retain on-site, the project must biofiltrate 1.5 times the SWQDv that is not retained on-site;
   d. Drainage improvements;
   e. A plan for the maintenance and monitoring of the proposed treatment BMPs for the expected life of the structure;
   f. Methods of onsite percolation, site re-vegetation and an analysis for off-site project impacts;
   g. Measures to treat and infiltrate runoff from impervious areas;
   h. A copy of the WQMP shall be filed against the property to provide constructive notice to future property owners of their obligation to maintain the water quality measure installed during construction prior to the issuance of grading or building permits; and
   i. The WQMP shall be submitted to the Public Works Department and the fee applicable at the time of submittal for review of the WQMP shall be paid prior to the start of the technical review. The WQMP shall be approved prior the Public Works Department's approval of the grading and drainage plan and/or building
plans. The Public Works Department will tentatively approve the plan and will keep a copy until the completion of the project. Once the project is completed, the applicant shall verify the installation of the BMP's, make any revisions to the WQMP, and resubmit to the Public Works Department for approval. The original signed and notarized document shall be recorded with the Los Angeles County Recorder. A certified copy of the WQMP shall be submitted to the Public Works Department prior to the issuance of the certificate of occupancy.

**Public Works**

58. A digital drawing (AutoCAD) of the project’s private storm drain system, public storm drain system within 250 feet of the property limits, and post-construction BMPs shall be submitted to the Public Works Department prior to the issuance of grading or building permits. The digital drawing shall adequately show all storm drain lines, inlets, outlets, post-construction BMPs and other applicable facilities. The digital drawing shall also show the subject property, public or private street, and any drainage easements.

59. The developer's consulting engineer shall sign the final plans prior to the issuance of permits.

60. The applicant shall obtain encroachment permits from the Public Works Department prior to the commencement of any work within the public right-of-way. The driveway shall be constructed of either six inches of concrete over four inches of aggregate base, or four inches of asphalt concrete over six inches of aggregate base. The driveway shall be flush with the existing grades with no curbs.

61. The applicant shall obtain all required Caltrans permits, for additional stormwater drainage flow that is created by the project and will impact and drain to Pacific Coast Highway (Highway 1).

**Biology / Landscaping**

62. No new landscaping is proposed with this project; therefore, none is approved. Should the applicant intend to plant any new vegetation with a potential to exceed six feet in height or an area of 2,500 square feet or more, a detailed landscaping plan shall be submitted for review and approval prior to any planting. Approval of a landscape plan may require an amendment to this CDP to modify the scope of approved work.

63. No development, planting or irrigation is permitted within public easements. Any structures, plants or other landscape features (e.g., boulders, fountains, etc.) occurring within the public easement shall be removed at the owner’s expense.

**Fuel Modification**

64. The project shall receive LACFD approval of a Final Fuel Modification Plan prior to the issuance of final building permits.
Water Service

65. Prior to the issuance of a building permit, the applicant shall submit an updated Will Serve Letter from Los Angeles County Waterworks District No. 29 to the Planning Department indicating the ability of the property to receive adequate water service.

66. Prior to final inspection (or project sign off, as applicable) by the Planning Department, the applicant shall demonstrate that all requirements of Los Angeles County Waterworks District No. 29 have been met, including installation of a meter, if applicable.

Construction / Framing

67. Construction hours shall be limited to Monday through Friday from 7:00 a.m. to 7:00 p.m. and Saturdays from 8:00 a.m. to 5:00 p.m. No construction activities shall be permitted on Sundays or City-designated holidays.

68. Construction management techniques, including minimizing the amount of equipment used simultaneously and increasing the distance between emission sources, shall be employed as feasible and appropriate. All trucks leaving the construction site shall adhere to the California Vehicle Code. In addition, construction vehicles shall be covered when necessary; and their tires rinsed prior to leaving the property.

69. All new development, including construction, grading, and landscaping shall be designed to incorporate drainage and erosion control measures prepared by a licensed engineer that incorporate structural and non-structural Best Management Practices (BMPs) to control the volume, velocity and pollutant load of storm water runoff in compliance with all requirements contained in LIP Chapter 17, including:
   a. Construction shall be phased to the extent feasible and practical to limit the amount of disturbed areas present at a given time.
   b. Grading activities shall be planned during the southern California dry season (April through October).
   c. During construction, contractors shall be required to utilize sandbags and berms to control runoff during on-site watering and periods of rain in order to minimize surface water contamination.
   d. Filter fences designed to intercept and detain sediment while decreasing the velocity of runoff shall be employed within the project site.

70. When framing is complete, a site survey shall be prepared by a licensed civil engineer or architect that states the finished ground level elevation and the highest roof member elevation. Prior to the commencement of further construction activities, said document shall be submitted to the assigned Building Inspector and Planning Department for review and sign off on framing.

71. For the transportation of heavy construction equipment and/or material, which requires the use of oversized-transport vehicles on State highways, the applicant / property owner is required to obtain a transportation permit from the California Department of Transportation.
Prior to Occupancy

72. Prior to a final Building inspection, the applicant shall provide a Recycling Summary Report (Summary Report) and obtain the approval from the Environmental Sustainability Department. Applicant must provide haul tickets and diversion information. The final Summary Report shall designate the specific materials that were land filled or recycled, and state the facilities where all materials were taken.

73. The applicant shall request a final Planning Department inspection prior to final inspection by the City of Malibu Building Safety Division. A Certificate of Occupancy shall not be issued until the Planning Department has determined that the project complies with this coastal development permit. A temporary Certificate of Occupancy may be granted at the discretion of the Planning Director, provided adequate security has been deposited with the City to ensure compliance should the final work not be completed in accordance with this permit.

74. Prior to final Planning inspection, the applicant shall provide documentation to the Planning Department that the Public Works Department has received the post-construction elevation certificate required per floodplain management conditions.

75. Any construction trailer, storage equipment or similar temporary equipment not permitted as part of the approved scope of work shall be removed prior to final inspection and approval, and if applicable, the issuance of the certificate of occupancy.

Deed Restrictions

76. The property owner is required to record against the property in a form approved by the City Geologist the QCMM dated September 19, 2017 to serve as constructive notice to future property owners of the conditions and recommendations of the QCMM, and the requirement to implement the QCMM over the life of the project. The property owner shall provide a copy of the recorded document to Planning Department staff prior to final planning approval.

77. The property owner is required to sign and record at the County of Los Angeles Recorder’s Office, and submit to City geotechnical staff a certified copy of an “Assumption of Risk and Release” for geotechnical standards. Any revisions to the standard City release form must be reviewed and accepted by the City Attorney prior to document recordation. The property owner shall provide a copy of the recorded document to Planning Department staff prior to final planning approval.

78. The property owner is required to execute and record a deed restriction which shall indemnify and hold harmless the City, its officers, agents, and employees against any and all claims, demands, damages, costs and expenses of liability arising out of the acquisition, design, construction, operation, maintenance, existence or failure of the permitted project in an area where an extraordinary potential for damage or destruction from wildfire exists as an inherent risk to life and property. The property owner shall provide a copy of the recorded document to Planning Department staff prior to final planning approval.
79. Prior to final Planning Department approval, the applicant shall be required to execute and record a deed restriction reflecting lighting requirements set forth in the Lighting conditions above. The property owner shall provide a copy of the recorded document to the Planning Department prior to final Planning Department approval.

**Site Specific Conditions**

80. The final Quality Control and Maintenance Manual (QCMM) approved by the City Geologist shall be implemented by the property owner for the life of the project.

81. Decks/patios within the side yard shall comply with LIP Section 3.5.3(B) regarding projections into yards.

82. Prior to final Planning approval, the applicant shall submit a construction management plan for review and approval by the Planning Director and Building and Safety Division.

83. Modification to the grading plan to incorporate removal and recompaction shall require approval of a CDP amendment. The addition of a swimming pool to the subject property shall require approval of a CDP amendment or new CDP.

**Fixed Conditions**

84. This coastal development permit shall run with the land and bind all future owners of the property.

85. Violation of any of the conditions of this approval may be cause for revocation of this permit and termination of all rights granted there under.

SECTION 6. The Planning Commission shall certify the adoption of this resolution.

PASSED, APPROVED AND ADOPTED this 4th day of January, 2021

JOHN MAZZA, Planning Commission Chair

ATTEST:

KATHLEEN STECKO, Recording Secretary

**LOCAL APPEAL** - Pursuant to Local Coastal Program Local Implementation Plan (LIP) Section 13.20.1 (Local Appeals) a decision made by the Planning Commission may be appealed to the City Council by an aggrieved person by written statement setting forth the grounds for appeal. An appeal shall be filed with the City Clerk within 10 days and shall be accompanied by an appeal form and filing fee, as specified by the City Council. Appeals shall be emailed to psalazar@malibucity.org and the filing fee shall be mailed to Malibu Planning Department, attention: Patricia Salazar, 23825 Stuart Ranch Road, Malibu, CA 90265. Appeal forms may be found online at www.malibucity.org/planningforms. If you are unable to submit your appeal online, please contact Patricia Salazar by calling (310) 456-2489, extension 245, at least two business days before your appeal deadline to arrange alternative delivery of the appeal.
COASTAL COMMISSION APPEAL - An aggrieved person may appeal the Planning Commission's approval to the Coastal Commission within 10 working days of the issuance of the City's Notice of Final Action. Appeal forms may be found online at www.coastal.ca.gov or by calling (805) 585-1800. Such an appeal must be filed with the Coastal Commission, not the City.

I CERTIFY THAT THE FOREGOING RESOLUTION NO. 21-01 was passed and adopted by the Planning Commission of the City of Malibu at the regular meeting held on the 4th day of January 2021 by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

KATHLEEN STECKO, Recording Secretary
### General Contract Notes

1. General Conditions attach to each contract.
2. All trade drawings include revisions and additions as noted in the section above.
3. All trade drawings include the condition of the project area as indicated at the time of the contract.
4. All trade drawings include但量 of materials to be furnished as noted in the section above.
5. All trade drawings include the condition of the project area as indicated at the time of the contract.

### Project Directory

<table>
<thead>
<tr>
<th>General Contractor</th>
<th>Project Manager</th>
<th>Engineer</th>
<th>Architect</th>
<th>Interior Designer</th>
</tr>
</thead>
<tbody>
<tr>
<td>John Smith</td>
<td>Jane Doe</td>
<td>Mike Lee</td>
<td>Sarah Johnson</td>
<td>David Brown</td>
</tr>
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</table>

### Building Information

<table>
<thead>
<tr>
<th>Property Data</th>
<th>Proposed Square Footage (TSF)</th>
</tr>
</thead>
<tbody>
<tr>
<td>LOT DEPTH (FEET)</td>
<td>399'-10&quot;</td>
</tr>
<tr>
<td>LOT WIDTH (FEET)</td>
<td>91'-6&quot;</td>
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<td>GROSS LOT AREA (SQUARE FEET)</td>
<td>40,516 SF</td>
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<tr>
<td>SQUARE FEET COMPARED TO 1/1 SLOPES</td>
<td>11,865 SF</td>
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<tr>
<td>NET SQUARE FEET</td>
<td>360 SF</td>
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### Zoning Conformance

No zoning restrictions apply to the site.

### Development Requirement

<table>
<thead>
<tr>
<th>Requirement</th>
<th>Allowance/Required</th>
<th>Existing</th>
<th>Proposed</th>
<th>Total</th>
<th>Comments</th>
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<tr>
<td>FRONT YARD</td>
<td>60'-0&quot;</td>
<td>90'-8&quot;</td>
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<td>COMPLIES</td>
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<td>REAR YARD (HOUSE)</td>
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<td>SIDE YARD (10&quot;)</td>
<td>13'-6&quot;</td>
<td>13'-6&quot;</td>
<td>13'-6&quot;</td>
<td>COMPLIES</td>
<td></td>
</tr>
<tr>
<td>SIDE YARD (3 MINIMUM 10&quot;)</td>
<td>5'-1&quot;</td>
<td>1'-10&quot;</td>
<td>1'-10&quot;</td>
<td>COMPLIES</td>
<td></td>
</tr>
<tr>
<td>TOTAL REQUIRED SIDE YARD (25%)</td>
<td>22'-09&quot;</td>
<td>22'-09&quot;</td>
<td>22'-09&quot;</td>
<td>COMPLIES</td>
<td></td>
</tr>
</tbody>
</table>

### Parking

<table>
<thead>
<tr>
<th>Parking</th>
<th>Proposed</th>
<th>Total</th>
<th>Complies</th>
</tr>
</thead>
<tbody>
<tr>
<td>200 SF</td>
<td>200 SF</td>
<td>200 SF</td>
<td>COMPLIES</td>
</tr>
</tbody>
</table>

### Total Development Square Footage

- PRIMARY RESIDENCE: 5,524 SF
- GARAGE: 400 SF
- COVERED AREAS: 8 SF
- FIRST FLOOR: 1,400 SF
- LOWER LEVEL: 2,302 SF
- ACCESSORY (CABANA): 8 SF
- CONSTRUCTION: 2,302 SF

### Drawing Index

- Architecture
- Engineering
- Interior Design
- Zoning

### City Stamps

- City of Los Angeles
- City of Beverly Hills
- City of West Hollywood
- City of Santa Monica

### Attachments

- Site Plan
- Floor Plan
- Elevation Drawings
- Section Details
- Details Drawings
- Construction Details
- Structural Details
- Electrical Drawings
- Mechanical Drawings
- Plumbing Drawings

---

**ATTACHMENT 2**
PAVER APPLICATION

3" MIN. 3" MIN. 3" MIN.

PAVER BASE
SET TRENCH DRAIN IN CHANNEL SURROUNDED BY A MINIMUM 3" OF CONCRETE WITH A MINIMUM OF 2,500 P.S.I. SLOPE CONCRETE OFF THE TOP OF AND AWAY FROM THE DRAIN.

SECTION AT DURASLOPE CHANNEL EXISTING SOILS.

4" CONCRETE SLAB

SLAB APPLICATION

GRATE OPENINGS SMALLER THAN PEBBLES

LANDSCAPE APPLICATION
NOT VEHICLE RATED

VEHICLE APPLICATION
NOT H2O RATED

CONCRETE CATCH BASIN SECTION A-A

SPECIFIER CHART

P12 12 12 4
P18 18 5
P24 24 24 5
P24 36 6 6
P24 48 11 6

WEIGHTS (lb's)
275 24 24 5
425 36 36 6
625 36 48 11 6
935 48 48 11 6

P48

P48 5 6 6 6 6

DURA-DRAIN
360 Sutton Place, Santa Rosa, CA 95407
Ph: 800.579.8819, Fax: 707.524.8186, www.kristar.com
KriStar Enterprises, Inc.

NOTES:
1. Concrete shall test 4,000 PSI at 28 days.
2. Catch basins are designed for H2O loading and are reinforced with 4x4-6-6 welded wire mesh. Special reinforcements may be specified.
3. Catch basins are fabricated to job requirements for depth and pipe openings. Product may be ordered with special openings. Floor may be deleted if desired.
4. Catch basins grates shall be Traffic (H-20) rated.
5. Grates or checker plate covers may be secured with optional locking bolts.
6. All exposed metal parts shall be galvanized in accordance with ASTM A-123.
7. Engineer approved equivalent may be used.

FOR APPROVAL ONLY FOR CONSTRUCTION DETAILS

AHSIRT AHSIRT AHSIRT

G4 OF 5
Site and Story Pole Photos

From driveway facing south towards front of residence

Facing west towards rear (southern) portion of residence
From Inland Ln. facing south towards front of residence
This table summarizes square footage of nearby residences, parcel sizes and year built based on data obtained from the Los Angeles County Assessor. Note that the Assessor’s data may not reflect all additions or other changes made to the property (permitted or unpermitted).

Building square footage is habitable area only, and does not include garages, covered patios and some other accessory structures.

Non-habitable areas have been deducted from the proposed project.

<table>
<thead>
<tr>
<th>Address/Parcel No.</th>
<th>Habitable Area Only (square feet)</th>
<th>Parcel Size (square feet)</th>
<th>Year Built</th>
</tr>
</thead>
<tbody>
<tr>
<td>Proposed Project</td>
<td>3,337</td>
<td>40,516</td>
<td>N/A</td>
</tr>
<tr>
<td>20269 Inland Lane</td>
<td>2,246</td>
<td>25,187</td>
<td>1969</td>
</tr>
<tr>
<td>20260 Inland Lane</td>
<td>2,676</td>
<td>15,921</td>
<td>1971</td>
</tr>
<tr>
<td>20259 Inland Lane</td>
<td>2,495</td>
<td>13,068</td>
<td>unknown</td>
</tr>
<tr>
<td>20249 Inland Lane</td>
<td>2,939</td>
<td>16,553</td>
<td>1965</td>
</tr>
<tr>
<td>20239 Inland Lane</td>
<td>3,043</td>
<td>15,682</td>
<td>1969</td>
</tr>
<tr>
<td>20219 Inland Lane</td>
<td>2,729</td>
<td>15,246</td>
<td>1969</td>
</tr>
<tr>
<td>20229 Inland Lane</td>
<td>2,852</td>
<td>16,117</td>
<td>1968</td>
</tr>
<tr>
<td>20205 Inland Lane</td>
<td>2,373</td>
<td>13,068</td>
<td>1973</td>
</tr>
<tr>
<td>20270 Inland Lane</td>
<td>3,619</td>
<td>44,431</td>
<td>unknown</td>
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<td>20260 Inland Lane</td>
<td>2,676</td>
<td>15,682</td>
<td>1971</td>
</tr>
<tr>
<td>20252 Inland Lane</td>
<td>4,538</td>
<td>25,700</td>
<td>1996</td>
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<td>APN 4450-011-035</td>
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<td>22,216</td>
<td>N/A</td>
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<td>20202 Inland Lane</td>
<td>1,707</td>
<td>29,621</td>
<td>1957</td>
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<tr>
<td>20276 Inland Lane</td>
<td>2,862</td>
<td>39,204</td>
<td>1969</td>
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<tr>
<td>20282 Inland Lane</td>
<td>2,618</td>
<td>36,155</td>
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<tr>
<td>20283 Inland Lane</td>
<td>2,757</td>
<td>37,026</td>
<td>1964</td>
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<tr>
<td>20279 Inland Lane</td>
<td>3,072</td>
<td>52,708</td>
<td>1976</td>
</tr>
</tbody>
</table>
October 23, 2020

Mr. Jon Congdon
20270 Inland Lane
Malibu, California 90265

Subject: RESPONSE TO CALIFORNIA COASTAL COMMISSION
20272 Inland Lane
Malibu, California

References:


Dear Mr. Congdon:

Pursuant to the request of Norman Haynie, presented herein is a letter in response to a request made by the California Coastal Commission that was made to City of Malibu Planner, Lilly Rudolph. The request was for an explanation as to why the subject site could not meet a factor of safety of 1.5 with respect to slope stability and needs a variance.

History of the Big Rock Mesa Landslide:

The site is underlain by the active Big Rock Mesa Landslide (BRML). The nearly one mile long by one-half mile wide landslide was re-activated from an ancient, deep-seated, bedrock landslide in 1983. According to Bing Yen & Associates (BYA, 1992), elevated groundwater conditions stemming from relatively wet winter rains was the primary cause to activate the landslide. Therefore, groundwater levels in the Big Rock Mesa landslide are the primary factor controlling the stability of the landslide mass. In turn, rises in groundwater levels tend to destabilize the landslide. Groundwater levels are a reflection of recharge from several sources such as rainfall, septic discharge, irrigation, and plumbing leaks.

The Big Rock Mesa Landslide was subdivided into four physiographic regions by Bing Yen & Associates, (BYA, 1992), Central Region, Bluff Region, Headscarp Region and the Southeast Region. The subject site is located within the Southeast Region. The prevailing factor of safety in (1991) and maximum attainable factor of safety by dewatering each of these regions was determined by BYA. The result of their stability analyses in 1991 determined a factor of safety of (1.2) and a (1.4) maximum attainable factor of safety for the Southeast Region. The result of their stability analyses indicated that the subject site has less than the minimum factor of safety of 1.5 as required for development without a variance.

A de-watering program was initiated in 1983 which significantly reduced movement of the landslide. After massive emergency dewatering efforts, the main landslide movement was reduced to small discrete deformations in the southeast region by 1986, BYA, 1992. In 2003 Fugro West, Inc., (FWI) took over monitoring of the landslide. The Big Rock Mesa Landslide was re-subdivided into five physiographic regions PCH Region, Bluff Region, Eastern Region, Central Region and Headscarp Region. The subject site is located within the Eastern Region. Generally, there are four dewatering wells (W-1 & 2, BYA-6 & 13) within close proximity to the site and one slope indicator SP-33.

The site is located within the Big Rock Mesa Landslide Assessment District. Groundwater and slope movement have been continuously monitored since 1983. Groundwater in this region is within the low permeability of the Sespe Formation and the groundwater levels are significantly lower than peak levels. The dewatering program performed and monitored by the City of Malibu appears to have stemmed movement of the landslide during the dryer than average years.

The BRML is such a large regional landslide that it cannot be mitigated with engineering and stabilization methods to raise the factor of safety above 1.5. Although the extensive dewatering program raises the factor of safety above 1.25, it still does not raise the factor of safety above 1.5.

It is difficult to estimate if the BRML will reactivate during a strong earthquake. However, the BRML did not reactivate during strong ground shaking associated with the 5.9 Magnitude (1987) Whittier Earthquake, the 7.3 Magnitude (1992) Landers Earthquake, the 5.9 Magnitude (1994)
Northridge Earthquake, or with the 7.1 Magnitude (2019) Ridgecrest Earthquake.

Our recommendations provide an increase in safety relative to the current conditions and previous development on the subject site such as, but not limited to improving the structural elements of the proposed dwelling, new pile foundation, grading to lower the pad grade, drainage, hardscape, landscaping, and septic plans.

Specifically, the proposed building will be designed with the current building and seismic codes utilizing a cast-in-place pile foundation system embedded into the bedrock component of the landslide. The site will be graded to conform with the drainage plan to collect and channel runoff to a safer drainage system then the current damaged system. The hardscape plan is designed to channel runoff to proposed area drains and to approved drainage devices. The landscaped area will be reduced, which will reduce irrigation and infiltration of water to the subsurface. The septic plan will treat and reduce solids into the subsurface. Collectively, all of these improvements are designed to improve site conditions to provide a safer development then in the past. This firm produced a Quality Control Maintenance Manual in 2017 (Reference 3) outlining a monitoring program for the site. Since rainfall can add water to the landslide, the site will be monitored after each rainstorm with one inch or more of rainfall. The site will be observed for signs of distress and/or broken utility lines.

It is the opinion of GeoConcepts, Inc. that the proposed development of the subject property will not lower the factor of safety of the BRML or adversely affect other properties within the BRML. It will not be detrimental to the public interest.

Should you have any questions regarding this report, please do not hesitate to contact the undersigned at your convenience.

Respectfully submitted,
GeoConcepts, Inc.

Scott J. Walter
Project Engineer
GE 2476
MAB/SJW: 4204-24A

Mark A. Barrett
Project Geologist
CEG 2088

Distribution:
(1) Addressee
(2) Norman Haynie (Email)
Dear Mr. Congdon:

Pursuant to your request, presented herein is the Quality Control Maintenance Manual (QCMM) for the above subject site. This manual should be considered a permanent part of the property, and should remain with the property when sold. One of the best ways to enhance the enjoyment of your new residence is to read and understand this manual. This manual is designed to educate the property owner and servicer about monitoring the subject site, which is located within the Active Big Rock Mesa Landslide. Maintaining your property according to the schedules given herein will aid in the quality of life within an active landslide. However, this manual is not intended to or designed to preclude distress from the active Big Rock Mesa Landslide of any type, only monitor potential distress.

ATTACHMENT 6
Regular maintenance of your property is the best way to protect your residence and improvements. Proper maintenance is essential to your safety and the safety of your family living in the residence. This manual includes instructions for monitoring site improvements, such as but not limited, to the structure, utility lines, drainage system, landscaping and septic system. The selected items for monitoring are thought to be the most important safety precautions and/or monitoring areas relative to the site. However, this manual cannot cover every conceivable hazard that can arise when living within an active landslide.

The maintenance manual specifies how often the property needs to be properly monitored. Monitoring of the site will be performed by the “servicer”, which can be a licensed professional such as GeoConcepts, Inc., a licensed certified engineering geologist, and/or a licensed civil engineer; or a non-licensed professional such as any prudent person skilled in this type of service. The servicer shall fill out the attached maintenance forms and record the data for an annual performance report. All monitoring stations or areas have an accepted threshold of normal cosmetic distress. If or when the monitoring stations or areas exceeds the accepted threshold, as noted herein, the servicer, if a non-licensed professional shall notify GeoConcepts, Inc., a licensed certified engineering geologist, and/or a licensed civil engineer for a field review and evaluation of the site and provide appropriate recommendations. It is essential that the property owner properly service and monitor the site as scheduled to retain its performance and safety.

Quality Control Maintenance Manual will require an annual report summarizing the monitoring and maintenance of the instrumentation, monitored facilities or areas on the subject site. Past performance and movement of the Big Rock Mesa Landslide was considered within the QCMM. Building, mechanical, drainage, hardscape and septic plans were utilized to depict the monitoring locations on the site. All annual reports shall be transferred to any and all new property owners of the subject site.

History of the Big Rock Mesa Landslide:

The site is underlain by the active Big Rock Mesa Landslide. The entire landslide was reactivated from an ancient, deep-seated, bedrock landslide in 1983. According to Bing Yen & Associates (BYA, 1992), elevated groundwater conditions stemming from relatively wet winter rains was the primary cause to activate the landslide. Therefore, groundwater levels in the Big Rock Mesa landslide are the primary factor controlling the stability of the landslide mass. In turn, rises in groundwater levels tend to destabilize the landslide. Groundwater levels are a reflection of recharge from several sources such as rainfall, septic discharge, irrigation, and plumbing leaks.

The Big Rock Mesa Landslide was subdivided into four physiographic regions by Bing Yen & Associates, (1992), Central Region, Bluff Region, Headscarp Region and the Southeast Region. The subject site is located within the Southeast Region. The prevailing factor of safety in (1991) and maximum attainable factor of safety by dewatering each of these regions was determined by BYA. The result of their stability analyses indicated that the subject site has less than the minimum factor of safety as require for development without a variance.
A de-watering program was initiated in 1983 which significantly reduced movement of the landslide. After massive emergency dewatering efforts, the main landslide movement was reduced to small discrete deformations in the southeast region by 1986, BYA, 1992. In 2003 Fugro West, Inc., (FWI) took over monitoring of the landslide. The subject site is plotted on the FWI Annual report Assessment District Map. The Big Rock Mesa Landslide was re-subdivided into five physiographic regions PCH Region, Bluff Region, Eastern Region, Central Region and Headscarp Region. The subject site is located within the Eastern Region. Generally, there are four dewatering wells (W-1 & 2, BYA-6 & 13) within close proximity to the site and one slope indicator SP-33, (Plate 1).

Groundwater in this region is within the low permeability of the Sespe Formation and the groundwater levels were low during the 2008 monitoring season. The dewatering program during the dryer than average years appears to have stemmed movement of the landslide.

The Quality Control Maintenance Manual (QCMM) for the subject site assumes that this Assessment District will remain in place and therefore, the site specific Maintenance Manual does not overlap the District works or effort. It is suggested that the client and servicer become knowledgeable relative to a completed history of the district reports and review the annual reports which are available at Malibu City Hall, Malibu Library, and on City’s website at www.malibucity.org.

**Monitoring Criteria:**

The site shall be monitored following the noted criteria below. Stability of the site changes due to varying groundwater levels. Therefore, within two weeks after every rainstorm of one inch or more rainfall within the Malibu area, the site shall be reviewed by the “servicer”, such as GeoConcepts, Inc., a licensed certified engineering geologist, a licensed civil engineer; or any prudent person known as the non-licensed professional. A rain storm shall be defined as any period of rainfall within one week that collectively totals one inch or more of rainfall. All selected monitoring stations and areas shall be reviewed by the servicer responsible for monitoring, record keeping and the annual report.

Each selected monitoring station and area has an acceptable threshold, known as nominal cosmetic distress. If this threshold is exceeded and monitored by a non-licensed professional, the servicer shall notify GeoConcepts, Inc., a licensed certified engineering geologist or a licensed civil engineer as soon as possible to perform a field review, evaluation and provide any appropriate recommendations.
Windows Plan:

The attached Windows Plan utilized building plans by Coscia Day Architecture and Design Sheets A4 and A3 to depict the ground floor and first floor plans, respectively. The plans show the locations of the north-south trending window frames that shall be monitored. The monitoring shall include any cracks above and below these window frames. The acceptable threshold will consist of any crack that is less than ¼-inch in width. If any crack equals or exceeds ¼-inch in width, the site shall be reviewed by GeoConcepts, Inc., a licensed certified engineering geologist or a licensed civil engineer to perform a field review, evaluation and provide any appropriate recommendations. The table below shall be completed by the selected servicer responsible for monitoring and record keeping.

<table>
<thead>
<tr>
<th>Window No.</th>
<th>Date</th>
<th>Crack Location Top/Bottom</th>
<th>Measured Crack Width</th>
<th>Measured Crack Length</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2</td>
<td></td>
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<td>3</td>
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<td>4</td>
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<tr>
<td>5</td>
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<td></td>
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<td></td>
</tr>
<tr>
<td>6</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Hardscape Plans:

The attached first floor plans by Coscia Day Architecture and Design Sheet A3 depicts the location of concrete and paver hardscape and concrete paver driveway surfaces that shall be monitored. The monitoring of all hardscape, driveway and exposed ground surfaces shall be monitored for distress cracking, ground cracks, fissures, landscape separations, and/or damage. The acceptable threshold for any hardscape cracking, separation and/or displacement is less than ¼ inch in width. The acceptable threshold for any ground crack, separation and/or displacement is less than ½-inch. Therefore, any hardscape displacement that equals or exceeds ¼-inch in width and/or any ground surface displacement that equals or exceeds ½ inch in width shall be reviewed by GeoConcepts, Inc., a licensed certified engineering geologist or a licensed civil engineer to perform a field review and provide appropriate recommendations.

<table>
<thead>
<tr>
<th>Hardscape Areas Nos.</th>
<th>Date</th>
<th>Crack Location</th>
<th>Measured Crack Width</th>
<th>Measured Crack Length</th>
</tr>
</thead>
<tbody>
<tr>
<td>Driveway</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Walkways/Patio</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Repair of Concrete:

The repair of concrete cracks for walkways, patio, decking and driveway that are less than ½-inch in width should be sealed and maintained with a flexible waterproof epoxy, or equivalent, to preclude moisture from penetrating the surface soils.

No crack over ½ inch in width shall be repair without a field reviewed by GeoConcepts, Inc., a licensed certified engineering geologist or a licensed civil engineer. Generally, cracks over ½ in width can be repair or replaced as need by reinforced with minimum #4 reinforcing bars, placed at (16) inches on center each way. Provisions for cracks should be incorporated into the design and construction of the decking. Concrete slabs should have sufficient control joints spaced at a maximum of approximately 8 feet. Decking planned adjacent to lawns, planters or adjacent to descending slopes should be provided with a 12-inch thickened edge. The deck reinforcement should be bent down into the edge. These recommendations are considered minimums unless superseded by the project structural engineer. Prior to placing the concrete the subgrade should be raised to 120 percent of the optimum moisture content to a depth of 18 inches.

Burrowing Animals:

Burrowing animals should be eliminated to preclude water penetration, soil loosening and promote slope stability. Therefore, the property owners will need to retain a professional to review and maintain the yard free of burrowing animals if burrowing animals are exhibited in the yard. Clearly, if there is a burrowing animal problem on the site, the service professional will recommend a plan to maintain the yard free of burrowing animals.

Mechanical Plans:

The attached mechanical plans prepared by Ahsirt Engineering, Inc. and provided by Coscia Day Architecture and Design as Sheet A1 depict the utility lines to the dwelling with a flex line, metal loop and coils loops to mitigate the potential for breakage. Specifically, the water line is provided with a flex line, the gas line is provided with a metal loop, and electrical cables are provided with coil loops to mitigate breakage from creep landslide movement.
The utility vaults are located near the dwelling. Therefore, distress of the utilities lines between the street and dwelling can be monitored. All utilities are installed on the surface or placed within shallow trenches to allow for easy inspection and/or repairs. These vaults are labeled and shall be monitored as noted above. The acceptable threshold will consist of any displacement that is less than ¼-inch in width. If any displacement equals or exceeds ¼-inch in width, the site shall be reviewed by GeoConcepts, Inc., a licensed certified engineering geologist or a licensed civil engineer to perform a field review, evaluation and provide any appropriate recommendations. The table below shall be completed by the selected servicer responsible for monitoring and record keeping.

<table>
<thead>
<tr>
<th>Utility Lines</th>
<th>Date of Inspection</th>
<th>Measured Displacement</th>
<th>Comments</th>
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<tr>
<td>Water</td>
<td></td>
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<tr>
<td>Gas</td>
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<td></td>
</tr>
<tr>
<td>Electric</td>
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</tbody>
</table>

Attached is a reduce size Mechanical plan depicting the location of the utility vaults to be monitored to facilitate the field review.

Drainage Plans:

The drainage plans were prepared by Ahsirt Engineering, Inc Sheet G2, a licensed civil engineer familiar with hillside development. It is our understanding that the revised plans incorporate our recommendations. Our recommendations shall not be modified as noted herein without prior approval by GeoConcepts, Inc and Project Engineering Group. Positive pad drainage should be incorporated into the final plans. The pad should slope away from the footings at a minimum five percent slope for a horizontal distance of five feet. In areas where there is insufficient space for the recommended five foot horizontal distance concrete or other impermeable surface should be provided for a minimum of three feet adjacent to the structure. The concrete or impermeable surface should be sloped a minimum of two percent away from the structure. Pad drainage should be at a minimum of two percent slope where water flow over lawn or other planted areas. Area drains are provided in the rear and side yards to collect drainage. All drainage from the pad should be directed so that water does not pond adjacent to the foundations or flow toward them.

Roof gutters and downspouts are required for the proposed structures and should be connected into a buried area drain system. All drainage from the site should be collected and directed via non-erosive devices to a location approved by the building official. Area drains, subdrains, weep holes, roof gutters and/or downspouts should be inspected as noted herein to ensure that they are not clogged with debris or damaged. If they are clogged or damaged, they should be cleaned out or repaired.
The attached drainage plan depicts a catch basin (No. 1) in the driveway, 13 area drains (Nos. 2-14), a trench drain (No. 15), and a swale drain (No. 16) that shall be monitored. The catch basin and all of the areas drains are located within concrete walkway/hardscape areas. Therefore, the catch basin, area drains and the swale drain will have an acceptable threshold. The acceptable threshold will consist of any displacement of the area drains and paved swale drain that is less than ¼-inch in width. If any displacement equals or exceeds ¼-inch in width, the site shall be reviewed by GeoConcepts, Inc., a licensed certified engineering geologist or a licensed civil engineer to perform a field review and provide appropriate recommendations. Additionally, the drain line shall be visual reviewed utilizing a camera and the site shall be reviewed by GeoConcepts, Inc., a licensed certified engineering geologist or a licensed civil engineer. If any leak or damaged drain line is observed it shall be repaired or replaced as soon as possible. The table below shall be completed by the selected servicer responsible for monitoring and record keeping. Distressed cracks shall be sealed and maintained with a flexible waterproof epoxy, or equivalent, to preclude moisture from penetrating the surface soils.

<table>
<thead>
<tr>
<th>Catch Basin No.</th>
<th>Date</th>
<th>Measured Crack Width</th>
<th>Measured Crack Length</th>
</tr>
</thead>
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</table>

<table>
<thead>
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<th>Measured Crack Length</th>
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</thead>
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<table>
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<tr>
<th>Trench Drain No.</th>
<th>Date</th>
<th>Measured Crack Width</th>
<th>Measured Crack Length</th>
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<th>Swale Drain</th>
<th>Date</th>
<th>Crack Location</th>
<th>Measured Crack Width</th>
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<tbody>
<tr>
<td>18</td>
<td></td>
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</table>

A reduced size Drainage Plan depicting the location of the area drains and swale drain to be monitored is attached.
Septic Plan:

The septic plans by Michael K. Nunley and Associates depict a septic tank with one active seepage pit and one future seepage pit (see attached plans). The septic system risers from the septic tank and seepage pits will be exposed in the driveway or on the ground surface. The acceptable threshold for any cracking, separation and/or displacement is less than \( \frac{1}{4} \) inch in width within the concrete and \( \frac{1}{2} \) inch in width within the ground surface. If there is any concrete driveway displacement/cracking that equals or exceeds \( \frac{1}{4} \) inch in width and/or any ground surface displacement that equals or exceeds \( \frac{1}{2} \) inch in width near the septic tank or seepage pits, the site shall be reviewed by GeoConcepts, Inc., a licensed certified engineering geologist or a licensed civil engineer to perform a field review and provide appropriate recommendations.

<table>
<thead>
<tr>
<th>Septic System</th>
<th>Date</th>
<th>Distressed Location</th>
<th>Damaged Comments</th>
</tr>
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<tbody>
<tr>
<td>Tank Risers</td>
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</tr>
<tr>
<td>Seepage Risers</td>
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</tbody>
</table>

A reduced sized Septic plan depicting the location of the septic tank and seepage pit(s) to be monitored is attached to facilitate the field review.

The proposed septic system will require approval by the City of Malibu. The manufacture of the septic system will have an Operations and Maintenance Manual. Therefore, a maintenance contract with a factory-certified service provider will be required. It is our understanding that a covenant will be recorded covering the septic system, which is required by the City of Malibu. Therefore the septic system will be monitored by a certified service provider as required by the City of Malibu. If any of the utility line/piping for the septic system becomes damaged, the site shall be reviewed by GeoConcepts, Inc., a licensed certified engineering geologist or a licensed civil engineer to perform a field review and provide any appropriate recommendations.

Landscape Plans:

It is our understanding that no landscape plan will be prepared for the site. Therefore, natural areas adjacent to the dwelling will remain void of vegetation. It is our understanding that the planted slope between the rear yard deck and the swale drain will remain as is.

Annual Report:

Quality Control Maintenance Manual shall be an annual report summarizing the monitoring, maintenance and any repairs of the instrumentation and/or monitored facilities on the subject site. The servicer shall prepare the annual report. Attached building, mechanical, drainage, hardscape and septic plans were utilized to depict the monitoring locations on the site. All measured cracks, distressed or damaged areas, and any repairs to these facilities shall be listed within the report even if they are less than the threshold. Any and all displacements more than the noted threshold herein shall include the name and license number of all persons performing the field reviews and their report. Their report shall include all findings and recommendations.

A final As-Built Inspection Report shall be made by GeoConcepts, Inc. after the dwelling is
completely construction to ensure that all of our recommendations are followed for this Quality Control Maintenance Manual. The final report will include photographs of the monitoring areas, and findings.

Should you have any questions regarding this report, please do not hesitate to contact the undersigned at your convenience.

Respectfully submitted,
GeoConcepts, Inc.

Scott J. Walter
Project Engineer
GE 2476
MAB/SJW: 4204-21

Mark A. Barrett
Project Geologist
CEG 2088

Enclosures: Acknowledgement Page
Assessment Map, Plate 1
Window Plan
Hardscape Plan
Mechanical Plan
Drainage Plan
Septic Plan

Distribution: (1) Addressee, (2) Susan Villain
ACKNOWLEDGEMENT PAGE

I have reviewed this report and acknowledge the portion within my area of expertise.

Project Civil Engineer

Name:_________________________________________
Signature:____________________________________Date:____________________
License Number:__________________________________________

Project Structural Engineer

Name:_________________________________________
Signature:____________________________________Date:____________________
License Number:__________________________________________

Project Septic Engineer

Name:_________________________________________
Signature:____________________________________Date:____________________
License Number:__________________________________________
Page Intentionally Left Blank
NOTE:
ALL UTILITIES SHALL BE INSTALLED ON THE
SURFACE OR PLACED IN SHALLOW TRENCHES
City of Malibu
23825 Stuart Ranch Rd., Malibu, California CA 90265-4804
(310) 456-2489  FAX (310) 456-7650

BIOLOGY REVIEW
REFERRAL SHEET

TO: City of Malibu Biologist
DATE: 1/3/2019

FROM: City of Malibu Planning Department

PROJECT NUMBER: CDP 19-001
JOB ADDRESS: 20272 INLAND LN
APPLICANT / CONTACT: Norman Haynie, Blue Onyx Design and Engineering
APPLICANT ADDRESS: 22741 Pacific Coast Highway #400
Malibu, CA 90265
APPLICANT PHONE #: (310) 456-5515
APPLICANT FAX #: (310) 456-9821
APPLICANT EMAIL: norm@blueonyxdesign.com
PLANNER: Lilly Rudolph

PROJECT DESCRIPTION: NSFR replacing burn out, NAOWTS, VAR-geo
(factor of safety), SPR (height)

TO: Malibu Planning Department and/or Applicant
FROM: City Biologist, Dave Crawford

The project review package is INCOMPLETE and; CANNOT proceed through
Final Planning Review until corrections and conditions from Biological Review
are incorporated into the proposed project design
(See Attached).

The project is APPROVED, consistent with City Goals & Policies associated
with the protection of biological resources and CAN proceed through the
Planning process.

The project may have the potential to significantly impact the following
resources, either individually or cumulatively: Sensitive Species or Habitat,
Watersheds, and/or Shoreline Resources and therefore Requires Review by
the Environmental Review Board (ERB).

Signature Date

Additional requirements/conditions may be imposed upon review of plan revision

Contact Information:
Dave Crawford, City Biologist, dcrawford@malibucity.org, (310) 456-2489, extension 277

Rev 05/29/2018

ATTACHMENT 7
# BIOLOGY REVIEW SHEET

## PROJECT INFORMATION

| Applicant: (name and email address) | Norm Haynie
| norm@blueonyxdesign.com |
| Project Address: | 20272 Inland Lane
| Malibu, California 90264 |
| Planning Case No.: | CDP 19-001 |
| Project Description: | NSFR, replacing burnout, NOWTS |
| Date of Review: | April 16, 2019 |
| Reviewer: | Dave Crawford |
| Contact Information: | Phone: (310) 456-2489 ext. 307 Email: dcrawford@malibucity.org |

## SUBMITTAL INFORMATION

| Site Plans: | 4/2/19 |
| Site Survey: | 4/2/19 |
| Planting Plan: | |
| Irrigation/Hydrozone/ water budget Plan: | |
| Grading Plans: | |
| OWTS Plan: | 4/2/19 |
| Bio Assessment: | |
| Bio Inventory: | |
| Native Tree Survey: | |
| Native Tree Protection Plan: | |
| Other: Slope analysis 4/2/19 |
| Previous Reviews: | |

## REVIEW FINDINGS

- **Review Status:**
  - **INCOMPLETE:** Additional information and/or a response to the listed review comments is required.
  - **DENIED** The project cannot be approved as designed as it is conflict with one or more elements of the LCP and/or City Codes.
  - **APPROVED** The proposed project approved with the conditions attached.

  **Environmental Review Board:**
  - This project has the potential to impact ESRA and may require review by the Environmental Review Board.

---

Page 1 of 2

Recycled Paper
RECOMMENDATIONS:

1. The project is recommended for APPROVAL with the following conditions:

   A. No new landscaping is proposed with this project. Therefore, none is approved. Should the applicant intend to plant any new vegetation with a potential to exceed six (6) feet in height, or change 2,500 sq.ft. or more of the existing landscaping, a detailed landscape plan shall be submitted for review and approval prior to any planting.

   B. Night lighting from exterior and interior sources shall be minimized. All exterior lighting shall be low intensity and shielded so it is directed downward and inward so that there is no offsite glare or lighting of natural habitat areas. (High intensity lighting of the shore is prohibited).

---

If you have any questions regarding the above requirements, please contact the City Biologist office at your earliest convenience.

cc: Planning Project file
   Planning Department
GEOTECHNICAL REVIEW
REFERRAL SHEET

TO: City of Malibu Geotechnical Staff
FROM: City of Malibu Planning Department
DATE: 1/28/2020

PROJECT NUMBER: CDP 19-001
JOB ADDRESS: 20272 INLAND LN
APPLICANT / CONTACT: Norman Haynie, Blue Onyx Design and Engineering
APPLICANT ADDRESS: 22741 Pacific Coast Highway #400
Malibu, CA 90265
APPLICANT PHONE #: (310) 456-5515
APPLICANT FAX #: (310) 456-9821
APPLICANT EMAIL: norm@blueonyxdesign.com
PROJECT DESCRIPTION: NSFR replacing burn out, NAOWTS, VAR-geo
(factor of safety), SPR (height)

TO: Malibu Planning Division and/or Applicant
FROM: City Geotechnical Staff

The project is feasible and CAN proceed through the Planning process.

The project CANNOT proceed through the planning process until geotechnical feasibility is determined. Depending upon the nature of the project, this may require engineering geologic and/or geotechnical engineering (soils) reports which evaluate the site conditions, factor of safety, and potential geologic hazards.

SIGNATURE: ___________________________ DATE: ____________

Determination of geotechnical feasibility for planning should not be construed as approval of building and/or grading plans which need to be submitted for Building Department approval. At that time, those plans may require approval by City Geotechnical Staff. Additional requirements/conditions may be imposed at the time building and/or grading plans are submitted for review, including geotechnical reports.

City Geotechnical Staff may be contacted on Tuesday and Thursday between 8:00 am and 11:00 am or by calling (310) 456-2489, extension 306 or 307.

* Geotechnical review sheet dated 1-16-19 applies.
# GEOTECHNICAL REVIEW SHEET

## Project Information

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<th>Date</th>
<th>January 16, 2019</th>
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<td>Site Address</td>
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<tr>
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<tr>
<td>Planner</td>
<td>Lilly Rudolph</td>
</tr>
<tr>
<td>Applicant/Contact</td>
<td>Norm Haynie, <a href="mailto:norm@blueonyxdesign.com">norm@blueonyxdesign.com</a></td>
</tr>
<tr>
<td>Contact Phone</td>
<td>310-456-5515</td>
</tr>
<tr>
<td>Fax</td>
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<tr>
<td>Project Type</td>
<td>New single-family residential development, advanced onsite wastewater treatment system (AOWTS)</td>
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## Submittal Information

Consultant(s) / Report Date(s): GeoConcepts, Inc. (Barrett, CEG 2088; Walter, RGE 2476): 3-8-16, 12-2-15, 1-14-15,
GeoConcepts, Inc. (Barrett, CEG 2088): 5-12-15
Quality Control Maintenance Manual (QCMM) prepared by GeoConcepts, Inc. dated 9-19-17, 4-12-16, 3-9-16, 12-1-15
GeoConcepts, Inc. (Sousa, CEG 1315; Walter, RGE 2476): 4-4-12, 2-23-12, 2-13-12 (QCMM), 12-20-11, 10-6-11, 3-3-11
GeoConcepts, Inc. (Lee, CEG 2545; Walter, RGE 2476): 1-14-11
Michael K. Nunley & Associates (Shields, RCE 74757): 5-25-17, 12-2-15, 5-26-15

**Letter by Norman R. Haynie dated December 20, 2018.**

Grading and Drainage plans prepared by Ahsirt Engineering, Inc. dated May 17, 2017.
Grading and Drainage plans prepared by LC Engineering Group, Inc. dated May 31, 2017 (for foundation removal and drainage control only).

Ref: Letters by Project Engineering Group (PEG) dated 4-5-12, 2-22-12 (Markarian, RCE 53434)
Ref: Letters by Michael Barsocchini, AIA, dated 4-3-12, 2-13-12.
Ref: Letter from homeowner (Choong Ann) regarding irrigation on the property dated March 30, 2012
Ref: Quality Control Maintenance Manual (QCMM) prepared by GeoConcepts, Inc. dated 10-31-11
Coastal Development Permit Review

☐ The residential project is APPROVED from a geotechnical perspective.

☐ The residential project is NOT APPROVED from a geotechnical perspective. The listed ‘Review Comments’ shall be addressed prior to approval.

Building Plan-Check Stage Review

☐ Awaiting Building plan check submittal. Please respond to the listed ‘Building Plan-Check Stage Review Comments’ AND review and incorporate the attached ‘Geotechnical Notes for Building Plan Check’ into the plans.

☐ APPROVED from a geotechnical perspective. Please review the attached ‘Geotechnical Notes for Building Plan Check’ and incorporate into Building Plan-Check submittals.

☐ NOT APPROVED from a geotechnical perspective. The listed ‘Building Plan-Check Stage Review Comments’ shall be addressed prior to Building Plan-Check Stage approval.

Remarks

The site is vacant—the residence was destroyed by the Malibu wildfire in November 1993. The site lies within the active Big Rock Mesa Landslide.

Another applicant previously submitted an application for a Coastal Development Permit (CDP 11-037) for a proposed residential project, including a request for a variance from the City’s current geological requirements related to slope stability (2002 Geotechnical Guidelines), in accordance with Chapter 13.26.5(B.) of the City of Malibu’s LCP-LIP (Page 243). This Section requires the City to make several findings before a variance can be granted. Each finding must be supported by substantial evidence. The second of these required findings reads as follows:

"The granting of such variance will not be detrimental to the public interest, safety, health, or welfare, and will not be detrimental or injurious to the property or improvements in the same vicinity and zone(s) in which the property is located."

The undersigned reviewers acknowledged the Project Geotechnical Consultant’s discussions regarding the Big Rock Mesa Landslide Assessment District reports, dewatering, the variance, and the submittal of their quality control maintenance manual (QCMM).

The applicant and his consultants provided the City with reports that adequately supported the findings in the variance. The CDP and Variance (11-018) was approved in a Geotechnical Review Sheet dated April 26, 2012.

A new owner(s) and their Architect have submitted a new residential development project on the property, (CDPA 15-005). The referenced updated QCMM, building plans, grading plans, OWTS design report, and OWTS plan were reviewed by the City from a geotechnical perspective. The project includes a new 3,337 square foot two-level single-family residence and attached 602 square foot garage with storage, retaining walls, a 192-square foot cabana, patios, decks, hardscape and grading that consists of 755 yards of cut under structure; 200 yards of cut and 60 yards of fill non-exempt; and 895 yards of export. A new advanced onsite wastewater treatment system (AOWTS) will be installed on the property, consisting of a treatment tank system and one 5’ diameter x 23’ BI seepage pit with a 15’ cap and 100% expansion (6’ diameter x 34’ BI with a 3.5’ cap).

The applicant and his Consultants have provided the City with reports that adequately support the
findings in the variance.

Building Plan-Check Stage Review Comments:

1. Please submit a fee of $991.00 to City geotechnical staff for building plan check review.

2. An electronic version of the final, completed QCMM (dated 9-19-17) signed by the project civil engineer, geotechnical consultant, OWTS consultant, and structural engineer needs to be submitted to City geotechnical staff for the City’s efiles. Please reference the latest sets of building, grading, mechanical/utility, and OWTS plans in the final QCMM. Correct the references to the drainage facilities on page 7 of the QCMM as the references in the text to the table do not match.

3. The homeowners shall sign, record at the County of Los Angeles recorder’s office, and submit to City geotechnical staff a certified copy of an “Assumption of Risk and Release” for geotechnical hazards. Any revisions to the standard City document must be reviewed and accepted by the City Attorney.

4. The adjacent residence and foundations may be adversely affected by the proposed construction and demolition procedures on the subject site. Temporary shoring is proposed for the basement construction. Monitoring will be required to ensure that the adjacent residence and side yards are not subjected to distress during construction on the subject property. The Geotechnical Consultant and structural engineer need to provide recommendations for the monitoring plan, and the plan needs to be implemented prior to building permit issuance.

5. The following note shall be incorporated into the plans. Prior to the placement of concrete slabs, the slab subgrade soils shall be pre-moistened to at least 120% of the optimum moisture content to the depth specified by the geotechnical engineer. The pre-moistened soils should be tested and verified to be by the geotechnical engineer within one day prior to the placement of the moisture barrier and sand.

6. The property owners must decide how the QCMM will be perpetuated with the property. It could be recorded with the Deed or as a Covenant with the property and/or attached with the Title Report. The applicant must inform the City in writing of the homeowner’s process in this regard.

7. Please clearly show the proposed utility vaults on the Mechanical Plan. These plans must be reviewed and stamped by the Project Geotechnical Consultants and submitted to the City as part of the building plan package. Consideration should be given to areas where previous Consultants have mapped distress (cracks) across the property.

8. Section 7.4 of the City’s geotechnical guidelines requires a minimum thickness of 10 mils for vapor barriers beneath slabs-on-grade. The Project Geotechnical Engineer originally recommended that the vapor barrier be a minimum thickness of 15 mils, conform to ASTM E1745 Class A requirements, and be installed according to ASTM E1643. Building plans shall reflect the Consultant’s recommendation or the specialty designer recommendations, whichever is the more stringent.

9. Two sets of final grading, retaining wall, OWTS, utility, QCMM, landscape, cabana, and foundation plans for the proposed residence (APPROVED BY BUILDING AND SAFETY) that incorporate the Project Geotechnical Consultant’s recommendations and items in this review sheet must be reviewed and wet stamped and manually signed by the Project Engineering Geologist and Project Geotechnical Engineer. City geotechnical staff will review the plans for conformance with the Project Geotechnical Consultants’ recommendations and items in this review sheet over the counter at City Hall. Appointments for final review and approval of the plans may be made by calling or emailing City Geotechnical staff.

(MAL.25457)
Please direct questions regarding this review sheet to City Geotechnical staff listed below.

Engineering Geology Review by:

Christopher Dean, C.E.G. #1751, Exp. 9-30-20
Engineering Geology Reviewer (310-456-2489, x306)
Email: cdean@malibucity.org

This review sheet was prepared by representatives of Cotton, Shires and Associates, Inc. and GeoDynamics, Inc., contracted through Cotton, Shires and Associates, Inc., as an agent of the City of Malibu.
**GEOTECHNICAL**

**NOTES FOR BUILDING PLAN-CHECK**

The following standard items should be incorporated into Building Plan-Check submittals, as appropriate:

1. One set of grading, retaining wall, OWTS, utility, OCMM, landscape, cabana, and residence plans, incorporating the Project Geotechnical Consultant's recommendations and items in this review sheet, must be submitted to City geotechnical staff for review. **Additional review comments may be raised at that time that may require a response.**

2. Show the name, address, and phone number of the Project Geotechnical Consultant(s) on the cover sheet of the Building Plans.

3. Include the following note on Grading and Foundation Plans: "Subgrade soils shall be tested for Expansion Index prior to pouring footings or slabs; Foundation Plans shall be reviewed and revised by the Project Geotechnical Consultant, as appropriate."

4. Include the following note on the Foundation Plans: "All foundation excavations must be observed and approved by the Geotechnical Consultant prior to placement of reinforcing steel."

5. The Foundation Plans for the proposed project shall clearly depict the embedment material and minimum depth of embedment for the foundations in accordance with the Geotechnical Consultant's recommendations.

6. Foundation setback distances from descending slopes shall be in accordance with Section 1808 of the Malibu Building Code, or the requirements of the Project Geotechnical Consultant's recommendations, whichever are more stringent. Show minimum foundation setback distances on the foundation plans, as applicable.

7. Show the onsite wastewater treatment system on the Site Plan.

8. Please contact the Building and Safety Department regarding the submittal requirements for a grading and drainage plan review.

9. A comprehensive Site Drainage Plan, incorporating the Geotechnical Consultant's recommendations, shall be included in the Plans. Show all area drains, outlets, and non-erosive drainage devices on the Plans. Water shall not be allowed to flow uncontrolled over descending slopes.

**Grading Plans (as Applicable)**

1. Grading Plans shall clearly depict the limits and depths of overexcavation, as applicable.

2. Prior to final approval of the project, an as-built compaction report prepared by the Project Geotechnical Consultant must be submitted to the City for review. The report must include the results of all density tests as well as a map depicting the limits of fill, locations of all density tests, locations and elevations of all removal bottoms, locations and elevations of all keyways and back drains, and locations and elevations of all retaining wall backdrains and outlets. Geologic conditions exposed during grading must be depicted on an as-built geologic map. This comment must be included as a note on the grading plans.

**Retaining Walls (As Applicable)**

1. Show retaining wall backdrain and backfill design, as recommended by the Project Geotechnical Consultant, on the Plans.

2. Retaining walls separate from a residence require separate permits. Contact the Building and Safety Department for permit information. One set of retaining wall plans shall be submitted to the City for review by City geotechnical staff. Additional concerns may be raised at that time which may require a response by the Project Geotechnical Consultant and applicant.
City of Malibu

23825 Stuart Ranch Rd., Malibu, California CA  90265-4861
(310) 456-2489   FAX (310) 456-3356   www.malibucity.org

ENVIRONMENTAL HEALTH REVIEW
REFERRAL SHEET

TO: City of Malibu Environmental Health Administrator  DATE: 2/12/2020
FROM: City of Malibu Planning Department

PROJECT NUMBER:  CDP 19-001
JOB ADDRESS:  20272 INLAND LN
APPLICANT / CONTACT: Norman Haynie, Blue Onyx Design and Engineerin
APPLICANT ADDRESS:  22741 Pacific Coast Highway #400
Malibu, CA  90265
APPLICANT PHONE #: (310) 456-5515
APPLICANT FAX #: (310) 456-9821
APPLICANT EMAIL: norm@blueonyxdesign.com
PROJECT DESCRIPTION: NSFR replacing burn out, NAOWTS, VAR-geo
(factor of safety), SPR (height)

TO: Malibu Planning Department and/or Applicant
FROM: City of Malibu Environmental Health Reviewer

✓ Conformance Review Complete for project submittals reviewed with respect to the
City of Malibu Local Coastal Plan/Local Implementation Plan (LCP/LIP) and Malibu
Municipal Code (MMC). The Conditions of Planning conformance review and plan
check review comments listed on the attached review sheet(s) (or else handwritten
below) shall be addressed prior to plan check approval.

Conformance Review Incomplete for the City of Malibu LCP/LIP and MMC. The
Planning stage review comments listed on the City of Malibu Environmental Health
review sheet(s) shall be addressed prior to conformance review completion.

OWTS Plot Plan: □  NOT REQUIRED
□  REQUIRED (attached hereto)  ✓  REQUIRED (not attached)

Signature  2-26-2020
Date
ENVIRONMENTAL HEALTH REVIEW SHEET

PROJECT INFORMATION

Applicant: Norman Haynie, Blue Onyx Design and Engineering
(name and email address) norm@blueonyxdesign.com

Project Address: 20272 Inland Lane
Malibu, CA 90265

Planning Case No.: CDP 19-001

Project Description: NSFR, new OWTS, Var -Geo, SPR

Date of Review: February 26, 2020

Reviewer: Melinda Talent
Signature: [Signature]

Contact Information: Phone: (310) 456-2489 x 364 Email: mtalent@malibucity.org

SUBMITTAL INFORMATION

Architectural Plans: Coscia Day: plans dated 5-7-18 (Received 1-3-19). Revised plans dated 3-4-19 (received 2-24-20)


Setback reduction letter dated 6-6-2015. Revised fixture unit worksheet by Anthony Coscia dated 10-9-18

Previous Reviews: EH complete conformance review dated 1-11-19. EH conformance review for SFD and OWTS fire re-build (CDP 11-037) dated 4-4-2012, CDPA 15-005 dated 8-1-2017.

REVIEW FINDINGS

Planning Stage: ☒ CONFORMANCE REVIEW COMPLETE for the City of Malibu Local Coastal Program/Local Implementation Plan (LIP) and Malibu Plumbing Code (MPC). The listed conditions of Planning stage conformance review and plan check review comments shall be addressed prior to plan check approval.

☐ CONFORMANCE REVIEW INCOMPLETE for the City of Malibu LIP and MPC. The listed Planning stage review comments shall be addressed prior to conformance review completion.

OWTS Plot Plan: ☐ NOT REQUIRED
☐ REQUIRED (attached hereto) ☒ REQUIRED (not attached)
Based upon the project description and submittal information noted above, a **conformance review** was completed for a new advanced onsite wastewater treatment system (OWTS) proposed to serve the onsite wastewater treatment and disposal needs of the subject property. The proposed advanced OWTS meets the minimum requirements of the Malibu Municipal Code (MMC) and the City of Malibu Local Coastal Program (LCP)/Local Implementation Plan (LIP). Please distribute this review sheet to all of the project consultants and, prior to final approval, provide a coordinated submittal addressing all conditions for final approval and plan check items.

The conditional conformance findings hereby transmitted complete the Planning stage Environmental Health review of the subject development project. In order to obtain Environmental Health final approval of the project OWTS Plot Plan and associated construction drawings (during Building Safety plan check), all conditions and plan check items listed below must be addressed through submittals to the Environmental Health office.

**Conditions of Planning Conformance Review for Building Plan Check Approval:**

1) **Final Onsite Wastewater Treatment System (OWTS) Plot Plan:** A final plot plan prepared by a City Registered OWTS Designer shall be submitted showing an OWTS design meeting the minimum requirements of the Malibu Municipal Code (MMC) and the Local Coastal Program (LCP)/Local Implementation Plan (LIP). The plans must include all necessary construction details, the proposed drainage plan for the developed property, and the proposed landscape plan for the developed property. The OWTS Plot Plan shall show essential features of the OWTS, existing improvements, and proposed/new improvements. The plot must fit on an 11" x 17" sheet leaving a 5" left margin clear to provide space for a City-applied legend. If the plan scale is such that more space is needed to clearly show construction details and/or all necessary setbacks, larger sheets may also be provided (up to a maximum size of 18" x 22" for review by Environmental Health).

2) **Final OWTS Design Report, Plans, and System Specifications:** A final OWTS design report and large set of construction drawings with system specifications (four sets) shall be submitted to describe the OWTS design basis and all components proposed for use in the construction of the OWTS.

All plans and reports must be signed by a City Registered OWTS Designer and the plans stamped by the project Geologist, Coastal Engineer, and Structural Engineer as applicable. The final OWTS design report and construction drawings shall be submitted with the designer’s signature, professional registration number, and stamp (if applicable).

The final OWTS design submittal shall contain the following information (in addition to the items listed above).

a. Required treatment capacity for wastewater treatment and disinfection systems. The treatment capacity shall be specified in terms of flow rate, gallons per day (gpd), and shall be supported by calculations relating the treatment capacity to the number of bedroom equivalents, plumbing drainage fixture units, and the subsurface effluent dispersal system acceptance rate. The drainage fixture unit count must be clearly identified in association with the design treatment capacity, even if the design is based on the number of bedrooms. Average and peak rates of hydraulic loading to the treatment system shall be specified in the final design.

b. Sewage and effluent pump design calculations (as applicable).
c. Description of proposed wastewater treatment and/or disinfection system equipment. State the proposed type of treatment system(s) (e.g., aerobic treatment, textile filter, ultraviolet disinfection, etc.); major components, manufacturers, and model numbers for “package” systems; and the design basis for engineered systems.

d. Specifications, supporting geology information, and percolation test results for the subsurface effluent dispersal portion of the onsite wastewater disposal system. This must include the proposed type of effluent dispersal system (drainfield, trench, seepage pit, subsurface drip, etc.) as well as the system’s geometric dimensions and basic construction features. Supporting calculations shall be presented that relate the results of soils analysis or percolation/infiltration tests to the projected subsurface effluent acceptance rate, including any unit conversions or safety factors. Average and peak rates of hydraulic loading to the effluent dispersal system shall be specified in the final design. The projected subsurface effluent acceptance rate shall be reported in units of total gallons per day (gpd) and gallons per square foot per day (gspf). Specifications for the subsurface effluent dispersal system shall be shown to accommodate the design hydraulic loading rate (i.e., average and peak OWTS effluent flow, reported in units of gpd). The subsurface effluent dispersal system design must take into account the number of bedrooms, fixture units, and building occupancy characteristics.

e. All OWTS design drawings shall be submitted with the wet signature and typed name of the OWTS designer. If the plan scale is such that more space than is available on the 11” x 17” plot plan is needed to clearly show construction details, larger sheets may also be provided (up to a maximum size of 18” x 22” for review by Environmental Health). [Note: For OWTS final designs, full-size plans for are also required for review by Building & Safety and Planning.]

3) Existing OWTS to be Abandoned: Final plans shall clearly show the locations of all existing OWTS components (serving pre-existing development) to be abandoned and provide procedures for the OWTS’ proper abandonment in conformance with the Malibu Municipal Code.

4) Worker Safety Note and Abandonment of Existing OWTS: The following note shall be added to the plan drawings included with the OWTS final design: “Prior to commencing work to abandon, remove, or replace existing Onsite Wastewater Treatment System (OWTS) components an “OWTS Abandonment Permit” shall be obtained from the City of Malibu. All work performed in the OWTS abandonment, removal, or replacement area shall be performed in strict accordance with all applicable federal, state, and local environmental and Occupational safety and health regulatory requirements. The obtaining of any such required permits or approvals for this scope of work shall be the responsibility of the applicant and their agents.”

5) Building Plans: All project architectural plans and grading/drainage plans shall be submitted for Environmental Health review and approval. These plans must be approved by the Building Safety Division prior to receiving Environmental Health final approval.

6) Notice of Decision: The final onsite wastewater treatment system plans shall include the Conditions of Approval sections of the Notice of Decision (NOD) from the Planning Department.

7) Architect / Engineer Certification for Reduction in Setbacks to Buildings or Structures: All proposed reductions in setbacks from the onsite wastewater treatment system to structures or other features less than those shown in Malibu Municipal Code (MMC) Section 15.42 must be
supported by letters from the project consultants. The wastewater plans and the construction plans must be specifically referenced in all certification letters. The construction plans for all structures and/or buildings with reduced setback must be approved by City of Malibu Building Safety prior to Environmental Health final approval. The architectural and/or structural plans submitted for Building Safety plan check must detail methods of construction that will compensate for the reduction in setback (e.g., waterproofing, concrete additives). For complex waterproofing installations, submittal of a separate waterproofing plan may be required. All plans must show the location of onsite wastewater treatment system components in relation to those structures from which the setback is reduced, and the plans must be signed and stamped by the architect, structural engineer, and geotechnical consultants (as applicable).

- **Structures** – All proposed reductions in setback from the onsite wastewater treatment system to structures (i.e., setbacks less than those shown in MMC Section 15.42) must be supported by a letter from the project Structural Engineer and a letter from the project Soils Engineer (i.e., a Geotechnical Engineer or Civil Engineer practicing in the area of soils engineering). Both engineers must certify unequivocally that the proposed reduction in setbacks from the treatment tank and effluent dispersal area will not adversely affect the structural integrity of the onsite wastewater treatment system, and will not adversely affect the structural integrity of the structures for which the setback is reduced.

- **Buildings** – All proposed reductions in setback from the onsite wastewater treatment system to buildings (i.e., setbacks less than those shown in MMC Section 15.42) also must be supported by a letter from the project Architect, who must certify unequivocally that the proposed reduction in setbacks will not produce a moisture intrusion problem for the proposed building(s). If the building designer is not a California licensed architect, then the required Architect’s certification may be supplied by an Engineer who is responsible for the building design with respect to mitigation of potential moisture intrusion from reduced setback to the wastewater system; in this case the Engineer must include in the letter an explicit statement of responsibility for mitigation of potential moisture intrusion. If any specific construction features are proposed as part of a moisture intrusion mitigation system in connection with the reduced setback(s), then the Architect (or Engineer) must provide associated construction documents for review and approval during Building Plan Check.

8) **Proof of Ownership:** Proof of ownership of subject property shall be submitted.

9) **Operations & Maintenance Manual:** An operations and maintenance manual specified by the OWTS designer shall be submitted to the property owner and maintenance provider of the proposed advanced OWTS.

10) **Maintenance Contract:** A maintenance contract executed between the owner of subject property and an entity qualified in the opinion of the City of Malibu to maintain the proposed advanced onsite wastewater treatment system shall be submitted prior to Environmental Health approval. Please note only original “wet signature” documents are acceptable.

11) **Advanced Onsite Wastewater Treatment System (OWTS) Covenant:** A covenant running with the land shall be executed between the City of Malibu and the holder of the fee simple absolute as to subject real property and recorded with the City of Malibu Recorder’s Office. Said covenant shall serve as constructive notice to any future purchaser for value that the onsite wastewater treatment system serving subject property is an advanced method of sewage disposal pursuant to the City of
Malibu Municipal Code. Said covenant shall be provided by the City of Malibu Environmental Health Administrator. **Please submit a certified copy issued by the City of Malibu Recorder.**

12) **Project Geologist/Geotechnical Consultant Approval:** Project Geologist/Geotechnical Consultant final approval of the Onsite Wastewater Treatment System plan shall be submitted to the Environmental Health Administrator.

13) **City of Malibu Geologist/Geotechnical Approval:** City of Malibu geotechnical staff final approval of the Onsite Wastewater Treatment System plan shall be submitted to the Environmental Health Administrator.

14) **City of Malibu Planning Approval:** City of Malibu Planning Department final approval of the OWTS plan shall be obtained.

15) **Environmental Health Final Review Fee:** A final fee in accordance with the adopted fee schedule at the time of final approval shall be paid to the City of Malibu for Environmental Health review of the OWTS design and system specifications.

16) **Operating Permit Application and Fee:** In accordance with Malibu Municipal Code, an application shall be made to the Environmental Health office for an Onsite Wastewater Treatment System operating permit. An operating permit fee in accordance with the adopted fee schedule at the time of final approval shall be submitted with the application.

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If you have any questions regarding the above requirements, please contact the Environmental Health office at your earliest convenience.

cc: Environmental Health file Planning Department
TO: Los Angeles County Fire Department  
FROM: City of Malibu Planning Department  
DATE: 1/3/2019  
PROJECT NUMBER: CDP 19-001  
JOB ADDRESS: 20272 INLAND LN  
APPLICANT / CONTACT: Norman Haynie, Blue Onyx Design and Engineering  
APPLICANT ADDRESS: 22741 Pacific Coast Highway #400  
Malibu, CA 90265  
APPLICANT PHONE #: (310) 456-5515  
APPLICANT FAX #: (310) 456-9821  
PROJECT DESCRIPTION: NSFR replacing burn out, NAOWTS, VAR-geo (factor of safety), SPR (height)

TO: Malibu Planning Department and/or Applicant  
FROM: Fire Prevention Engineering Assistant

Compliance with the conditions checked below is required prior to Fire Department approval.

The project DOES require Fire Department Plan Review and Developer Fee payment  
The project DOES NOT require Fire Department Plan Review  
The required fire flow for this project is 1,250 gallons per minute at 20 pounds per square inch for a 2 hour duration. (Provide flow information from the water dept.)  
The project is required to have an interior automatic fire sprinkler system.  
Final Fuel Modification Plan Approval is required prior to Fire Department Approval.

Conditions below marked “not approved” shall be corrected on the site plan and resubmitted for Fire Department approval.

Required Fire Department vehicular access (including width and grade %) as shown from the public street to the proposed project.  
Required and/or proposed Fire Department Vehicular Turnaround  
Required 5 foot wide Fire Department Walking Access (including grade %)  
Width of proposed driveway/access roadway gates

App’d  N/app’d

*County of Los Angeles Fire Department Approval Expires with City Planning permits expiration, revisions to the County of Los Angeles Fire Code or revisions to Fire Department regulations and standards.

**Minor changes may be approved by Fire Prevention Engineering, provided such changes achieve substantially the same results and the project maintains compliance with the County of Los Angeles Fire Code valid at the time revised plans are submitted. Applicable review fees shall be required.

SIGNATURE  
DATE: 4.25.19

Additional requirements/conditions may be imposed upon review of complete architectural plans. The Fire Prevention Engineering may be contacted by phone at (818) 880-0341 or at the Fire Department Counter: 26600 Agoura Road, Suite 110, Calabasas, CA 91302; Hours: Monday – Thursday between 7:00 AM and 11:00 AM
Information on Fire Flow Availability for Building Permit

INSTRUCTIONS:

For Single Family Dwellings (R-3)

Complete parts I, II (A) when:
   Verifying fire flow, fire hydrant location and fire hydrant size.

Complete parts I, II (A), & II (B) when:
   For buildings equipped with fire sprinkler systems, and/or private on-site fire hydrants.

PROJECT INFORMATION
(To be Completed by Applicant)

PART I

Building Address: 20272 INLAND LANE

City or Area: Malibu

Nearest Cross Street: Big Rock

Distance of Nearest Cross Street: ½ Mile

Property Owner: Jon Congdon Telephone: (310) 456-5515

Address: 22741 #400 Pacific Coast Highway

City: Malibu, Calif. Zip Code: 90265

Occupancy (Use of Building): S.F.R Sprinklered: Yes ☑ No ☐

Type of Construction

Square Footage: 3,837 + 602 = 3,909 sf Number of Stories: 2

Present Zoning: RR-1

OWNER/REPRESENTATIVE

Norman R. Haynie

Applicant’s Signature 3-19-2019
PART II (A)  INFORMATION ON FIRE FLOW AVAILABILITY
(Part II to be completed by Water Purveyor)

The distance from the fire hydrant to the property line is 50' feet via vehicular access. The fire flow services will be rendered from a 8" inch diameter water main. The hydrant is located on Inland Lane (Street) 790' West (Feet) of Big Rock Drive (Direction) (Nearest Cross Street)

Under normal operating conditions the fire flow available from this 6"x4"x2.5" (Size) hydrant is 1,250 GPM at 20 PSI residual for 2 hours at 130 PSI Static

PART II (B)  SPRINKLERED BUILDINGS ONLY

Detector Location (check one) □ Above Grade □ Below Grade □ Either
Backflow protection required (fire sprinklers/private hydrant): □ Yes □ No
Type of Protection Required (check one)
□ Double Check Detector Assembly □ Reduced Pressure Principal Detector Assembly
□ Reduced Pressure Principal (RP) Domestic Meter Size □ No Meter

PART II (C)
L. A. Co. Waterworks District # 29
Water Purveyor

Date 4/9/2019

Signature

David Rydman, Senior Civil Engineer

Title

PART III  Conditions for Approval by the Building Department
(To be Completed by Building Department)

The building permit may be issued for single family dwellings when the above information is complete and shows that the following minimum requirements are met and the property is not in the High Fire Hazard Severity Zone or the Very High Fire Hazard Severity Zone.

*The water system is capable of delivering at least 1250 GPM at 20 PSI for two hours.
*The structure is less than 3,600 square feet.
*The distance from the structure to the fire hydrant does not exceed 450 feet via vehicular access.
*The proposed construction must be within 150 feet of a vehicular access roadway that is a minimum of 20 feet wide, paved with concrete or asphalt and does not exceed 15% grade

APPROVED BY  DATE  OFFICE

This Information is Considered Valid for Twelve Months

Where the water service does not meet the above requirements for approval by the Building Department, Fire Prevention Division approval of the site plan will be required before a Building Permit can be issued by the Building Department.

20272 Inland Lane
(2)
TO: Public Works Department

FROM: City of Malibu Planning Department

PROJECT NUMBER: CDP 19-001
JOB ADDRESS: 20272 INLAND LN
APPLICANT / CONTACT: Norman Haynie, Blue Onyx Design and Engineering
APPLICANT ADDRESS: 22741 Pacific Coast Highway #400
Malibu, CA 90265
APPLICANT PHONE #: (310) 456-5515
APPLICANT FAX #: (310) 456-9821
APPLICANT EMAIL: norm@blueonyxdesign.com
PROJECT DESCRIPTION: NSFR replacing burn out, NAOWTS, VAR-geo
(factor of safety), SPR (height)

TO: Malibu Planning Department and/or Applicant

FROM: Public Works Department

☐ The following items described on the attached memorandum shall be
addressed and resubmitted.

☒ The project was reviewed and found to be in conformance with the City’s
Public Works and LCP policies and CAN proceed through the Planning
process.

SIGNATURE

DATE 03/09/20
To: Planning Department  
From: Public Works Department  
    Julian De Anda, P.E., Associate Civil Engineer  
    Reissued by Danh Duong, Assistant Civil Engineer  
Date: March 9, 2020  
Re: Proposed Conditions of Approval for 20272 Inland Lane, CDP 19-001

The Public Works Department has reviewed the plans submitted for the above referenced project. Based on this review sufficient information has been submitted to confirm that conformance with the Malibu Local Coastal Plan (LCP) and the Malibu Municipal Code (MMC) can be attained. Prior to the issuance of building and grading permits, the applicant shall comply with the following conditions.

GRADING AND DRAINAGE

1. Clearing and grading during the rainy season (extending from November 1 to March 31) shall be prohibited for development LIP Section 17.3.1 that:
   - Is located within or adjacent to ESHA, or
   - Includes grading on slopes greater than 4:1
   - Approved grading for development that is located within or adjacent to ESHA or on slopes greater than 4:1 shall not be undertaken unless there is sufficient time to complete grading operations before the rainy season. If grading operations are not completed before the rainy season begins, grading shall be halted and temporary erosion control measures shall be put into place to minimize erosion until grading resumes after March 31, unless the City determines that completion of grading would be more protective of resources.

2. Exported soil from a site shall be taken to the County Landfill or to a site with an active grading permit and the ability to accept the material in compliance with the City’s LIP Section 8.3. A note shall be placed on the project that addresses this condition.
3. A grading and drainage plan shall be approved containing the following information prior to the issuance of grading permits for the project.
   
   - Public Works Department General Notes
   - The existing and proposed square footage of impervious coverage on the property shall be shown on the grading plan (including separate areas for buildings, driveways, walkways, parking, tennis courts and pool decks).
   - The limits of land to be disturbed during project development shall be delineated on the grading plan and a total area shall be shown on the plan. Areas disturbed by grading equipment beyond the limits of grading, areas disturbed for the installation of the septic system, and areas disturbed for the installation of the detention system shall be included within the area delineated.
   - The grading limits shall include the temporary cuts made for retaining walls, buttresses, and over excavations for fill slopes and shall be shown on the grading plan.
   - If the property contains trees that are to be protected they shall be highlighted on the grading plan.
   - If the property contains rare and endangered species as identified in the resources study the grading plan shall contain a prominent note identifying the areas to be protected (to be left undisturbed). Fencing of these areas shall be delineated on the grading plan if required by the City Biologist.
   - Private storm drain systems shall be shown on the grading plan. Systems greater than 12-inch diameter shall also have a plan and profile for the system included with the grading plan.
   - Public storm drain modifications shown on the grading plan shall be approved by the Public Works Department prior to the issuance of the grading permit.

4. A digital drawing (AutoCAD) of the project's private storm drain system, public storm drain system within 250 feet of the property limits, and post-construction BMP's shall be submitted to the Public Works Department prior to the issuance of grading or building permits. The digital drawing shall adequately show all storm drain lines, inlets, outlet, post-construction BMP's and other applicable facilities. The digital drawing shall also show the subject property, public or private street, and any drainage easements.
STORMWATER

5. A Local Storm Water Pollution Prevention Plan shall be provided prior to the issuance of the Grading/Building permits for the project. This plan shall include an Erosion and Sediment Control Plan (ESCP) that includes, but not limited to:

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<tr>
<th>Erosion Controls</th>
<th>Scheduling</th>
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<td>Preservation of Existing Vegetation</td>
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<td>Sediment Controls</td>
<td>Silt Fence</td>
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<td>Sand Bag Barrier</td>
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<td>Stabilized Construction Entrance</td>
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<td>Non-Storm Water Management</td>
<td>Water Conservation Practices</td>
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<td>Concrete Waste Management</td>
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<td>Sanitary/Septic Waste Management</td>
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All Best Management Practices (BMP) shall be in accordance to the latest version of the California Stormwater Quality Association (CASQA) BMP Handbook. Designated areas for the storage of construction materials, solid waste management, and portable toilets must not disrupt drainage patterns or subject the material to erosion by site runoff.

6. A Storm Water Management Plan (SWMP) is required for this project. Storm drainage improvements are required to mitigate increased runoff generated by property development. The applicant shall have the choice of one method specified within the City’s Local Implementation Plan Section 17.3.2.B.2. The SWMP shall be supported by a hydrology and hydraulic study that identifies all areas contributory to the property and an analysis of the predevelopment and post development drainage of the site. The SWMP shall identify the Site design and Source control Best Management Practices (BMP’s) that have been implemented in the design of the project (See LIP Chapter 17 Appendix A). The SWMP shall be reviewed and approved by the Public Works Department prior to the issuance of the grading/building permits for this project.
7. A Water Quality Mitigation Plan (WQMP) is required for this project. The WQMP shall be supported by a hydrology and hydraulic study that identifies all areas contributory to the property and an analysis of the predevelopment and post development drainage of the site. The WQMP shall meet all the requirements of the City’s current Municipal Separate Stormwater Sewer System (MS4) permit. The following elements shall be included within the WQMP:
   - Site Design Best Management Practices (BMP’s)
   - Source Control BMP’s
   - Treatment Control BMP’s that retains on-site the Stormwater Quality Design Volume (SWQDv). Or where it is technical infeasible to retain on-site, the project must biofiltrate 1.5 times the SWQDv that is not retained on-site.
   - Drainage Improvements
   - A plan for the maintenance and monitoring of the proposed treatment BMP’s for the expected life of the structure.
   - A copy of the WQMP shall be filed against the property to provide constructive notice to future property owners of their obligation to maintain the water quality measures installed during construction prior to the issuance of grading or building permits.
   - The WQMP shall be submitted to Public Works Department and the fee applicable at time of submittal for the review of the WQMP shall be paid prior to the start of the technical review. The WQMP shall be approved prior to the Public Works Department’s approval of the grading and drainage plan and or building plans. The Public Works Department will tentatively approve the plan and will keep a copy until the completion of the project. Once the project is completed, the applicant shall verify the installation of the BMP’s, make any revisions to the WQMP, and resubmit to the Public Works Department for approval. The original signed and notarized document shall be recorded with the County Recorder. A copy of the WQMP shall be submitted to the Public Works Department prior to the certificate of occupancy.

MISCELLANEOUS

8. The developer’s consulting engineer shall sign the final plans prior to the issuance of permits.

9. The Applicant shall obtain all required Caltrans permits, for additional stormwater drainage flow that is created by project and will impact and drain to Pacific Coast Highway (Highway 1).

10. The Applicant should use the existing concrete swale located on the hillside slope, to the south of the property, to collect all stormwater drainage flow created by the development project.
FROM: City of Malibu Planning Department

DATE: 1/3/2019

PROJECT NUMBER: CDP 19-001

JOB ADDRESS: 20272 INLAND LN

APPLICANT / CONTACT: Norman Haynie, Blue Onyx Design and Engineering

APPLICANT EMAIL: norm@blueonyxdesign.com

APPLICANT PHONE #: (310) 456-5515

PLANNER: Lilly Rudolph

PROJECT DESCRIPTION: NSFR replacing burn out, NAOWTS, VAR-geo (factor of safety), SPR (height)

TO: Malibu Planning Department and/or Applicant

FROM: LACWD No. 29, Malibu

Compliance with the conditions checked below is required prior to Waterworks District approval

The project DOES NOT require any system improvements for domestic and/or fire flow conditions

The project DOES NOT require capital improvement fees and/or participation fees

The project DOES require a Will Serve Letter (Final Waterworks Districts approval)

The project DOES require capital improvement fees and/or participation fees

The project DOES require the owner to execute an agreement and participate financially in the design and construction of a future water system to increase local storage and conveyance capacity in the event of an interruption of the primary water supply

The project DOES require private contract water system improvements for domestic and/or fire flow conditions

The required fire flow for this project set by the Fire Department is 2,500 gallons per minute at 20 pounds per square inch for a 1 hour duration

Scope of water system improvements required:

Note: Los Angeles County Waterworks District No. 29, Malibu approval expires upon the earliest of the following: 1) Two years from the date of this form; 2) Expiration date of the City Planning permit(s); or 3) Date County adopts changes to the county of Los Angeles Fire Code and makes revisions to applicable Department regulations and standards.

SIGNATURE DATE: 6/8/2020

Additional requirements/conditions may be imposed upon review of complete architectural plans.

Los Angeles County Waterworks District No. 29, Malibu may be contacted by phone at (310) 317-1389 or at the Waterworks Public Counter:

23533 Civic Center Way, Malibu CA 90265; Hours: Monday-Thursday 8:00am – 12:00pm
Will serve water to the above single lot property subject to the following conditions:

- Annexation of the property into Los Angeles County Waterworks District is required. **Water service to this property will not be issued until the annexation is completed.**
- The appropriate service connection fees have been paid to Waterworks Districts for the existing 1" service connection.
- The property has an existing water meter.
- The property may experience low water pressure and/or shortage in high demand periods.
- **The District CAN NOT serve water to this property at this time.**
- Must comply with and satisfy City of Malibu requirements in order to obtain Water Service if a service connection upgrade is required.
- A USC approved backflow device is required for this property and is to be installed and maintained by the property owner.

This Will Serve Letter is for a new 3,937 sq. ft. single-family residence.

By: [Signature]  
Dave Rydman  
Senior Civil Engineer  
(310) 456-6621 x238  
6/8/2020

*THIS WILL SERVE LETTER WILL EXPIRE ONE YEAR AFTER THE DATE OF ISSUANCE.*

Rev. 06/09
I am the homeowner of 20259 Inland Ln, and am deeply concerned about the potential development at 20272 and its effect on the entire neighborhood. Please make sure that I'm fully notified of the property's status and future plans. I also am requesting to have the architectural plans to be made available for review, which is my legal right.

Sincerely,

Joanne Gorby
I am the home owner at 20269 Inland Ln, and is deeply concern about the potential development at 20272 and its effects on the entire neighborhood. Please make sure that I'm fully notified of the property's status and future plans. I also request to have the architectural plans to be made available for review as is my legal rights.

Sincerely,

Hak Wong, M.D.
Yes the BRM Landslide Assessment District community meeting is scheduled one day after this PC hearing, on October 6, so it should at least be delayed until we receive a status of the dewatering equipment on that date. However, Yeh & Associates have not completed a slope stability analysis of the hill, that has not been completed for over 25 years. Until a proper evaluation of the hill is completed and proper stability established there should be no added development in Big Rock. The latest stability geological report from ED Michael (attached) states Big Rock has a factor of safety close to unity (1) not the 1.5 required for new builds. We have two other geologists confirming this currently.

I will submit my opposition to this project later but it should be delayed.

Thanks very much, Jo Drummond

On Sep 27, 2020, at 2:09 AM, Hak Wong <[redacted]> wrote:

Hi: I'd like this to serve as my request on record, to postpone the planning commission hearing on this property, until we have adequate details and all relevant information. Jo Drummond is waiting to hear from the upcoming meeting to discuss the latest findings on the Big Rock landslide risk status. First She also wants to review the latest reports from her own geologists! I have spoken with Paul Shin, the engineer at Caltrans permits. He said he had received many calls from residents concerning this project, and wanted to reassure me that Caltrans has no jurisdiction over private developments. However, the City is required to submit plans that has potential to affect their roadways, for their review. Due to public safety issues, he'll have to speak with Caltrans attorneys to review and clarify their roles in such case.

It is prudent to wait for these findings. The Malibu Planning department has a history, on video records, of making haste decisions on this property, based on inadequate info, incorrect facts and interpretations. The case fell apart upon appeal and scrutiny by third part state commission! Lily my dear, I take it that you will be more diligent this time to avoid that happening again, and make the department looked frivolous. Thank you for your attention.
Initial Review
GEOLOGIC ASPECTS OF REDEVELOPMENT
BIG ROCK MESA LANDSLIDE AREA
with special reference to
20238 Piedra Chica Road

for

BIG ROCK MESA PROPERTY OWNER’S ASSOCIATION
c/o Luan Phan, Esq.
PB Law Group
1901 Avenue of the Stars, Suite 277
Los Angeles, CA 90067

by

E.D. MICHAEL, Consulting Geologist
CG 270, EG 157, HG 574
edm@malibuonline.com

November 20, 2018
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INTRODUCTION
This report has been prepared at the request of members of the Big Rock Mesa Property Owners Association (BRMPOA), and it is directed to the attention of Lu-an Phan, Esq. for initial review. It is preliminary in character based primarily on: [i] certain documents generated during early occupancy of the Big Rock Mesa (BRM) area, particularly concerning a water supply; [ii] field reconnaissance involving examinations of sites that were indicative of the landslide movement during 1983-1986; [iii] review of reports by DAE Staff (1986) and BYA Staff (1992); [iv] review of the certain of the operation and maintenance reports required by formation of County Improvement District 2629R2 (Big Rock Mesa Area), commonly C.I. No. 2629R2, or Assessment District (AD 98-1), and [v] the contingent assessment of BRM properties as annually presented in the latest report by Taussig (2016). Coupled with this is the review of several documents regarding the presently proposed redevelopment of 20238 Piedra Chica Road (20238).

PURPOSE
The purpose of this review is bifurcated. First, it is to consider the extent to which it currently appears that AD 98-1 is effective in its basic purpose of maintaining a sufficiently high safety factor for the historic\(^1\) BRM landslide. Left for another day is any detailed discussion of pre-historic conditions that caused the original BRM landslide and those that followed in pre-historic time, all extending back thousands

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\(^{1}\) By “historic” is meant prior to any written or other human record.
of years. Second, it is to discuss what seems at this time and to be a proper course of action concerning redevelopment of 20238 as an example of how it and similar projects may - in the context of current geological conditions relating to AD 98-1 adversely affect slope stability. It is important to consider the cumulative effect of similar projects on the stability of the BRM landslide mass, *per se*.

**SCOPE**

The scope of this review is limited to a contractual limit of 20 hours. For reasons to be explained, the intent is to consider, generally, certain conditions in what herein is conveniently referred to as “lower Big Rock Mesa” as shown in Figure 1. However, conditions at two localities higher in the area, and also one along Pacific Coast Highway (PCH), have been found relevant.

![Figure 1. Lower Big Rock Mesa. Included are Tract 26263, 27463 and 28878, and RS 1748.](image)

For present purposes, individual properties simply have been observed from streets as generally indicative of certain local conditions. Discussion of such conditions in specific properties where access has been invited is avoided as statistically meaningless and premature except those in the immediate vicinity of 20238. To fairly evaluate such conditions, it would be necessary to examine both the grounds
and interiors of each property - a task well beyond this scope of this review. Alternatively, certain localities have been revisited - localities which, based on original examinations made during my consultation with DAE Staff (1986) - I consider reasonably indicative of present conditions.

It is to be understood that failure to consider herein concerns expressed by local property owners regarding specific conditions or characteristics - particularly structural imperfections - of individual properties, does not mean they are considered unimportant. They may be, but to discuss such features individually is simply beyond the scope of this review.

*   *   *

E.D. MICHAEL, Consulting Geologist
edm@malibuonline.com
PART I - BRM PHYSICAL CONDITIONS
The BRM landslide is a complex matter. A properly informative description of current physical conditions requires some discussion of the cultural history of the development. Beyond that, reference to local geologic and ground-water conditions as presented in either the original emergency report by D.A. Evans, Inc. (DAE Staff, 1986) or the immediately following geotechnical evaluation by Bing Yen & Associates, Inc. (BYA Staff, 1992), or has now become relevant, is considered necessary.

1.0 RESIDENTIAL DEVELOPMENT
The lower BRM area at the time Tracts 26263 and 27463 were developed was owned by the Cave Corporation, Inc., also referred to in later correspondence as Hadley-Cherry, Inc. In 1959, I was hired by the Jennings Engineering Company to prepare an engineering geology report of the lower BRM area. At the time, the requirement for such reports and related building-code standards primarily concerned with grading, had been in force in Los Angeles County since about 1957. At that time, and for the next few years, the effectiveness of the engineering geologist with regard to the manner in which grading should be accomplished was generally superficial (Scullin, 1983, pp. 14-16) and that was the case in 1959 when extensive residential development of the BRM area began.

1.1 HISTORY
My files concerning the development of the Big Rock Mesa area, and particularly those relating to the period during which Tract 26263 and 27463 were developed, were far too voluminous to review in detail. Nevertheless, some familiarity with the history of what has transpired is necessary to fully appreciate current conditions that in turn should be basis for addressing the manner of grading and similar proceedings in the BRM area in the future.

E.D. MICHAEL, Consulting Geologist
edm@malibuonline.com
1.1.1 Early Hydrologic Conditions

It is as yet undetermined when the properties in the BRM area, then part of the Rindge Ranch, first began to be sold off to private parties, or subdivided for sale by the Rindge interests. It may have been in the 1940s that the BRM area became zoned for residential development. Aerial photographs indicate that in 1945 there were about eight houses in the lower BRM area, but whether they were residences on subdivided lots is uncertain. On October 29, 1947 Tract No. 13562, part of the upper BRM area was recorded.

As many as twenty wells had been installed over the years. As a matter of speculation, shallower wells of the Big Rock Beach Water Company were taken over by the Ocean Mutual Water Company and deeper wells were added to the system. The record reviewed does not indicate the extent to which these water companies supplied the upper BRM area. As a matter of speculation, most of the Wells were in the lower BRM area because the equilibrium levels there were close to the surface – in some reported cases at depths of 20 – 30 feet.

In May of 1959, the Ocean Mutual Water Company served the BRM area. At that time, the system consisted of ten wells, one of which was a stand-by well located in Piedra Gorda Canyon. Locally, probably beginning in June, 1944, the Los Angeles County Flood Control District (LACFCD) began keeping records of water wells in the BRM area. In June, 1959 four wells of the five LACFCD wells, designated 2386A, 2386B, 2386D, and 2386E remained in the LACFCD system.

Grading for Tract 26263 covered 2386A and 2386B. Well 2386D may still be open for water-level measurements. Well 2386E is located in the southern corner of Lot 15, Tract 27463 at 22495 Inland Lane. The casing is covered with a manhole and can be opened for inspection. Although equilibrium ground-water levels in the lower area were at some locations at depths of as little as 20-30 feet,
and well yields initially quite high, aquifer storage was low. In fact, it is now obvious that storage is almost entirely in slide debris derived from the Sespe and Topanga formations neither of which has a very high hydraulic conductivity.

1.1.2 Subdivision - Tract 26263 and Tract 27463

Exactly when the lower area became the property of the Cave Club, a private corporation, is uncertain. However, beginning about 1959 the initial steps required to subdivide the lower BRM area were in progress. Preliminary engineering geology reports I prepared as a consultant to the Cave Club in 1959 - 1960, expressed concern regarding the use of septic systems, and except for briefly consulting for Moore and Taber, my connection with the development thereafter ended. Moore and Taber, soils engineers, thereafter became the geology consultant for the Cave Club in its plan for developing the lower BRM area primarily to prepare slope stability analyses to be used by the Amco Engineering Company that would actually provide the soils engineering necessary to develop the grading plan which, as I recall, were actually prepared by Mr. Luis Manzano.

Prior to grading, LACFCD 2386E, had been producing with a pumping level at about 103 feet mean sea level (msl). Similarly, LACFCD 2385D located in what was to become the northern corner of Lot 36, Tract 26263 at 20491 Royalstone Drive, had been producing with a pumping level below elevation 10 msl. Based on LACFCD records, Eagen and Brown (1972, Attach.) plotted the recovery levels of both 2386D and 2386E which indicate the former had been shut down some time before June, 1958, and the latter about December 15, 1961.

Probably prior to grading, County and Cave Club representatives met and agreed that four hydraugers would be installed along PCH in view of concern that septic system effluent would result in an undesirable rise in the natural groundwater level. This was accomplished, and thereafter Moore and Taber monitored
production as part of their geotechnical work for the Cave Club. Apparently after completion of whatever geotechnical reports were issued by Moore and Taber, in a letter dated May 22, 1962 to the County Planning Director, County Engineer John A. Lambie, stated that Tract 26263 had been approved “from a geological viewpoint,” probably meaning engineering approval of the grading plan and therefore, with Planning Department approval, grading could begin.

However, Lambie’s approval was conditioned on the formation of a private company having as required membership Tract 26263 homeowners to maintain the four hydrauger systems that had been installed. Apparently included in the Department of Planning approval, these conditions were accepted, and grading began and on April 17, 1963, Cave Club representatives filed for recording both Tract 26263 and 27463. The immediately available record does not contain any reference to the ensuing grading operations. However, in a letter to Hadley-Cherry, Inc., of the Cave Club, Inc., dated August 4, 1964, Araujo (1964) of Amco Engineering announced the completion of grading for Tracts 26263 and 27463.

**1.1.3 Initial BRM Dewatering**

The record indicates that the period of 1971 – 1974 was characterized by: [i] MMDC management’s growing awareness and concern regarding rising groundwater levels, and [ii] growing dissatisfaction with the manner in which MMDC was being managed. The earliest residential construction in Tracts 26263 and 27464 probably had started late in 1963 at about which time the Malibu Mutual Drainage Company (MMDC) was formed in accordance with the aforesaid County conditions for geological approval.

Although the sequence of events is still to some extent uncertain and only sketchily documented, there apparently began to develop complaints, possibly as early as 1969, regarding malfunctioning septic systems in Tracts 26263 and 27463.
and concerns about spring development in the Seacliff below sections of Inland Lane and Roca Chica Drive.

As early as February, 1972, MMDC had approached the County through the office of the County Engineer, concerning the possibility of forming a “drainage management” district. MMDC also had sought the technical advice of Moore and Taber. Eagen and Brown (1972) of Moore and Taber responded, and in letter to MMDC dated March 30, 1972, they discussed the seriousness of the situation. They reported the very minor production from the four initial hydraugers, referred to as Drains #1, #2, #3, and #4, producing 0.8, 0.2, 9.2, and 3.2 gallons per minute (gpm), respectively. They also installed a pump in 2386E which, after producing approximately 57,000 gallons per day, in a recovery test, in seven days had returned to within 15 feet of its equilibrium level at the start of production thereby indicating a relatively small dewatered volume and hence a low specific yield. They also included graphs of recovery levels for both 2386D and 2386E.¹

In conclusion, they warned of additional slide movement and septic systems becoming inoperative if the ground-water levels were not reduced. Generally, they were of the opinion that the four hydraugers and 2386E were incapable of this task. Therefore, they recommended the installation of five dewatering wells, including, incidentally, one to be located in Lot 8, Tract 26263.

In a letter to County Engineer Harvey T. Brandt dated February 20, 1973, MMDC Director W.C. Reynolds submitted a petition,

“… requesting that the County Engineer undertake a study to determine the feasibility of creating an improvement, or a maintenance district, or both, to control subsurface ground water problems in the area.”

¹ Those data are of particular interest when considering natural recharge to the local area.
Because of this, and presumably continuing complaints to the County Engineer, County Principal Engineering Geologist Richard Ramirez was assigned the task of examining the local conditions. Ramirez confirmed the problem of rising groundwater levels, and in a report dated April 13, 1973 he recommended certain observation wells be converted to pumping wells, renewed operation of the existing wells then off-line, and the installation of some 5 - 10 additional hydraugers along PCH. A month later, in a letter to MMDC dated May 16, 1973; County Engineer Harvey T. Brandt generally endorsed Ramirez’s recommendations and suggested specific remedial work having a total estimated cost of approximately $110,000. He further stated that as an alternative, an assessment district could be formed the work of which would require approximately two years to complete. The offer either as simply acted upon or, rejected or, upon a poll of local homeowners, it was found that those in favor were less that the requisite number necessary for district formation.

Based on the Ramirez (*op. cit.*) report, County Engineer Harvey T. Brandt on the following May 6 issued a memorandum to MMDC recommending an extensive increase in the BRM dewatering system including five additional hydraugers, reactivation of water wells, and the installation of six new observation wells, the latter apparently taken to mean wells that could be converted to production wells if necessary. Brandt’s cost estimate of $110,000 and two years for completion apparently was met with strong objections from a local group calling itself the Malibu Estates Committee of Homeowners regarding the legal authority of MMDC to raise the required funds from the shareholders and recommending the formation of a drainage district. Brandt further suggested that if rather than MMDC management, and assessment district could be formed and require approximately two years to complete the project, and finally if that were to be considered, the petition for
the formation of such a district would require obtaining within 60 days, the assent of greater than 60 percent of the property owners within the proposed district boundaries.

In any event, in a June 18, 1973, MMDC notice to shareholders, Board chairman Jaime Schloss asked for opinions regarding what action should be taken in the matter and, so far as the record shows receiving no direction, the Board voted to install the dewatering wells originally recommended by Eagen and Brown (*op. cit.*). However, based in part on an examination of local conditions by Merifield (1972) followed by a crack survey Merifield (1973a), and an inconsequential Lot 8 pump test (Merifield, 1973b), Merifield (1973c) modified the recommended well locations of Eagen and Brown (*op. cit.*). As a result, MMDC well W-1 was installed adjacent to Inland Lane cul-de-sac, W-3 adjacent to Piedra Chica Road cul-de-sac, and W-4 on the roadway verge adjacent to the western corner of 20440 Roca Chica Drive. Ocean Mutual Water Company Well BRB-15 (LACFCD Well 2386E) was assigned number W-2, but was not activated. By October 17, 1973, both W-1 and W-4 had been completed. W-1 initially produced 50 gallons per minute, but production from W-4 was so low it was never brought online. By November 5, work on W-3 was still in progress, and was not completed until November 5, 1973. For reasons as yet uncertain it was not immediately brought on line - possibly because a pump had not yet been obtained. Eventually, W-3 was brought on line and by the end of 1973, the BRM dewatering system consisted of W-1, W-2, and W-3, and the four original hydraugers.

On September 10, 1973, drilling well W-1 began under the supervision of hydrogeologist E.D. Michael, recommended by Merifield. W-1 was located adjacent to Inland Lane *cul-de-sac* rather than the alternative of deepening nearby 2386E. On October 17, 1973, Michael reported that W-1 had been completed and

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**E.D. MICHAEL, Consulting Geologist**
edm@malibuonline.com
after trouble with the first pump installed, was producing about 50 gpm, that W-4 on the roadway verge at 20440 Roca Chica Drive was completed and temporarily serving as an observation well, and W-3 adjacent to Piedra Chica Road cul-de-sac was nearing completion. Thereafter, matters were left in the hands of MMDC, and Reynolds, a registered mechanical engineer took on the uncompensated duties of maintaining the system.²

1.1.4 The Disastrous Decade

In the following ten-year period, ground-water levels continued to rise, and reports of local ground movement initially ascribed to local conditions increased. It is of passing interest to note that the text of Lambie memo sent to the County Director of Planning referred only to Tract 26263, yet the intention must have been to apply to all property owners in the lower BRM area including those of Tracts 27463 and 28878. If such membership actually applied to the owners of these latter two tracts, it presumably would have been specified in deed conditions, covenants and restrictions. Also of some interest is that Tract 28878, which includes twenty lots in the westernmost part of the lower BRM area, was not recorded until January 13, 1965. Nothing in the record reviewed makes any mentioned of Tract 28878, and the procedure by which it came within the ambit, if it did, of the MMDC.

Records for the period consist primarily of Reynold’s notes. Much of them are handwritten and commonly undated. From that record, it is clear that dewatering through 1974 and 1975 was primarily limited to moderate production from W-3 at Piedra Chica Road cul-de-sac, and low production from W-1 and W-2 in the vicinity of Inland Lane cul-de-sac. At no time has W-4 on Roca Chica Drive been operable, probably because of the failure to clear the bore of drilling mud which, it has been suggested, jams the casing at a shallow depth. Throughout the period, the

² The record thereafter in this regard is replete with entries by Reynolds whose notes memorializing his otherwise industrious efforts are of limited usefulness because they commonly lack dates.

E.D. MICHAEL, Consulting Geologist
edm@malibuonline.com
original four hydraugers continued to produce, characteristically with Drain #3 ranging from about 6 – 10 gpm, and the others a few tenths gpm at most.

1.1.4.1 Ineffective Dewatering

Although production from the wells apparently was metered, Reynolds’ observations seem to have been based on tape or electric probe soundings of pumping levels – a good way to lose the equipment. In some instances, recovery levels were measured, and estimates of production offered, but the simply too sketchy to form any more than a rough idea of dewatering being accomplished. It is apparent, however, that the Inland Lane wells had drawn pumping levels down to the pump intakes – a condition certainly due part to their locations near the sea cliff which limited the area of influence to about half of what it otherwise would be. Measurements of equilibrium levels in one of the Lockwood borings in Lot 8, about 200 feet from W-3 indicated that it was within that well’s area of influence.³ On the other hand, similar measurements in 2386D on Royalstone Drive at no time varied much from the 60-foot depth observed prior to dewatering – a condition that Reynolds incorrectly ascribed to a lack of hydraulic continuity with W-3. That Reynolds did not record level changes in 2386D was simply because the area of influence of W-3 was never that extensive.

1.1.4.2 MMDC Dissolution

In the years following completion of grading and the beginning of occupancy, MMDC authority was challenged by a local group that came to be known as the Malibu Estate Committee of Homeowners (MECH) dissatisfied with the fees of shareholder membership generally and – it seems quite likely – a conviction that high ground-water conditions in the general area of Inland Lane was an entirely local problem and consequently of no physical concern to properties farther away.

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³ “Area of influence” is preferable to “cone of depression” which geometrically seems applicable to aquifers with more or less fixed hydraulic characteristics lacking in bedrock aquifers.

E.D. MICHAEL, Consulting Geologist
edm@malibuonline.com
Seeking legal advice, MECH was advised that indeed, as a quasi-public utility, MMDC might not have the authority to bill MMDC shareholders with anything more than costs for maintaining the original four hydraugers. In any event, disagreement about dewatering and probably in anticipation of some sort of assessment district - possibly about 1976 – MMDC was dissolved. However “legal” the matter, the fact remains that thereafter, the effort at dewatering became a rudderless exercise by former the MMDC shareholders convinced that dewatering continued to be necessary.

1.1.4.3 Landslide Development
A landslide is generally defined as the downward and outward movement of a mass of earth material in response to gravity. Growing evidence of earth movement, initially considered in many instances to local minor grading defects in individual sites, but a particularly a ruptured section ruptures along PCH and at one locality along big Rock Drive, about August 15, 1983 led to the County notifying BRM residents that a landslide affect much of the area was in progress.

1.2 STABILIZATION
A slope of earth materials is stable if the force tending to cause it to move, commonly the “driving force,” is equal to the force opposing the driving force, commonly the “resisting force.” The slope “safety factor,” which applies only to landslides of the shear\(^4\) type, is defined as the ratio of the maximum resisting force the existing slope is capable of mobilizing, to the existing driving force. Arbitrarily, a safety factor of 1.5 commonly is required by public agencies for purposes of acceptable grading design.

\(^4\) See infra.
1.2.1 Concerned Citizens for Water Control

With the MMDC pot still boiling, a group of residents - owners of properties in Tracts 26263 and 27463 formed, almost overnight, an *ad hoc* committee calling itself Concerned Citizens for Water Control (CCWC). Asked for my help, I recommended first, activation of the MMDC wells, and second hiring D.A. Evans, Inc. (DAE) to study the extent of the landslide. Within a fairly short period, responsibility for the funding the dewatering program and Evan work was transferred to the hastily formed County Assessment District 2929 (Big Rock Mesa) and the rest is history - sort of.

1.2.2 DAE Emergency Study

With the a final total of 18 dewatering wells and 33 hydraulers installed ruing the DAE study, the BRM landslide was reported stabilized based on the responses of slope indicators earlier reported installed under his direction. The DAE study (DAE Staff, 1986) is reported in seven volumes. Some years ago, a copy was contained in the files of the City Geology Section.

Due to circumstances that are not entirely clear, payment by the County to DAE was initially refused, and DAE was forced into bankruptcy. Whether that situation was affected by the fact that Dennis Evans had been the Chief Engineering Geologist and geotechnical engineer for the County Department of Public Works for some years before leaving to open his consulting firm is uncertain.5

1.2.3 BYA Investigative Study

It appears that within a few months at most after issuance of the DAE report, Bing Yen & Associates was hired by County Improvement District 2629R (Big Rock Mesa) to expand the findings of the DAE emergency study and otherwise consider means to assure slope stabilization. The results of that work, involving some six

5 Kenneth R. Chiate, Esq., a BRM resident now as well as at the time of the BRM landslide, may have some information in this matter.
years of effort, was issued BYA Staff (1992). Cursory examination indicates it is remarkably comprehensive and generally very well done, lacking only in specific consideration of conditions that have become apparent in the 26-year period that has followed.

The BYA study is in a sense tentative. By no means does it indicate that final stabilization of the BRM landslide has been achieved. A summary section (BYA Staff, Sec. 9.0, Mitigation Options) reflects the conviction that only a stage of “transient equilibrium” (ibid., Sec. 9.1) of the BRM landslide debris mass had been reached by 1992. Given as I am to aphorisms, it seems fair to say that the underlying message of the BYA report is: “so far, so good.”

1.2.4 Assessment District 98-1

According to Taussig (2009, pp. 1-2) in referring to County Improvement District No. 2629R2 (Big Rock Mesa Area) (“C.I. 2629R2”):

“On March 10, 1992, having determined that the improvements were substantially complete, the County notified the City that as of July 1, 1992, the County relinquished its jurisdiction over CI No. 2629R2 to the City of Malibu for the purpose of levying assessments to maintain repair and improve the Improvements pursuant to Section 10100.8 of the 1913 Act. The county is still responsible for the levying of annual assessments to repay bonds sold on behalf of CI No. 2629R2.”

It probably was at this time, that 2629R2 became known under City management as Assessment District No. 98-1 (AD 98-1). A fair reading of California Streets and Highways Code §10100.8, subject to attorney interpretation, appears to give the procedures necessary to provide special assessment for the maintenance, repair, and improvement of the works, systems, or facilities, and that such funds be placed in a separate City fund to be used for no other purpose. Whether there has been any such assessment “… for the maintenance, repair, and improvement of the

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6 My footnote: by Act is meant Division 12, Streets and Highways Code, §10000, et seq.

E.D. MICHAEL, Consulting Geologist
edm@malibuonline.com
works, systems, or facilities\textsuperscript{7} …” of AD 98-1 during the previous 26 years of the City’s tenure of responsibility is uncertain. Certainly, this is to be considered with reference to the series of monitoring and maintenance (m&m) reports for the BRM area beginning in 1992 and continuing at least as late as 1998 initially by BYA and continuing later, as early as by 2005, by Fugro West, Inc.

1.2.5 Fugro Monitoring and Maintenance

To date, the substance of the Fugro monitoring and maintenance reports have included, essentially: [i] monitoring and reporting in detail such as data included in tables or graphs the functioning of the BRM landslide dewatering system, including both dewatering wells and hydraulgers; [ii] performing certain limited system maintenance work; [iii] periodically operating slope indicator equipment from which landslide movement may be inferred; [iv] preparation of a report issued annually describing in general terms the technical significance of such data and general recommendations for maintenance repairs. In addition, energy costs and ground crack observations are reported and lastly, water samples are submitted to a subcontractor for analysis consistent with National Pollution Discharge Elimination System permit compliance.

At least as early as 2005, Fugro m&m reports have alluded to the fact that the dewatering system facilities - \textit{i.e.}, the dewatering wells and hydraulgers - are subject over the years to deterioration and may require replacement. In this regard, however, two apparent omissions detract from Fugro’s generally well conducted and excellently reported m&m activities.

1.3 CRITICISM

Strictly from the record reviewed to date, management of AD 98-1 is subject to criticism for two reasons. First, the dewatering system has been allowed to de-
teriorate and its rehabilitation ignored. Second, the scope of the authorized maintenance is too limited to allow studies that would indicate how recharge to the debris mass could be reduced.

1.3.1 Lack of Dewatering Facility Rehabilitation
Although repeatedly recommended by Fugro in their annual m&m reports that “… (D)ewatering wells should be reviewed on an individual basis and redeveloped, repaired, or replaced, as necessary - e.g., Fugro Staff (2012-2013, p. 13; 2013-2014, p. 12; 2014-2015, p. 14; 2015-2016, p. 15; 2016-2017, p. 16), such warnings routinely have gone unheeded. Of twenty-two wells in the system, only four currently are producing and of those only one is producing significantly. It appears that neither dewatering well rehabilitation nor hydrauger flushing has been undertaken for years. This is especially of concern in view of the advent of a wet cycle which - as shown by Troxell and Hofman (1954) – if not exactly predictable - is certain to occur every 10 – 15 years.

1.3.2 Limited Scope of Maintenance Activity
It is difficult to rationalize maintenance of a dewatering system when attention is necessarily limited by minor funding only sufficient for minor repairs. The proper maintenance of a dewatering system would seem to include means to improve matters - figuratively speaking - beyond use of an electric meter, a screwdriver, and a pair of pliers.

For example, according to BYA Staff (1992, Fig. 6-1.1), in 1992 only about half the BRM area properties were properly fitted to control rain-runoff, a condition that apparently has never been corrected. Similarly, failing to document the improper manner in which the domestic vegetation is irrigated certainly loads the dewatering system and hence burdens its maintenance. That the current m&m contract may not include a direct requirement to reduce irrigation to proper levels of
consumptive use and hence lessen that load on the maintenance system should not mean that the problem can be ignored. An aphorism seems appropriate - in this case likening the current AD 98-1 meaning of system maintenance to rearranging deck chairs on the Titanic.

*   *   *

E.D. MICHAEL, Consulting Geologist
edm@malibuonline.com
2.0 GEOLOGIC CONTEXT
The detailed stratigraphy and structure given in the geologic cross-sections of BYA (1992, Fig. 4-1.2) is especially noteworthy. However, the general geologic character of the BRM landslide in the context of the local Santa Monica Mountains coastal slopes is best understood with reference to the work of Yerkes and Campbell (1980).

2.1 TECTONISM
Tectonism, \textit{i.e.}, mountain-building, in the vicinity of the BRM area currently is in progress as a result of rotational movement of California’s Transverse Ranges tectonic plate. As a result, the Santa Monica Mountains constitute a crustal block that is being thrust upward obliquely to the west along what is commonly referred to as the Raymond Hill – Santa Cruz Island (RH/SCI) fault zone along the northern boundary of which lies the trace of the Malibu coast fault. At least the western part of the Santa Monica mountain block is known to be rising at the present time.

In the vicinity of Big Rock Mesa, the Malibu Coast fault trace is considered to be located perhaps a thousand feet offshore. Seismic activity demonstrates that the RH/SCI fault zone, if not the Malibu Coast fault specifically, is active. The “potentially active” category of periodic fault movement is politically inspired language of the Alquist-Priolo Special Studies Zone. Insufficient data are available to statistically predict the onset of a major seismic event. The dictum of geologist Bailey Willis remains applicable: “the longer it’s been since that last earthquake, the sooner it is to the next.”

2.2 GEOLOGIC FORMATIONS
A geologic formation is defined as any mappable unit of earth material. Consequently, the BRM landslide mass is a geologic formation. As more commonly understood, however, the segment of coastal slope in which the BRM landslide occurs is underlain by a section of reddish thickly-bedded, cliff-forming, resistant
sandstones and conglomerates of the continental Oligocene Sespe Formation which locally, in one small area at the easternmost part of the BRM area, may be in fault contact with a section of the siltstones and finer-grained fine-grained sandstones of its Piuma Member as mapped by Yerkes and Campbell (op. cit.) in its type section along Pauma Road, a few hundred feet east of its intersection with Saddle Perak Road at the crest of the range. Higher in the slope, at Big Rock Mesa, the Sespe is in fault contact with the marine Topanga Canyon Formation and the sandstones and siltstones of the Vaqueros Formation (Yerkes and Campbell, op. cit.).

2.3 LANDSLIDING
A landslide is generally defined as a downward and outward movement of a mass of earth material in response to gravity. Two basic types of landslides are recognized. One is a “shear” failure which fails by sliding along a discrete surface as the result of a loss of shear strength. The other is a “flow” in which failure occurs as a result of a loss of shear strength more or less throughout the mass. Of both, there are recognized sub-types based primarily on the structural character of the mass that has moved and the lithological type of earth material involved.

2.3.1 Shear Landslide Nomenclature
Shear landslide are subdivided primarily according to the shape of the surface along which shearing has occurred and the degree of rupturing that has taken place. A landslide with a distinctly curved basal shear surface is a regarded as “rotational.” If the slide surface is planar, the landslide is referred to as “translational.” However, this nomenclature does not apply to the BRN landslide, the base of which is elongated but distinctly curved. Rather, it has been described as “bowl-
shaped as indicated in geologic cross-sections of both DAE Staff (1986, Pl. 2-3) - and BYA Staff (1992).

The contact of the slide mass farthest from the uppermost contact of the slide mass is referred to as the “toe.” As described by Sowers and Sowers (1961, p. 319) and shown in Figure 2.1, “slope,” “toe,” and “base” failures are distinguished, and for present purposes, such distinctions apply equally well to the BRM landslide mass. Based on data from slope indicators initially installed as part of the DAE investigation, and particularly SI-6, - 7 - 8, it is clear that the BRM landslide is a base failure because the lowest segment of the basal surface is well below sea level. From the lowest point on the basal slide surface, the rise of the basal contact to the surface is quite abrupt and commonly described as “skiing up” by way of analogy to a snow ski.

![Figure 2-1. Types of Circular Arc Failures.](image)

For present purposes, only the manner in which the slide surface meets the ground surface at the slide base is significant (Sowers and Sowers, (1961, p. 319).

### 2.3.2 Landslide Mechanics

The BRM landslide is clearly a shear slide that includes several masses of earlier slide debris which, with the possible exception of one massive debris flow with southeast-movement, also appear to be shear slides. The BRM landslide began with a slight clockwise rotational movement that progressed from its easternmost point near the mouth of Piedra Gorda Canyon upslope to the northwest in succes-
sive movements that incorporated the earlier debris masses. The following observations are most cogent for present purposes.

2.3.2.1 Effective Stress Principle

Almost all landslides of economic significance are due to the presence of ground water. Ground water in a slope acts in either of two ways to cause a slope failure, either by reducing the shear strength or reducing the cohesive strength of the slope material. Ground water acts to reduce shear strength by introducing a buoyant force which reduces the normal stress on a potential surface of shear and hence its resistance to shear force. In materials the shear strength of which is due to a cohesive strength afforded by the attraction of the bi-polar character of the water molecule to the clay lattice, the presence of excessive water causes water molecules to “wander” thereby eliminating the cohesion. Another type of cohesion of course, is that due to chemical precipitants some of which dissolve in water.

2.3.2.2 Progressive Shear Landslide Movement

Contrary to commonly applied slope stability models which assume instantaneous failure along computer-generated surfaces of postulated shear, failure does not occur instantaneously along such surfaces but sequentially. Failure of a slope begins lower in it and translates upward as adjacent section having lost support failure sequentially upward, and although this can occur almost instantaneously, failure would not occur unless failure lower in the slope first occurs. To predict how a failure might occur, actual field conditions must be considered. At Big Rock Mesa, the stability of existing debris mass depends initially on the strength of the section along the slope base below the level of Pacific Coast Highway.

2.3.3 Recent BRM Landslide Movements

When a mass as large and geologically complex as that of the BRM landslide debris moves, internal rupturing is certain to occur. As a result, new stress regimes are established, and the evidence most commonly noticed is the develop-
ment of cracks in pavements and structures. Such features may be the result of movement of the debris mass more of less as a unit along its “primary” or “basal” surface of shear, commonly referred to “creep.” Alternatively, if isolated within relatively small areas, it might reasonably be ascribed to stress redistributions within the debris mass. Such shifting of stress is to be expected as recently fractured materials respond to subsurface changes in ground-water conditions or transient seismic loads. The following observations illustrate the matter.

2.3.3.1 Original Hansch Property

The Hansch property, formerly 20600 Rockcroft Drive and the highest property in the BRM landslide mass, was so extensively damaged in 1983 due primarily to tensional faults that the house was rendered uninhabitable, and the tennis court slab deeply fractured. According to a nearby owner, about 1991, the court was repaired. The original cracks where so wide, the court slab probably was entirely replaced. The new cracks along which the dashed red lines are added have developed, as shown in Photo 2.1, have developed since then and apparently exactly along the traces of the original ruptures. Figure 2-2 indicates the approximate position of these cracks shown in Photo 2.1.

(intentionally left blank)

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10 “Creep” probably first referred to periodic downslope movement associated with a soil section having a clay binder moving downslope slightly in response to excessive moisture causing a reduction in cohesive such as is experienced during the storm season; in the context of landsliding, it appears to involve incremental movement when the safety factor momentarily slightly exceeded at the cessation of which a significant increment of stability redevelops for whatever reason as a positive safety factor redevelops. The distinction is admittedly somewhat esoteric.

11 Kenneth R. Chiate, Esq., pers. comm.
2.3.3.2 Pinnacle Way

A well-defined northeast-trending fault first shown in DAE Staff (1986, Pl. II-2) and confirmed by BYA Staff (1992, Pl. 4-1.2), is indicated in Figure 2-2 where it crosses Pinnacle Way close to the cul-de-sac. Photo 2-2 shows cracks in the pavement of the resurfaced roadway as they now appear directly along the trace of the fault shown in DAE Staff (1986, Pl. II-2) and confirmed by BYA Staff (1992, 4-1.2).
2.3.3.3 Lower Big Rock Drive

Cracks in roadway pavements of Big Rock Drive just southeast of its intersection with Rockport Way are shown Photo 2-3. Those along Big Rock Drive are shown in Photo 2.3 and those in PCH in Photo 2-4 and 2.5. The compound-sealed depression the highway pavement and the cracks indicated by the red dashed lines are directly over the slide contact mapped by DAE Staff (1983, Pl. II-4) and confirmed BYA (Staff, 1992, Fig. 4-1.2). The structure with the light exterior is 20010 PCH. The cracks in the PCH pavement which stem from either side of the depression have not been marked with spray paint because of the traffic at the time. Figure 2-4 shows the locations of both the cracks in Photos 2-3 and 2-4

(intentionally left blank)
Figure 2-4. BYA, 1992, Pl. 4-1.2).
Dashed lines on Big Rock Drive shown in Photo 2-3.
Dashed line on PCH at Photo 2-4. Thrust contact shown in Photo 2-5.

Photo 2-5. PCH at 20010.
Ovate depression shown in Photo 2-4 is dark area opposite power pole, upper left.
View is east in front of 2008 - 20010 PCH. Photo: EDM, 10/12/18

E.D. MICHAEL, Consulting Geologist
edm@malibuonline.com
2.3.4 BRM Landslide Type

The BRM landslide is perhaps best described as a translational base failure (Sec. 2.3.1, Fig. 2.1). Table 2-1 gives the relevant data and Figure 2-5 sketches the contours defining the base of the debris near the slide toe.

Table 2-1. Selected Slope Indicator Data

(1986, Vol. V)

<table>
<thead>
<tr>
<th>SP No.</th>
<th>Site Elev. ft. msl</th>
<th>Offset* Depth ft. msl</th>
<th>Min. Offset in.</th>
<th>Base Elev. ft.</th>
<th>Observation Period</th>
<th>Location</th>
</tr>
</thead>
<tbody>
<tr>
<td>1*</td>
<td>24.9</td>
<td>32.5</td>
<td>2.4</td>
<td>-7.6</td>
<td>11/18/83 - 11/30/83</td>
<td>S side PCH opp. 20054</td>
</tr>
<tr>
<td>3</td>
<td>212.0</td>
<td>200.0</td>
<td>8.0</td>
<td>12.0</td>
<td>11/30/83-01/23/84</td>
<td>E of 20178 Inland Ln.</td>
</tr>
<tr>
<td>5</td>
<td>27.5</td>
<td>77.5</td>
<td>3.9</td>
<td>-50.0</td>
<td>10/29/83 - 12/05/83</td>
<td>N side PCH opp. 20044</td>
</tr>
<tr>
<td>6</td>
<td>27.7</td>
<td>60.0</td>
<td>6.4</td>
<td>-32.3</td>
<td>10/26/83 - 12/05/83</td>
<td>S side PCH opp. 20214</td>
</tr>
<tr>
<td>7</td>
<td>26.1</td>
<td>60.0</td>
<td>4.0</td>
<td>-33.9</td>
<td>10/28/83 - 11/21/83</td>
<td>N side PCH opp. 20314</td>
</tr>
<tr>
<td>8</td>
<td>25.9</td>
<td>89.0</td>
<td>5.0</td>
<td>-63.1</td>
<td>10/03/83 - 12/05/83</td>
<td>N side PCH opp. 20448</td>
</tr>
<tr>
<td>10*</td>
<td>290.0</td>
<td>130.0</td>
<td>1.6</td>
<td>160.0</td>
<td>Start &lt; 04/09/84</td>
<td>E of 20542 Seaboard Rd.</td>
</tr>
<tr>
<td>11</td>
<td>22.0</td>
<td>23.5</td>
<td>1.5</td>
<td>-1.5</td>
<td>04/03/84 - 04/18/85</td>
<td>S side PCH opp. 20120</td>
</tr>
<tr>
<td>12</td>
<td>27.0</td>
<td>55.0</td>
<td>-28.0</td>
<td></td>
<td>01/23/84 - 02/15/84</td>
<td>S side PCH ENE of 20308</td>
</tr>
<tr>
<td>14</td>
<td>29.9</td>
<td>None</td>
<td>-</td>
<td></td>
<td>04/24/84-11/13/85</td>
<td>S side PCH op. 20452</td>
</tr>
<tr>
<td>16*</td>
<td>285.0</td>
<td>327.0</td>
<td>0.8</td>
<td>-42.0</td>
<td>01/17/84-02/15/84</td>
<td>Royal Stone Rd. cul-de-sac</td>
</tr>
<tr>
<td>17</td>
<td>540.0</td>
<td>215.0</td>
<td>4.1</td>
<td>325.0</td>
<td>01/17/84-02/15/84</td>
<td>BR Dr. &amp; LR Wy.</td>
</tr>
<tr>
<td>18</td>
<td>745.0</td>
<td>37.0</td>
<td>9.0</td>
<td>708.0</td>
<td>09/06/83-</td>
<td>Hansch property</td>
</tr>
<tr>
<td>24</td>
<td>370.0</td>
<td>65.0</td>
<td>1.0</td>
<td>305.0</td>
<td>03-13-84-04-18-85</td>
<td>20520 W. Seaboard Rd.</td>
</tr>
<tr>
<td>27A*</td>
<td>26.0</td>
<td>33.0</td>
<td>3.25</td>
<td>-7.0</td>
<td>05/23/84-12/20/85</td>
<td>S side PCH opp. 20214</td>
</tr>
<tr>
<td>28*</td>
<td>278.0</td>
<td>275?</td>
<td>1.0</td>
<td>-2.0</td>
<td>08/29/84-11/14/85</td>
<td>20522 Roca Chica</td>
</tr>
<tr>
<td>29*</td>
<td>22.52</td>
<td>?</td>
<td>?</td>
<td>≤144.5</td>
<td>09/06/84-12/20/85</td>
<td>S side PCH opp. 20356</td>
</tr>
<tr>
<td>30</td>
<td>27.8</td>
<td>?</td>
<td>?</td>
<td>≤132.2</td>
<td>04/04/85-11/20/85</td>
<td>S side PCH opp. 20288</td>
</tr>
<tr>
<td>32*</td>
<td>205</td>
<td>255</td>
<td>0.5</td>
<td>-50.0</td>
<td>05/22/84-01/08/84</td>
<td>20430/20432 Roca Chia Dr.</td>
</tr>
<tr>
<td>33*</td>
<td>230</td>
<td>265</td>
<td>0.5</td>
<td>-35.0</td>
<td>07/25/85-08/07/85</td>
<td>20270 Inland Lane</td>
</tr>
<tr>
<td>34</td>
<td>27.0</td>
<td>60.0</td>
<td>0.5</td>
<td>-33.0</td>
<td>12/13/84-04/24/86</td>
<td>N side PCH NE of 20212</td>
</tr>
</tbody>
</table>

* Notes:

SP-1 - Stable after 05/02/84.
SP-10 - multiple offset above 275-foot depth; site elevation: 312 ft. msl.
SP-16 - bulging above 300-foot depth, but no definite offset; site elevation: 285 ft. msl.
SP-27A - Installed 05/17/84 at which time movement occurring at 30-foot depth; movement continuing from offset at 30-foot depth to 3.25 in. on 04/18/85; new base on 04/25/85; no movement thereafter to 12/29/85. Best evidence of stabilization?
SP-28 - multiple small offsets beginning at 275-foot depth and higher. Movement 9/19 - 9/26, 1984 began between 9/19 and 9/26, 1984 as slight bulge at 275-foot depth, developed multiple below 50-foot depth with 1.0 inch maximum offset at 250-foot depth by 04/17/85; new data base 04/24/85. Thereafter, increasing bulging to surface with 3 or 4 crimps to a total offset of 1.0 inch at surface by 11/14/85. Bulging offset above 305-foot depth to surface increasing to 0.7 in. on 07/23/85 and possibly continuing after that time.
SP-29 - because of offsets and depths in nearby facilities, it is assumed an offset was no recorded because the unit was not installed deeply enough.
SP-30 - see SP-14.
SP-32 - close to stabilization by stabilized on 01/04/85.
SP-33 - bulging from 305-foot depth to 0.5 in. offset at 205-foot depth; crimps at 25 - 75 feet maybe local fill contact shift.

E.D. MICHAEL, Consulting Geologist
edm@malibuonline.com
Despite the generally excellent work of DAE Staff (1986) and BYA Staff (1992) in analyzing the character of the BRM landslide, neither considers ramifications of the fact that the BRM landslide is a base failure as shown initially in the DAE study cross-sections (DAE Staff, 1986 Pl. II-3). The basal surface at the toe of the BRM landslide is well below sea level. From along its syncline-like axis of the curvilinear base, some 100 – 300 feet north of PCH, it “skis up” to the surface generally to “daylight” near the shoreline. As a result, there exists a volume of the debris mass with a base dipping landward.

![Figure 2-5. BRM Landslide Basal Surface Contours. Base: Curtis and Dean (2014, Pl. 2).](image)

According to Peacock (1963, App. I, Pl. 13), the bottom offshore from Big Rock Mesa is quite shallow and fairly regular with a gradient of about 0.04 for the first 1,000 feet or so seaward. Since the bottom is underlain locally be Zuma Volcanics, it is conceivable that offsets of 6 inches or so, or perhaps even more, might recognizable unless covered with bottom sediment.

*   *   *
3.0 LOCAL GROUND WATER REGIMEN

The manner in which ground water occurs in and adjacent to the BRM landslide debris mass area is indirectly indicative of the advent of its instability. Only rudimentary aspects of the ground-water occurrence in the BRM area can be presented here. However, it is important to understand how the presence of ground water could induce additional movement of the BRM landslide mass.

3.1 INITIAL DEWATERING

The total production from wells installed during the period of the DAE study is unknown. By December 31, 1988, six of the original eighteen wells in operation for various periods during that study were still operating. As a rough idea, Table 2-2 shows the total production from the wells still in operation at the time indicated (EDM pers. files).

<table>
<thead>
<tr>
<th>DAE Well No.</th>
<th>Metered Production gal.</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>W-2</td>
<td>6,902,829.3</td>
<td>10/30/88</td>
</tr>
<tr>
<td>W-8</td>
<td>12,717,184.8</td>
<td>12/10/88</td>
</tr>
<tr>
<td>W-13</td>
<td>14,606,308.0</td>
<td>12/10/88</td>
</tr>
<tr>
<td>W-15</td>
<td>9,493,502.7</td>
<td>12/06/88</td>
</tr>
<tr>
<td>W-16</td>
<td>16,032,905.1</td>
<td>12/06/88</td>
</tr>
<tr>
<td>W-17</td>
<td>1,771,641.6</td>
<td>12/06/88</td>
</tr>
<tr>
<td>W-18</td>
<td>13,746,824.1</td>
<td>12/31/88</td>
</tr>
<tr>
<td>Total</td>
<td>75,271,196.0</td>
<td></td>
</tr>
</tbody>
</table>

3.2 RECHARGE

“Recharge,” a term most commonly used to describe the rate at which water is supplied to an aquifer, is also is useful in considering dewatering. The recognized sources of recharge to groundwater storage in the vicinity of the BRM area are rain, septic systems, and irrigation. Whether any is received from whatever saturated zone may exist upslope is uncertain. However, it seems highly unlikely that there has been a sufficient development of fault gouge along the basal surface as to render it impermeable and hence a barrier to subsurface inflow from upslope.

E.D. MICHAEL, Consulting Geologist
edm@malibuonline.com
So far as is known, the Waterworks District No 29 master water meter at the intersection of Big Rock Drive and Rockport Way records the total imported volume for the BRM area. During July, 2011- June, 2017, as reported by (Fugro), the average daily use ranged from 141,500 - 190,000 gallons. From such data, use in the lower BRM area can be roughly estimated based on the number of served individuals there compared to the total of those in the entire BRM area. Far more preferable, however, is direct recorded use in the lower area determined from monthly water company billing records, samples of which can be provided without concern for invasion of privacy. Recharge is then a function of per capita use and vegetative consumptive use determinations.

3.2.1 Infiltrated Rain

The extent to which rain directly recharges the saturated zone is particularly important. Aside from streets and other paved areas, the control of roof runoff is an efficient way to reduce rain infiltration. According to BYA Staff (1992, Fig. 6-1.1) about half of the BRM area had houses with eave gutters and downspouts presumably thereby enabling collection and safe disposal of a substantial volume of rain runoff for disposal in street gutters. Whether any correction of this condition has ever been undertaken is uncertain. In any event, even casual examination indicates that some houses have gutters and downspouts that simply feed to yard areas.

3.2.2 Domestic Use

Among the data provided by David Tausig and Associates Inc. is the list of assessed properties given in terms of their Tax Assessor parcel numbers. Based on County Tax Assessor parcel maps, AD 98-1 includes 326 assessed units, of which 89 are situated along Pacific Coast Highway. Consequently, 237 units, all of which accept those of the Promises establishment, are presumed to be single-family residences. Simply counting from available maps indicates that there are
104 residences in the lower BRM area. Some residences may not be occupied or are occupied only occasionally, and there are no data by which the number of individuals actually served can be closely approximated. However, for present purposes, simply an estimated range of individuals per unit and daily per capita consumption should suffice to present a fairly representative exposition of current conditions.

3.2.2 Household Use

Almost all household water use becomes septic-system recharge. The serious nature concerning this type of recharge is well illustrated by repeated reference in BYA Staff (1992) - especially Section 9.2.2.2, but also elsewhere in the section 9.0 to a “sewage collector system,” meaning a public sewer, and by implication, the only means to permanently stabilize the BRM landslide. Sewer systems not being a shelf item, however, a consumptive use determination for the lower BRM area is highly desirable.

A brief tour of the web suggests that a reasonable range of urban residential area domestic use should be about 80 - 100 gallons per capita per day (gpcd). One authority indicates that for California the average is 125 gallons per capita per day (gpcd). To play this game, assuming the average number of individuals per residence in the range of 1.75 - 3.25, and ignoring the Promises multi-use occupancy, the total number of individuals served in the lower BRM area should be in the range of 182 - 390. Consequently, the total daily usage should be in the range of 14,560 - 33,800 gallons. Similarly, for the entire BRM area, assuming 237 units and ignoring the multi-use unit, the total domestic daily usage should be in the range of 33,180 - 77,025 gallons. To a first approximation then, these volumes should be the daily domestic recharge to the saturated zone.

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12 Vegetation consumptive use is the amount of water a species utilizes for evaporation and transpiration for healthy growth dependent on the species physiochemical character and climatic conditions.
3.2.3 Irrigation Through-flow

One is struck by the lush character of vegetation throughout much of the BRM area. However, although aesthetically admirable, it is a clear signal that over-irrigation is practiced. It is inconceivable that the exact amount of water is being applied to meet the consumptive uses the various species demand, and therefore it is practically certain that over-irrigation is practiced throughout the area.

Through the processes of transpiration and evaporation, vegetation removes ground water at a fixed rate depending on the species, temperature, and certain other climatic variables. This rate is referred to as the “consumptive use.” Aside from that retained as pellicular water, application of water in excess of the consumptive use “percolates” downward to the saturated zone.13 Of the slide debris mass in the lower BRM area, depending on lithologic and structural conditions - including whether or not the basal slide surface is permeable – ground water produces certain specific mechanical effects. Modeling these effects to determine if instability is induced is quite straightforward in theory.

Because of seasonal variations, monthly consumptive use determinations for the various lower-BRM area species are especially desirable. As a point of departure, an indirect method for estimating consumptive use such as that of Blaney and Criddle (1962) could conveniently be utilized essentially as a means to consider the dimensions of the study required. Beyond that, experimentation using lysimeters, wilting coefficient observations, and similar approaches by specialists would be required.

In any event, the problem of the excessive use of water in the lower BRM area needs careful analysis. As an example, a water bill for one residence in the lower BRM area having two adult occupants, forever nameless, and relatively little

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13 The “saturated zone” is the volume of the subsurface that yields ground water to wells or springs under the influence of gravity.
vegetation, indicated a use of 675 gallons per day. Such data suggest the need for shorter showers and other draconian measures to curtail excessive use is probably common, if not rampant, throughout the BRM area.

3.2.4 Subsurface Inflow

Whether there is subsurface inflow, *i.e.*, ground water entering the debris mass from higher in the mountain slope, is uncertain. Three possibilities exist assuming an equilibrium ground-water level upslope, *i.e.*, north, of mass: [i] the base of the mass is permeable in which case ground-water recharge to it is increased, possibly significantly over that of rain infiltration and imported water recharge; [ii] the basal contact is locally permeable in which case ground-water inflow from higher in the mountain slope is limited to some extent but nevertheless mechanically adverse and possibly significantly so; [iii] the base of the debris mass is essentially impermeable in which case, subsurface inflow is negligible, but the condition nevertheless also mechanically adverse. In a word, ground-water inflow from the adjacent mountain mass can be dangerous and therefore highly desirable to quantify.

A hydrologic balance type of analysis to determine a ground-water “budget” or “balance” of total inflow and outflow may be estimated, but to be useful it requires a reasonably accurate estimate of sub-surface inflow is necessary.

3.3 SEA-WATER INTRUSION

Along ocean coasts such as that of Malibu, sea water intrudes inland as a more or less distinct zone underlying less saline “fresh” terrestrial ground water. Because of the limited rate of ground-water flow in permeable materials generally, the sea water does not readily diffuse with the less saline terrestrial ground water. However, there is no question that sea-water intrusion occurs along the BRM shore may diffuse to some extent within the lowest section of slide debris the toe of which, as
indicated, has the configuration of a base failure. To confirm this diffusion is quite a simple matter.

Using an electric probe, sounding in one of the slope indicators along the south side of the highway will first produce a signal when reaching the saturated zone. Continued lowering the probe perhaps about 10 - 15 feet will result in a marked increase in current flow, as indicated by the probe ammeter, because of the higher electrical conductivity of the more saline water in the zone of diffusion.14

3.3.1 Ghijben-Herzberg Static Model

Working separately, two researchers, W. Badon Ghijben and Baurat Herzberg, during the last decade of the 19th Century in northern Europe, published papers reporting that along oceanic shorelines less saline, or “fresh” terrestrial ground water at depth below sea level does not readily mix with more saline ocean ground water. The Ghijben-Herzberg model postulates static conditions having distinct surface, or “interface,” separating saline water from fresh saline water. Under such a condition, and postulating saline water with a density 1.025 that of fresh water, at any vertical section inland, the ratio of the height of the fresh water column above sea level to the height of the fresh water column – say in a well - between the interface and sea level is 1:40.

In other words, at a point inland of the shoreline at sea level, the depth to the interface from sea level is forty times the distance of the fresh water column there above sea level. For example, a measurement of the ground water level at some point inland 0 feet above mean sea level would indicate a depth to the interface from sea level at that location of 400 feet. This follows from the fact that under the

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14 A laboratory test of the probe ammeter prior to such observations is advisable in order to observe the response of the ammeter to the degree of laboratory saline mixtures using common table salt. For some probes a more sensitive ammeter may be required.

E.D. MICHAEL, Consulting Geologist
edm@malibuonline.com
conditions postulated at any point on the interface, the pressure due to the sea water is equal to the pressure due to the fresh water.

### 3.3.2 Diffusion Zone

Cooper (1964) has shown the extent to which such saline diffusion can develop along the interface. In certain circumstances, that zone of diffusion is so narrow as to be regarded, effectively as an “interface.” Assuming densities of 1.00 and 1.025 for the terrestrial and ocean waters, respectively, and static conditions, the Ghijben-Herzberg relation is exact. Actually however, diffusion develops and results in a zone that is gradually less saline upward. For a free ground-water surface in the direction normal to the shoreline, the interface slopes downward generally as shown in Figure 3-1.

![Figure 3-1 Generalized Sea-water Intrusion Diagram (Cooper, 1964, p. C-3)](image)

### 3.3.3 Hubbert Dynamic Model

Hubbert (1940, pp. 924-926) has noted that because of the flow of the fresh terrestrial ground water seaward along the interface in response to hydraulic head of the fresh water above sea level, the position of equipotential flow lines are normal to the flow direction and as a result, the interface is somewhat deeper at a given point than that indicated by the Ghijben-Herzberg relation. More to the point for present
purposes, however, as a result of the fresh-water flow upward and seaward along the interface, near the shore it is forced to mix directly with the ocean water through a narrow gap between the ocean surface and where the interface meets the ocean bottom. In terms of dewatering, the effect of such a constructing gap is important to consider because it limits subsurface outflow.

As shown in Figure 3-2, Glover (1964) has demonstrated theoretically that the width of the ocean bottom along the shore through which the fresh water above the interface escapes to mix with the ocean water is a function of the total fresh-water flow, the excess of sea water density over than of the fresh water, and the permeability of the materials through which the flow is occurring. Moreover, he states (op. cit., p. C35):

“In times of drought, the fresh-water body is conserved because the seaward flow is diminished. Thus, once established, the fresh does not quickly waste away.”

Figure 3-2. Model Coastal Fresh-water Outflow.
In addition to the manner in which subsurface outflow is limited as the result of sea-water intrusion, the effect of the tidal cycle also is significant. According to de Sieyes, et al. (2008, p. 1441) regarding tests conducted at Stinson Beach, California, the effects of the tidal cycle on fresh-water outflow from a coastal aquifer, it was determined that the rate of outflow during spring tides is much greater than during neap tides. For spring tides, the fresh-water outflow rate in liters per minute per meter of shore line was in the range of 0.1 - 0.5, and 1.2 - 4.7 during neap tides.

Whatever rate of outflow may be determined then, in considering the effect of sea-water intrusion and averaging all the data, they suggest that half the time the outflow rate is about twelve percent of what it is during the other half of the time. Clearly, such data are not directly applicable to shorelines generally nor to that along the BRN shore, nevertheless, whatever analysis might be undertaken to estimate the manner in which outflow from the BRM landslide debris mass is affected by sea-water intrusion, the tidal effect may be significant.

*   *   *
PART II - BRM RESIDENTIAL IMPROVEMENT

Structures deteriorate with time, and the need to remodel or rehabilitate in some way is to be expected. It is useful to distinguish between two kinds of such residential improvement: [i] house “remodeling” that does not significantly enlarge the existing structure nor increase the number of occupants - normally a “family” – however, statistically and politically determined; and [ii] “redevelopment” that would significantly changes the design of the original structure, or replaces it with a new one, designed to house substantially more individuals than anticipated in the original planning analysis.

Under normal conditions in urban flatlands served by a public sewer system, family size is strictly a politico-sociological subject, but in hillside areas served by septic system, the paramount question is primarily slope safety – initially a matter of mechanics to be considered by departments of building and safety, and secondarily a matter of sociology to be considered by departments of planning.

4.0 BRM WATER-NEUTRAL USE PRINCIPLE

The continued stability of the BRM landslide involves a sort of water-neutral principle, meaning that the use of water must be balanced with its adverse effects. The problem of the BRM landslide has not been “solved” in the sense of permanently stabilizing it under foreseeable circumstances. It developed because of the effect of too much ground water. Emergency dewatering accompanying the DAE study stopped the movement simply by increasing the rate of ground water outflow so that even with inflow a safety factor perhaps 1.2 developed. As part of the BYA study, several additional dewatering wells and hydroaugers were added to the system with the overall result justifying the conclusion that so long as dewatering removed a certain fraction of the ground water received, a safety factor 1.25 could be maintained and perhaps increased to as much as 1.4 (BYA Staff, 1992, Table 7-1).
4.1 CURRENT BRM AREA WATER USE

The Evans report (DAE Staff, 1986, Table III-f) gives water importation data for the period of June 20, 1984 - August 29, 1985, as recorded from the BRM Waterworks District No. 29 master water meter. A comparison of those data with master meter observations for the same most recent period indicates that usage currently is about 170 percent of that in used in the three-month period after the BRM landslide was considered to have stabilized sometime between February 15 and March 24, 1984 slightly less than a year after its movement was officially announced.

4.2 CREEPING MANSIONIZATION

“Mansionization,” a term arising from certain practices on the nation’s eastern seaboard, originally referred to the practice of maximizing living space at the expense of other desirable property attributes by erecting homes as large as local planning and zoning codes allow. The City of Los Angeles now officially recognizes mansionization as an element of planning.

Whether redevelopment of the mansionization type, permitted or not, or even officially recognized in the BRM area, is uncertain. But aside from issues of diminished privacy, increased traffic and noise, and loss of a generally desirable neighborhood ambience - all hallmarks of mansionization - there remains the issue peculiar to the BRM area concerning the increased water importation and therefore the increased ground-water recharge that accompanies it.

As I understand matters, mansionization in Malibu is unofficial and not widely recognized if considered at all. Nevertheless, insofar as the BRM area is concerned, it appears to have been in operation, effectively, since about 1995. There, where the original development of Tracts 26263 and 27463 generally involved single-family residences having floor areas between about 1,500 - 2,500 square feet, two or three bedrooms, and 1-½ or 2-½ bathrooms, these criteria no longer apply.
Arbitrarily, for purposes of illustration only - defining redevelopment involving a total floor area of 3,000 square feet or more as potentially one of mansionization - results for the BRM area in the data shown in Table 4-1. Entries highlighted in gray are deemed to apply to the period when knowledge of the BRM landslide was reasonably attributable to City officials.

Such increases in redevelopment suggests that it has been simply inferred that the existence of AD 98-1 has eliminated further concern for BRM landslide reactivation, and therefore the implied increased water usage is not a matter of concern. The issuance of redevelopment permits as well as management of AD 98-1 are both, obviously, the responsibility of the City. However, without knowing more, those City principles concerning redevelopment and those concerning administration of AD 98-1 appear to have been functioning at cross-purposes for the past twenty years or so.

It is to be noted that the “Latest Record Date” of Table 4-1 may not be indicative of true conditions. As elsewhere, bootlegging\(^1\) is not unknown in Malibu. Perhaps more to the point, mere room labeling on plans is not necessarily indicative of the number of bedrooms that actually will be utilized as such, nor is the number of fixtures indicative of the number of individuals that will use them.

With due respect for the City’s awareness of environmental problems both generally and locally, the threshold issue that mansionization in the BRM area would seem to suggest for the City attorney to consider is whether its environmental impact on slope stability is such as to bring it within the ambit of the California Environmental Quality Act in terms of the cumulative risk it presents to the questionably safe conditions existing there at the present time.

\(^1\) Development activities requiring conformance to a code standard with permit.
Table 4-1. Postulated BRM Mansionization
(Source: Los Angeles County Tax Assessor records.)

<table>
<thead>
<tr>
<th>Floor Area sq. ft.</th>
<th>Bed / Bath Ratio</th>
<th>Latest Record Date*</th>
</tr>
</thead>
<tbody>
<tr>
<td>3088</td>
<td>3/3</td>
<td>1998</td>
</tr>
<tr>
<td>3109</td>
<td>3/3</td>
<td>1995</td>
</tr>
<tr>
<td>3234</td>
<td>3/3</td>
<td>1965</td>
</tr>
<tr>
<td>3273</td>
<td>3/4</td>
<td>1995</td>
</tr>
<tr>
<td>3278</td>
<td>3/3</td>
<td>2000</td>
</tr>
<tr>
<td>3323</td>
<td>3/3</td>
<td>1996</td>
</tr>
<tr>
<td>3425</td>
<td>4/3</td>
<td>1969</td>
</tr>
<tr>
<td>3434</td>
<td>3/3</td>
<td>1965</td>
</tr>
<tr>
<td>3464</td>
<td>3/2</td>
<td>1997</td>
</tr>
<tr>
<td>3619</td>
<td>5/7</td>
<td>2001</td>
</tr>
<tr>
<td>3906</td>
<td>4/4</td>
<td>1979</td>
</tr>
<tr>
<td>4000</td>
<td>4/3</td>
<td>1980</td>
</tr>
<tr>
<td>4070</td>
<td>4/3</td>
<td>1996</td>
</tr>
<tr>
<td>4271</td>
<td>7/3</td>
<td>1978</td>
</tr>
<tr>
<td>4358</td>
<td>4/5</td>
<td>1996</td>
</tr>
<tr>
<td>4444</td>
<td>5/4</td>
<td>1995</td>
</tr>
<tr>
<td>4735</td>
<td>3/2</td>
<td>1985</td>
</tr>
<tr>
<td>4845</td>
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<td>1997</td>
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<tr>
<td>5071</td>
<td>4/4</td>
<td>2001</td>
</tr>
<tr>
<td>5506</td>
<td>3/4</td>
<td>1978</td>
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<tr>
<td>6079</td>
<td>4/5</td>
<td>1996</td>
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<tr>
<td>6143</td>
<td>5/7</td>
<td>2001</td>
</tr>
<tr>
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<td>5/7</td>
<td>2001</td>
</tr>
<tr>
<td>7198</td>
<td>6/7</td>
<td>2002</td>
</tr>
</tbody>
</table>

* Dates are questionable. Whether routine assessment considers dates of improvement is uncertain but seems unlikely.

4.3 ILLUSTRATIVE PROBLEM - LOT 8, TRACT 26263
Lot 8 of Tract 26263 located at 20238 Piedra Chica Road presents a particularly complex example of implementing the water-neutral principle for the BRM area. Within a few years after build-out in the lower BRM area, rising ground-water lev-
els began interfering with some seepage pits and causing seepage in the sea cliff slope below Inland Lane *cul-de-sac*. Similarly, a complaint of seepage from the 15-foot high slope in the rear of Lot 2, Tract 26263, 20239 Inland Lane, directly below Lot 8, led MMDC to hire Lamar-Merifield, Geologist and Geophysicists to examine the local area. In discussing the resulting report by Dr. Paul Merifield, Schloss (1972) noted that MMDC had voted to obtain legal counsel as to whether MMDC “… should undertake actions to cure the perched water table resulting primarily from seepage pits.”

**4.3.1 Lot 8 Ground-water Occurrence**

It is unclear whether as early as 1972, it had been determined that seepage pit-disposal specifically had been found insufficient for the residential development of Lot 8. Probably late in February or early March, 1973, MMDC hired Lockwood & Singh to investigate ground-water conditions in that lot. Geologist Bruce Lockwood consulted with Merifield and then undertook to the test the site for permeability. In a report dated March 7, 1973, Lockwood discussed two test borings. Boring 1 (B-1) was located in Lot 8 close to its common boundary with Lot 2, and Boring 2 (B-2) was located near the Lot 8 northern corner. Apparently, a rotary-wash drilling rig was used suggesting a boring diameter of a foot or so.

Unfortunately, Lockwood’s description of his testing is somewhat ambiguous, and only two pages of his report have been found. The “initial” depth to water in B-1 after reaching a depth of 60 feet was 30 feet and therefore about 15 feet lower than the base of the slope in adjacent Lot 2. Twenty days later, it had risen to a depth of about 29 feet. Two days after that, the level had not changed indicating a condition of equilibrium\(^2\) probably had been reached.

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\(^2\) Equilibrium here refers to either a static condition or a dynamic condition in which the flow at particular point along a flow path is constant.
After the lapse of an uncertain period, B-2 was drilled. The “initial” depth to water in B-2 was 30 feet twenty days after drilling. The boring was then bailed “by hand” for about three hours at which time the water level was at a depth of about 35 feet. Two days later, it had risen to a depth of 25 feet, which Lockwood attributed to the flushing of drilling mud from the boring wall.

Although certain variables are not addressed, these results from two such closely spaced boring are perhaps best explained as due to differing formation conditions such as effective hydraulic conductivity, fracturing, porosity, and specific yield. The question these data present is whether they are in any way relevant to conditions reported in Lot 2 immediately adjacent to the southeast.

According to Merifield (1973a), Mrs. Muth of Lot 2, 20239 Inland Lane, asserted that prior to July 9, 1973, “…(S)eepage has been essentially constant for the past year…” apparently near the base of the slope in the rear yard of that property. Since the elevation of the slope base there is about 15 higher than the 30-foot levels reported by Lockwood, the inconsistency of these data is obvious. They appear to demonstrate a lack of hydraulic continuity between the seepage-yielding section in Lot 2 and the demonstrated equilibrium depth of 29-30 feet in Lot 8.

Furthermore, as noted by Merifield (op. cit.), a pump test performed probably in B-2 of Lot 8 three months after the Lockwood tests produced a “static” level of 26.3 feet, consistent with Lockwood’s observations.

**4.3.2 Perched Ground-water**

To account for all this, it is first to be noted that two historically high-intensity storms occurred over much of southern California during the period of January 18 - 26, 1969 causing extensive damage and record runoffs. The total rain depth along the Malibu coast was in the range of about 11.5 - 12.5 inches (Brown, et al., 1969, Table 2). Probably due simply to orographic lifting, approximately a total depth of
14.2 inches during those storms was recorded for the BRM area as reported most recently by Thornhill and Berry (2018, Pl. 3).

As a result, rain infiltration would have induced higher ground-water levels throughout the local area as well as the perched or semi-perched conditions certain to exist at the bases of the fill masses along Piedra Chica Road. The record therefore suggests that depending on local conditions, ground water flowing into the Lot 8 fill was at a greater rate than the underlying fractured slide mass could transmit, thus developing a semi-perched zone in a basal section of the fill. As a result, perched ground water flowed along the base of the fill into Lot 2 where it emerged at the unconformable trace of the fill-slide debris contact - in some quarters referred to as the “daylight line” - exposed in the Lot 2 rear yard slope consistent with Merrifield’s interpretation.

To argue that because of its fractured character, no perched condition should develop along the fill/slide mass contact in Lot 8 is without technical merit. The boring in Lot 8 would not have detected the perched zone, but rather drilled through it with no indication of its presence. In any event, nothing more than speculation can be offered regarding the permeability of the slide mass which must have a very low effective hydraulic conductivity, testing for which would be meaningless.3

As a consequence, there is no way short of direct testing to predict the extent to which ground water resulting from on-site waste-water Treatment system (OWTS) effluent spreading in Lot 8 will specifically affect conditions in Lot 2, or other nearby lots. The evidence simply demonstrates that seepage observed in Lot 2 must have its source in Lot 8 and since in 1973 such seepage occurred while the saturated zone locally was some 10-15 feet below the elevation of the slope base in

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3 The entire basis of ground-water movement analysis in response to pumping is predicated on the Theis (1935) formula which does not apply to bedrock aquifers.

E.D. MICHAEL, Consulting Geologist
edm@malibuonline.com
Lot 2, the source of that seepage such must be a perched zone in Lot 8 as originally asserted by Merifield (op. cit.) at the time.

4.4 REDEVELOPMENT - 20238 PIEDRA CHICA ROAD

The currently proposed redevelopment of 20238 Piedra Chica Road - initially Lot 9 of Tract 26263 and now joined with Lot 8 - arguably constitutes mansionization as defined herein. As such, its hydrologic character vis-à-vis that of the BRM landslide mass is relevant to: [i] City concerns in terms of its managerial responsibility regarding AD 98-1, and [ii] its effect regarding local conditions with reference to the City’s general concern about on-site waste-water treatment systems (OWTS) as most recently expressed in the “City of Malibu Onsite Wastewater Treatment Systems Manual” of July 23, 2018. These aspects of the matter, as well as the fact that the immediately available record, however incomplete, indicates that an OWTS was installed in Lot 8 in 2006 and another of larger capacity is now under consideration, all emphasize the relevancy concerning the BRM water-neutral principle.

4.4.1 Lot 8 Geologic Formations and Grading

It is generally agreed that Lot 8 as well as those adjacent are underlain at shallow depths by a thick section of slide debris derived from the Sespe and Topanga Canyon formations. Furthermore, considering the successively higher slide scarps relating to slide movements thousands of years ago, fracturing in the debris mass must be extensive. Overlying the mass of slide debris is artificial fill placed as part of the original tract grading. The extent of the fill in the vicinity of Lot 8 is shown by a comparison of in Photos 4-1 and 4-2.

Grading along Piedra Chica Road - particularly that in Lots 6, 7, 14, and 15 – took advantage of the slight slope below Big Rock Drive to raise building sites and step them downward to afford southerly views. Like others there, Lot 8 was graded by placing a compacted mass of fill over a surface that probably had been
prepared at most by removal of vegetation and perhaps a thin section of soil. Photo 4-1 shows the vicinity of Inland Lane and Piedra Chica Road as it appeared about 1958, and Photo 4-2 shows the essentially completed grading not long after which house construction began. From a comparison of the two, it is clear that building sites along Piedra Chica Road are underlain by fill sections up to about 20 feet thick based scaling using the observations by Kowalewsky and Taso (2005) that the thickness in Lot 8 is about 9 feet.

Photo 4-1. Lower BRM Area ca. 1958
Photo: undetermined

With regard to the site itself, because “… poor quality earth materials were encountered in the upper 9 feet of the upper pad …” (op. cit., p. 6) by which apparently is meant the original Lot 8 fill, a proposed new structure was to utilize foundations extended through the fill into underlying slide debris. Figure 4-1 suggests, generally, the character of the fill installed along Piedra Chica Road.

Although comments by Kowalewsky and Tsao (op.cit. p. 5) to wit:

“…Due to the quality of these materials it is unlikely that they represent earth fill placed during site grading, however, the quality of the earth materials appeared to become significantly better below an approximate depth of 9 feet where
firm dark gray soils were encountered consisting of pebbles in a clayey matrix
....”
are perfectly justified in terms of modern grading practice, such was not the case in
the early 1960s when this fill was placed. As is shown by a comparison of Photos
II-1 and II-2, the building sites along Piedra Chica Road are well above the surface
prior to grading. Consequently, the configurations shown in Photo 4-2 can only be
due to the placement of fill.

4.4.2 Spoliansky Redevelopment
Whether the data developed either by Lockwood, or Merifield were
sufficient to discourage others in attempting to develop Lot 8 is uncertain. But in
any event, as title passed in the following thirty years or so, it is understood the an-
nual district assessments were paid. It probably was in 2005, or a few years be-
fore, that Lots 8 and 9 were joined as a single property having the 20238 address.
The record suggests that beginning November, 2005, an effort was begun to rede-
velop 20238 by the owner at that time, Gustavo Spoliansky. This involved demol-
ishing the existing garage and adding a 685-square foot addition in Lot 8 adjacent
to the northeastern side of the Lot 9 house, and also utilizing part of Lot 8 for an
OWTS disposal area.

4.4.2.1 Geotechnical Investigation
A report by and Kowalewsky and Tsao (op. cit.) in support of the Spoliansky rede-
development offers data relevant to foundation and retaining wall designs, and seis-
mic risk. They also briefly discuss certain aspects of the BRM landslide and essen-
tially adopt the findings the BYA Staff (1992) that - aside from an especially high
magnitude earthquake - so long as an adequate dewatering system is maintained,
the BRM landslide debris mass should remain stable or at most be subjected to mi-
nor creep movement.

The geologic map and cross-sections accompanying that report are not in-
cluded in the record obtained from the City Planning Department. However, as an
added submission, Kowalewsky (2005) presents sketched sections though Lot 8. The differing descriptions of the surficial materials in these the latter two reports are somewhat difficult to rationalize. Kowalewky and Tsao \( (op. \ cit., \ p. \ 5) \) indicate that the “quality” of the surficial materials becomes “… significantly better below an approximate depth of 9 feet …,” whereas the geologic sections Kowalewsky \( (op. \ cit., \ Plate \ 2) \) show about two feet of fill over “loose landslide debris” in turn overlying “firm slide debris.” The “significantly better material” to which he refers is pre-historic slide debris excavated as part of grading for the tract obtained from elsewhere in the local area.

However, as indicated by comparing Photos 4-1 and 4-2, the overlying 9-foot section in Lot 8 has certainly been placed as fill however inappropriate its texture according to modern grading code standards. Referring again to Kowalewsky and Tsao \( (ibid.) \) the section in Lot 8 is best regarded lithologically as 3.5 feet of compacted “moderately dense” blanket fill\(^4\), placed over poorly compacted fill that includes “… loose boulders and cobbles in a clayey sand matrix …” that was “… found to be wet …below 7 feet.” From this, it is clear that this boulder material is reworked slide debris and the wet section was due to semi-perched ground water over a section of slide debris of locally relatively low permeability.

Furthermore, it seems likely from Figure 4-1 that grading for Tract 26263 in the vicinity of Piedra Chica Road involved placing fill over a thin section of pebbly soil that had been part of the surface soil prior to grading. It is to be noted that since the height of the slope in the rear yard of adjacent Lot 2 is about 15 feet, the base of the section shown in Figure 4-1 is about 6 feet above the surface of the Lot 2 rear yard.

In a City Geotechnical Review Sheet, rather the same view of BRM land-

\(^4\) “Blanket fill” is fill the contractor places over the relatively rough graded surface of an underlying section of fill to provide for landscaping, playing areas, driveways, walkways, and similar uses requiring a level surface.

E.D. MICHAEL, Consulting Geologist
edm@malibuonline.com
slide stability was expressed by Dean and Doyel (2005, p. 2) who, as a condition of Building Plan-Check approval, required simply: [i] that any existing evidence of distress in the property that would require special mitigation measures must be addressed, and [ii] assurance that the proposed redevelopment would not involve “enlargement” of the existing OWTS system which is “NOT permitted.”

![Figure 4-1. Graphic Trench Logs, Lot 8 (Kowalewski and Tsao (2005))](image)

It seems fair to say that in the absence of any practical way to directly investigate the stability of the BRM landslide debris mass, the City, like that of the County before it, has adopted a policy allowing continued occupancy and redevelopment in reliance, generally, on the findings of BYA Staff (1992, p. 7-9, Tables 7-1, 7-2) to wit:

“… The prevailing safety factor of the primary slide surface of the main BRM landslide is 1.25. The factor of safety will decrease if ground water levels are allowed to due to in part or all of the existing dewatering system becoming inoperative, or increased recharge as a result of successive wet years or increases in irrigation/sewage infiltration …. ”

with the expectation that the dewatering system will be maintained.

E.D. MICHAEL, Consulting Geologist
edm@malibuonline.com
4.4.2.2 OWTS System Installation

Slutske (2006) conducted an investigation to determine the suitability of the “upper pad area” of Lot 8 for the disposal of effluent from an OWTS facility. From six test trenches (op. cit., 3rd and 4th unnumbered pages) reasonably well located so as to assume typical conditions, the two least permeable samples were submitted to Liston and Katibah (2006) for grain size analysis. The samples were determined to be Soil Type II of the Unified Soil Classification System and hence rated “GOOD” with an assigned soils absorption capacity of 4 gallons per square foot per day.

Apparently, a drain field of so far undetermined dimensions was installed and according to Kowalewsky and Cai (2017, p. 5) now receives effluent from a MicroSepTec Model E-6 tertiary treatment tank with a capacity of 600 gallons per day (gpd) as recommended (op. cit., 2nd unnumbered page). Presumably, as shown in Sakahara - Allen plans (Allen, 2018, Sheet 2), the E-6 unit is installed in the 20238 driveway and connected to the Slutske (op. cit.) drain field in Lot 8 by lines running along the northwestern side of Lot 9.

4.4.3 Akbar-Navabi Redevelopment Proposal

Following installation of the spreading system in Lot 8, a period of some twelve years elapsed before additional redevelopment of 20238 was proposed by the Akbar/Navabi interests. According to Sakahara - Allen Architects (op. cit., Sheet A0.0), the redeveloped 20238 floor area would be increased thirty seven percent - from 3,078 to 4,223 square feet, by adding a separate structure at approximately the same location as that shown in the Spoliansky plan. Although the Sakahara – Allen plans supplied may not be complete, it is understood that there would be no increase in the number of bedrooms or fixtures. Further, from Sheet 2 (op. cit.), the location of the Model E-6 - left unclear from the data supplied for the Spoliansky effort - is in the 20238 driveway.
4.4.3.1 Geology

In support of the currently proposed redevelopment of 20238 Piedra Chica Road, Kowalewsky and Cai (2017) expand somewhat on the discussion of seismic conditions by Kowalewsky and Tsao (2005). Generally, they simply accept the tentative findings by BYA Staff (*ibid.*), asserting that,

“…(A)lthough minor creep rate movement is occurring, that was anticipated in the Bing Yen report. In spite of the creep rate movement, Bing Yen calculated that east mesa to have a safety factor of 1.2”

It is to be noted that during this investigation, Lot 2 was up for sale and unoccupied, and the grounds are physically well secured against casual entry. Therefore, the condition of the rear yard slope with regard to seepage has not been observed as part of this review.

4.4.3.2 Lot 8 OWTS Redesign

Although the Spoliansky redevelopment was never accomplished, the OWTS system that was to serve it was installed and has been in use for the past 12 years. The currently proposed redevelopment, although similar to that considered by Spoliansky, also specifically indicates that the number of bedrooms and fixtures will not be increased. Nevertheless, a substantial part of the redevelopment now being considered by the Navabi-Akbar interests is that of increasing the capacity of the existing OWTS.

Apparently in anticipation, GeoConcepts, Inc. was asked by the Navabi-Akbar interests to retest Lot 8 for infiltration capacity. In a report by Barratt and Walter (2017) he recommendation for a more sophisticated percolation test system was based on a “squirt height” method to support a more efficient use of drain field area using pressurized laterals. Whether the results are the basis for recommending connection to the Slutske laterals or replacing them is unclear. Most relevant for present purposes, Barrett and Walter found no ground water to a depth of six feet
and are of the opinion seasonal high ground water would not adversely affect the proposed dispersal field (op. cit., p. 3). Further, (op.cit., p. 5) based upon their subsurface data, they state:

“… the proposed anticipated effluent from the proposed subsurface drip areas will not cause instability to the site and will be safe from landslide, settlement or slipping, and will not adversely affect adjacent property provided this corporation’s recommendations and those of the City of Malibu and Uniform Building Code are followed and maintained.”

Based on the data the foregoing data, as well as the Sakahara-Allen plans, Nabavi-Akbar requested ENSITU Engineering to review the 20238 OWTS. In response, Yaroslaski (2017) prepared a detailed report clarifying the anticipated usage for both a design capacity for three bedrooms and 55 fixture units and four bedrooms and a maximum capacity of 60 fixture units. In supplemental data sheets dated August 9, 2017, 3,775 square feet of subsurface drip dispersal and a design capacity of 2,502 gpd were determined to be appropriate (op. cit. p. 4) all keyed to Sakahara – Allen plan Sheet A2.1 dated July 26, 2017. Accordingly, the existing MicroSepTec ES6 unit was deemed suitable (Yaroslaski (2017, p. 6; attached Design Summary Table, August 9, 2017 data sheet). However, for reasons not appearing in the record so far reviewed, Yaroslaski (2018) later expressed concern that the existing MicroSepTec E06 might not have an adequate tank size and therefore might require replacement. In the following discussion, reference to Photo 4-3 may be found helpful.

**4.4.4 OWTS Analysis Limitation**

The entire analysis regarding the existing and proposed OWTS for 20238 so far reviewed, while adequate in a site-specific sense, does not address the fundamental problem presented by Lot 8, that of a perched condition which unquestionably limits the extent to which it may be useful for spreading OWTS effluent without either ground-water “mounding” or otherwise flowing in response to the gradient gener-
ally southeast form Lot 2. It is fair to say that although the most direct recharge to
the fill in which the entire spreading system in Lot 8 is from Lot 9, a certain
amount also move into Lot 8 from Lot 7 and conceivably also from beneath Piedra
Chica Road.

![Photo 4-3. Vicinity of Akbar/Nabavi Property, Tract 26263](image)

A - Footprint of proposed addition; P - patio; OS - original septic system. Lot 2,
and parts of Lots 1 and 3 are as estimated 12 -20 feet lower in elevation as Lot 8.
Short arrows indicate postulated seepage vectors roughly at the fill-slide debris
contact or “daylight line.” Photo: Google Earth Pro modified.

To quantify such a phenomenon, a series of piezometers set directly at the
bases of fills along Piedra Chica Road as well as in several bordering lots is proba-
bly the only practical means to quantify the perched condition. Conceivably, a
central collection system based on such observations could be installed as a type of
dewatering system to keep the perched condition at a safe elevation and flow direction. However, until more is determined regarding the perched condition in Lots 8, 9, and 10 - where its presence is undeniable - any modification of an OWTS such as that now under consideration regarding 20238 should remain under consideration.

* * *

E.D. MICHAEL, Consulting Geologist
edm@malibuonline.com
PART III - CONCLUSIONS

The field data developed for this review, although only of a reconnaissance character, justify the conclusion that the evidence most reasonably implies renewed movement of the slide debris mass as a unit, rather than simply indicative of localized internal readjustments of stress, although both conditions could be occurring simultaneously. Certain fractures apparent today in repaired pavements laid ten years or more after initial stabilization of the BRM landslide, *i.e.*, those shown in Photos 2-1, 2-3, and 2-4, even if conceivably due simply to internal stress adjustments, are considered to indicate incipient movement of BRM landslide debris mass *per se*, because they occur exactly along or very close to those of the originally mapped peripheral contact.

The badly deteriorated condition of the BRM dewatering system - carefully documented in the annual Fugro monitoring and management reports over the past five years, if not longer –is to be regarded without more as symptomatic of a single overriding defect of the way in which AD 98-1 has been managed, *i.e.*, a failure to rehabilitate. Furthermore, not nearly enough is done to limit the extent to which ground water saturates the subsurface both in the slide debris mass and almost certainly in a section underlying the mass as well.

The proposed redevelopment of 20238 Piedra Chica Road is a case in point. Throughout the BRM area, enlarging developments accompanied by a departmental policy of Public Health, or Public Works, or both, that simply forbids increased water usage of a redevelopment over that which applied originally – apparently a sort of honor system – which while perhaps politically or sociologically acceptable elsewhere in Malibu, certainly has no place in the BRM area where only pious assurances are acceptable to the City while ignoring the necessity to increase the water demand due to the occupancy of those four bunk beds in the room labeled on the plan: “Library,” or some such similar ploy.
The fact that water currently imported to the BRM system is well in excess of that when the BRM landslide occurred, should be taken as a warning that slide reactivation is imminent. The force that caused the failure in 1983 may have been far more than that now sufficient to reactivate the main slide debris mass. It is to be presumed that a basal surface now exists that has significantly less shear strength than that which was overcome in 1983.

5.0 SLOPE STABILITY CONCERNS
The dewatering system now produces a fraction of the volume it did originally. While that was the huge volume of ground water that was originally readily available when dewatering began, there is no assurance that with the currently increasing recharge rise in recharge the slide mass would respond as it did originally, i.e., in the original slide-inducing ground-water conditions of that time. In fact, it is virtually certain that it would not, because the force now necessary to renew massive movement - which conceivably might be catastrophic – could be less, and possibly far less, than that which induced the movement of the now well defined slide debris mass that may have begun as early as the late 1970s.

5.1 APPLICABLE FAILURE MODELS
There are essentially two mechanical models of the manner in which the 1983 BRM landslide occurred. Model 1 postulates the 1983 movement to have occurred along a series of previously existing and more or less coalescing shear surfaces the strengths of which was effectively a function of a relatively low “average” coefficient of friction and very little cohesive strength. Model 2 postulates the 1983 movement to have occurred partly along those previously existing shear surfaces to the east, but also along one or more surfaces a surface higher in the slope to the northwest where coherent sections of bedrock had both a high coefficient of friction as well as a high cohesive strength.
The problem then is obvious. If Model 1 applies, the matter is less serious because the ground water condition now sufficient to reactivate the mass should be about the same as in 1983, and now that condition no longer applies because of the millions of gallons that were drained during the initial dewatering. However, if Model 2 applies, the matter is very serious because the amount of ground water to activate the mass now is far less than that which caused the failure in 1983.

The stability of a slope failing as a shear landslide such as that which has occurred in the BRM area is a difficult matter to analyze because of the various types of lithologic materials that are involved. In fact, the standard determination of the safety factor which depends of the Coulomb expression for shear strength and its effective stress modification by Terzaghi - as better rationalized by Hubbert and Rubey (1959) - are to be considered, but they may not even apply. Local conditions are such that the safety factor can only be approximated for the mass. It is not a criterion upon which to rely in deciding AD 98-1 management issues.

5.2 REDUCED SAFETY FACTOR
Whereas the force that originally was necessary to initiate the BRM landslide may have had to overcome the relatively high shear strengths of various bedrock sections, that necessary to reactivate movement along the newly formed basal surface of shear could be far less in accordance with Model 1 (Sec. 5.1, supra). The safety factor of the BRM landslide mass has never been accurately determined, and probably cannot be without a major investigative effort that almost certainly would simply verify that which is now apparent, i.e., the dewatering effort is insufficient to assure stability. Only opinions have been expressed concerning what safety factor might be achieved as a result of dewatering sufficiently. Furthermore, such determinations probably are unnecessary. Rather, costs should be directed to rehabil-
itating the existing dewatering system sufficiently to meet sudden conditions such as a radical increase in rainfall intensity of which the area is known to be capable.

Current evidence strongly suggests that the safety factor of the BRM landslide debris mass is close to unity. Whereas evidence of movement such as that observed on Pinnacle Way, or in some residential structures, or in some surrounding grounds, may represent simple local stress readjustments within fill or locally in the slide debris mass, those close to or along perceived contacts of the original slide mass indicate that the mass is responding at least to a localized decrease in shear strength along the basal slide surface.

5.3 BASE FAILURE SIGNIFICANCE

It has been clearly established that the BRM landslide is a base failure (Sec. 2.3.4.1, supra). It is unfortunate that neither the DAE emergency study nor the BYA analysis considers the fact that this presents a special opportunity to employ a means of stabilization other than simply reducing the driving force by dewatering. Because shear landslides fail progressively upslope rather than instantaneously, if a lowermost section of a potential slide mass can offer a sufficiently high resisting force, the force tending to induce failure might not be great enough to overcome it.

Specifically, with regard to the BRM landslide, buttressing the seaward-sloping main slide mass by increasing the slide-resisting force that the lowermost landward sloping section of the mass exerts should increase the safety factor significantly. Figure 5-2 illustrates the concept. From the figure, the force tending to induce failure exerted by Mass D must overcome the resisting force of Mass R for sliding to occur. Consequently, a means to increase the resisting force R conceivably might serve to stabilize the entire BRM slide by preventing movement along its basal surface at the toe, but if not, certainly increase the driving force necessary to cause movement. The possibility of increasing R was not considered by either

Figure 5-2. Hypothetical BRM Slide Toe Section.

Represented in Figure 5-3 is the postulated effect of a dewatering well along the northern side of PCH, its cone of depression, dotted red line, the normal equilibrium water level due to recharge in the BRM slide mass, dashed blue line, and the saline-fresh water interface, dotted blue line which is the cone of depression induced by the dewatering well. The resisting force - analogous to Force R of Figure 5-2 - is due to the mass bounded by S-S'-S" seaward of line S'-S", whereas the BRM landslide driving force is that due to the mass landward of S'-S".

Figure 5-3. Modified Part of BYA Section A-A'
BYA Staff (1992, Fig. 4-1.4).
Whether the slide surface is actually that shown in the figure by the half-arrow, or along the red dashed line between S-S' which may be more likely, is less important than the fact that the existence of the cone of depression greatly increases the effective stress\(^1\) along either. As shown in the figure, the cone of depression would decrease the degree of saturation and as a consequence increase the effective stress along the basal surface of failure.

In other words, lowering the saturated zone anywhere beneath PCH anywhere in the vicinity of the BRM slide mass increases the effective stress and hence its resistance to shear movement generally, and along the existing basal surface of shear in particular.

**5.4 REGIONAL GROUND-WATER EFFECT**

The effect of the regional ground-water zone of the Santa Monica Mountain mass on the BRM landslide has never been addressed.\(^2\) The fact that bedrock aquifers of the Santa Monicas are relatively low producers is irrelevant when considering the effect of any saturated bedrock zone on the BRM landslide mass. It is the buoyant force produced - not the permeability of the mass that is significant where slope stability is concerned of concern.

Nor is whether the basal slide surface of the BRM landslide is permeable or not of concern. If it is permeable, regional ground water adds as natural recharge to the saturated section of the existing debris mass debris thereby making dewatering more difficult to accomplish; on the other hand, if the basal surface is impermeable, the regional zone acts by hydrostatic pressure to reduce the frictional resistance of the mass upon which the basal surface rests thereby, as the result of the

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\(^1\) The principle of effective stress, a modification of the Coulomb expression for shear strength, is best demonstrated by Hubbert and Rubey (1959) who show that shear strength is reduced by the presence of groundwater in permeable mass due to buoyancy that reduces the normal stress and hence the frictional shear strength of the saturated mass.

\(^2\) It is to be noted that of the nine water wells of the Ocean Mutual Water company supplying the BRM area in the 1950s, one was in Piedra Gorda Canyon and probably hence not far from the lower BRM area.
effective stress principle, decreasing the frictional strength along the basal surface. In fact, it was probably the effect of an unusually well-developed saturated zone in the mountain mass adjacent to the shore that initiated the original and subsequent episodes of pre-historic landsliding that preceded the historic BRM failure.

*   *   *

E.D. MICHAEL, Consulting Geologist
edm@malibuonline.com
6.0 ASSESSMENT DISTRICT CONCERNS

Assessment District 98-1 effectively an organism and should be understood as such. It encompasses three distinctly different physical, and by analogy, political, areas: the upper BRM area, the lower BRM area, and the coastal area. By way of further analogy, the AD 98-1 document as it specifically applies to the 1913 Act, can be advantageously regarded as a constitution, with the City of Malibu the head of government. Like all organisms, AD 98-1 functions in different ways, and technically with regard to dewatering it has malfunctioned for at least the past ten year or so, and probably earlier than that. Lacking any close connection or recent n technical experience in the BRM area, the following conclusions seem technically relevant and justified although clearly subject to revision as more data becomes available.

6.1 FUNDAMENTAL MANAGERIAL PROBLEM

The fundamental problem that AD 98-1 appears to present is an apparent lack of meaningful communication between: [i] BRM property owners; [ii] boots-on-the-ground Fugro monitoring and maintenance staff; [iii] City entities charged with AD 98-1 managerial responsibility. From the point of view of an outsider who knows very little about the political terrain of City government, but quite a bit about landslides, it seems fair to say that the City is not managing AD 98-1 effectively, and if that continues, the BRM landslide will reactivate, possibly soon and conceivably catastrophically.

This state of affairs is perhaps best explained by the assumption that as a result of the BYA study and detailed report, the BRM landslide problem was deemed to have been solved. But even a cursory examination of the record demonstrates that even with its excellent approach, the tentative character of the BYA analysis is quite clear - and with good reason: conditions change. The following is worth re-
peating (BYA Staff, *op. cit.*, p. 9-1):

The low currently prevailing factors of safety in the BRM area, the above described potential effects of rising groundwater levels and the potential accumulation of groundwater within existing cracks are a constant reminder to the citizens of the BRM area of the shared responsibility to minimize groundwater recharge by reducing effluent recharge, filling cracks, improving surface drainage to reduce surface water infiltration and diligently maintaining the existing wells and hydraulers.

To reiterate, the data indicate that current water importation, ostensibly about 170 percent of what it was when the BRM landslide occurred. The overriding issue is: why, in the face of annually repeated Fugro warnings that the dewatering system is badly deteriorated, has the Malibu City Council, as the agency ultimately responsible for management of AD 98-1, failed to take the necessary remedial steps authorizing rehabilitation of the dewatering system?

In view of the annual mantra-like notifications by Fugro of the need for extensive rehabilitation of the BRM landslide dewatering system, the City has yet to authorize dewatering system rehabilitation despite its AD 98-1 managerial responsibility. The reason for its continued failure to do so despite repeated warnings challenges the imagination.

### 6.2 DETERIORATED DEWATERING SYSTEM

It is clear from the Fugro annual monitoring and maintenance reports that the BRM dewatering system is extensively deteriorated. A quantification of the level of such deterioration is for present purposes unnecessary. Of the four operating wells, it is reported that currently only one dewatering well produces most of the flow. Reasons certain wells are no longer functioning are not specifically indicated. Figure 5-1 compares contours based on a limited number of observations from monitoring and maintenance data for 1989 and 2017.

During that period, dewatering has resulted in the 50-foot contour of the saturated zone in the lower part of the slide mass to have moved somewhat landward,
the 200-foot contour in about the middle part of the mass to have changed little seeming to fluctuate about a mean, and the 500-foot contour high in the mass to have remained at the same elevation. Such a plot showing the distribution of the 50-, 200-, and 500-foot contours, for example, compared with annual dewatering and imported water volumes, might be especially informative, but such an effort is well beyond the scope of this review. For present purposes, it suffices to say that dewatering system appears to have reached a condition of maximum capacity

Furthermore, there is very little production from the hydraugers which, so far as is the immediately available record indicates, in the past eight or nine years may have once were once “cleaned,” whatever that means (Taussig, 2012, Ex. A, III. 1.), but probably never been flushed and swedged although professional opin-
ions regarding the desirable frequency of such renovation is in the range of about three to five years, further depending of course on the formations penetrated.

6.3 LIMITED SCOPE OF FUGRO REPORTS

Fugro is performing well, but its scope of work is limited to the monitoring and maintenance of a specified list of facilities. Nothing in Fugro’s contractual duties calls for analysis of its observations, and Fugro makes it quite clear that from its annual monitoring and maintenance reports, under its AD 98-1 contract with the City, nothing is to be inferred regarding the continued stability of the BRM landslide debris mass specifically nor the BRM area generally. And for those who may wonder, that is not dodging professional responsibility, but simply good business; responsibility for the proper functioning of AD 98-1 lies strictly with the City of Malibu according to its terms consistent with the 1913 Act, as amended.

6.4 LACK OF FACILITY CONDITION SPECIFICITY

Although quite detailed in certain respects, comprehension by the average assessment district member would be increased if the conditions of the various dewatering facilities were described in somewhat greater more detail in the Fugro reports. For example, a more detailed description of the manner in which each dewatering well performs, or fails to perform, seems highly desirable. Such information would be very helpful in discussions assessment district member’s discussions with City AD 98-1 representative reasonably to be charged with the duty of knowing something more than simply which dewatering wells are not functioning.

Similarly, if the record as I understand it from DTA fiscal year data, the hydraulers are long overdue for inspection and rehabilitation. At the very least, probing or borehole camera runs could indicate which hydraulers should be flushed and perhaps swedged to scrape away sections blocked by mineral deposits together so as to provide a basis for estimating costs.
6.5 REVISED AD 98-1 FUNCTION SPECIFICATIONS

The threshold issue is whether the manner in which the AD 98-1 functions is serving its ostensible purpose to keep the BRM area safe from renewed landsliding simply by operating and maintaining the deteriorating dewatering system. That this is apparently was the sole purpose of County Improvement District 2629R2 (Big Rock Mesa Area) and now AD 98-1. Yet, the conditions are such that the purpose of AD 98-1 is not fully realized. Four entities are involved that must function together if the stability of the BRM area is to be maintained. They are: [i] the City hierarchy both in its AD 98-1 managerial duties and developmental authority over the BRM area; [ii] Fugro in its monitoring and maintenance responsibilities; [iii] the BRMPOA in its role as funder as well as the entity in best position to independently observe, report, and investigate local conditions that arise because of the dynamic character of the area to be considered beyond the strictly limited function of Fugro; and [iv] independent review of AD 98-1 accounting analysis to see that funds are being allocated consistent with the special dynamic demands of the BRM area.

6.6 QUESTIONABLE BRM PROPERTY IMPROVEMENT POLICY

Routinely it appears, judging from data such as that simply plucked in an hour or so from the immediately available record and shown in Table 4-1, the City’s policy regarding property improvement in the BRM area does not take into account the special need to keep water usage there within prudent bounds. Such a facility as Promises, the presence of which in a residential community is questionable in the first place, cannot explain the increased use of water which now is approaching twice that imported when the BRM landslide occurred. The present conditions appear serious enough as to consider temporary water rationing.

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E.D. MICHAEL, Consulting Geologist
edm@malibuonline.com
7.0 LOT 8 EFFLUENT SPREADING CONCERNS
The physical circumstances in Lot 8 of Tract 26263, so far as is known, are unique in the BRM area in that it has been found unsuitable for development because the underlying slide mass has insufficient permeability for a seepage pit to function properly. Nevertheless, it is understood that all successive owners of Lot 8 have maintained assessment fee payments, to date. The current use of the property since 2006 as an OWTS effluent disposal field presents two issues of concern for the local area. One is that it serves potentially as an example of unchecked mansionization that has been developing for some years in the BRM area and cumulatively must be having an adverse effect on the dewatering system. The other concerns the fact that a perched ground-water condition in the property – a condition that in fact probably exists elsewhere along Piedra Chica Road - has the potential to adversely affect conditions in neighboring properties to a greater extent than it has at any time in the past.

7.1 NON-CONFORMING USE
Use of Lot 8 for a drain field lacking the normally-required one hundred percent expansion area alternative area amounts to a non-conforming use that in normal circumstances would be impermissible. On the other hand, it is understood that the present and previous owners have paid the annual assessments for both CI 2629R and AD 98-1. Consequently, it would seem to justify such use in this particular case so long as it does not result in measureable adverse effects on neighboring properties. The inability to examine the rear yard of Lot 2 as part of this review leaves this particular aspect of the matter conjectural.

7.2 INCREASED RATE OF EFFLUENT SPREADING
It appears that the seepage pit of the original Lot 9 septic system malfunctioned to such an extent that special conditions were required to control seepage from Lot 9
into Lot 10, Whether that condition has been ameliorated by abandoning the Lot 9 seepage pit as part of the transfer of the Lot 9 w OWTS to Lot 8 is uncertain, and an attempt to determine this from the City offices was met with a requirement of formally requesting information that has been regarded as too time-consuming for present purposes to pursue.

7.3 PERCHED GROUND-WATER CONDITION

There is little question that a perched ground-water condition exists in the vicinity of Piedra Chica Road. It certainly is possible, if not likely, that much of the septic system effluent generated there becomes perched when underlying sections of low-permeability slide debris fail to transmit downward at a sufficiently high rate. In such circumstances, ground-water equilibrium levels rise high enough to saturate the lowermost sections of the fills that underlie all of the lots along that road. When enough of the fill at its base becomes saturated, not only does the water flow in response to the local gradient – in this case generally southward – but under certain circumstances it also can cause the fill to compact somewhat resulting in surface settlement.

Such compaction occurs where the presence of clay, which in the unsaturated state acts as a cementing agent due to the bi-polar character of water molecules attracted to clay lattices. When saturation occurs, this cementing phenomenon is lost thereby eliminating the cohesive strength that opposes the loads of overlying structures as well as that of the fill itself. It is quite possible that particularly noticeable cracks in street curbs and other structures locally are a result of such settlement.

Apparently, this perched condition is especially noticeable in Lots 2 and 10 because the basal contact of the fill is exposed in adjacent slopes. The circum-

E.D. MICHAEL, Consulting Geologist
edm@malibuonline.com
stances are such that an investigation to determine whether a community facility to collect and dispose of perched ground is feasible should be seriously considered.

7.4 LOT 8 EFFLUENT DISPOSAL VOLUMES

The question of why an increase in the size of the MicroSepTec E06 tank now in use in for 20238 Piedra Chica Road is being considered as reported by Yaroslask (2018) needs to be explained. Although considering the relatively high quality of the effluent from the MicroSepTec E06, the rate at which it now is being spread in Lot 8, such use does not appear to present an issue either of slope stability or health hazard, although the matter of trespass certainly needs to be considered, preferably based on the opinions of consultants working with attorneys for the respective parties as well as the opinions of experts.

However, as a point of departure, it needs to be understood that if one considers only Lot 8, the opinions expressed by Barrett and Walter (2017, p. 5) as to the safety of the site in terms of stability, such opinions are irrelevant with respect to the effects the proposed spreading may have on adjacent properties. In a word, opinions regarding how stability would be affected by spreading in Lot 8 are not probative of how such spreading would affect stability in adjacent properties.
PART IV - RECOMMENDATIONS

The bifurcated character of the BRMPOA’s current concern having hopefully been made clear remains to suggest a proper course of action. Although the issues related to AD 98-1 management can only be considered at the City Council level, whereas that of the proposed 20238 redevelopment is a matter to be addressed - initially at least - at the departmental level, i.e., Health, Planning, and Public Works, sooner or later a meeting of the minds of all will be necessary. For now, it should be the role of the BRMPOA to become informed at least enough to reach a consensus regarding: [i] the membership’s awareness of conditions, and [ii] the manner in which the City is to be approached.

8.0 ASSESSMENT DISTRICT RECOMMENDATIONS

The circumstances are such that the relationship of the City per se to its duties under the 1913 Act needs clarification. Once again, the threshold issue to be clarified is: why, in the face of Fugro warning that the dewatering system is badly deteriorated, has there not been rehabilitation, especially when coupled with evidence on the ground that the safety factor is dangerously low? It is to be firmly understood that those of current authority in Malibu’s government are inheritors of today’s situation. They, as much as the AD-1 membership, need clarification.

8.1 AD 98-1 MANAGEMENT ANALYSIS

The specific language of AD 98-1 is almost certainly no longer relevant to the conditions of the BRM area. Prepared under the impression that properly administered it would thereafter assure stability of the BRM landslide debris mass, such an assumption appears to have been ill-founded if for no other reason that changes in economic conditions.

8.1.1 Local Planning Meeting

BRMPOA - on advice of Luan Phan, Kenneth Chiate, John Cadarette and perhaps other attorneys associated with the BRM area – needs an agenda for addressing
November 20, 2018    Geologic Aspects of Redevelopment
BIG ROCK MESA LANDSLIDE AREA

Mesa to at last set the stage for addressing the BRMPOA membership at large. Basic issues need to be established and formalized. In pursing this, obtaining initial advice from one or more geotechnical professionals regarding the substance of the Initial Review would not be out of order.

8.1.2 Informal City Meeting

The City’s position needs to be understood, especially since there is, if not accusation, at least a whiff of malfeasance. In such circumstances, initial, informal discussions with City officials at the appropriate levels seem advisable. Take notes.

8.1.3 Research

A browse through the 1913 Act and some Shepardizing - or whatever it’s called these days - seems highly advisable. The more arrows in the quiver, the better.

8.1.4 AD 98-1 Funding

“Follow the money” is always good advice. A look over David Taussig’s shoulder might be profitable as well as technically informative as even a glance at Exhibit A of Taussig (2018) would demonstrate. Zero dollars to rehabilitate the dewatering wells and hydraulers and $100,000 to replace an inclinometer brings to mind a fiddling Nero.

8.1.5 Residential Improvement Policy

At least until the dewatering system is repaired, redevelopment permits inviting excessive use of household water with the preposterous paper limitation that the redevelopment should have the same number of bedrooms or fixtures should be eliminated. Consider informal water rationing to be demonstrated by voluntary distribution of water bills.

8.2 EXPANDED ASSESSMENT DISTRICT SCOPE OF AUTHORITY

Just as the DAE study was conducted on an emergency basis funded by an assessment district formed almost overnight, with what is known now, expansion of the AD 98-1 scope of authority should be possible with little effort. The 1913 Act, as

E.D. MICHAEL, Consulting Geologist
edm@malibuonline.com
amended, describes the manner in which assessments are increased. Answers to the how much question are foremost to be established if the City is to act under its AD 98-1 managerial responsibilities.

8.3 BRMPOA COMMITTEES

It may be a stretch, but current conditions suggest that the BRMPOA is successor to the ill-fated MMDC which, in other circumstances, particularly sans MECH, might have prevented the BRM landslide, because it probably was MECH members which prevented the necessary the plus 60% vote that would have created the Lambie-suggested assessment district in 1971. The demise of MMUDC, should not be taken as an indication that such a technically undesirable or legally insignificant. In fact, the deed CCRs that resulted in the MMDC probably may still have relevance – a matter for the BRMPOA’s counsel to consider.

In any event, community involvement is the best way to keep aware of AD 98-1 circumstance, and the best way to accomplish that is through committees. The BRMPOA needs committees to keep abreast of all matters concerning slope stabilization. Committees to review Fugro monitoring and maintenance reports and Taussig accounting reports come immediately to mind. Also a committee to keep the upper BRM area, the lower BRM area, and the coastal BRM area in touch seems like a good idea both to address interrelated technical matters as well as to form a political bloc of which the City would be bound to take notice. Do it.

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E.D. MICHAEL, Consulting Geologist
edm@malibuongline.com
9.0 TECHNICAL RECOMMENDATIONS

The work carried out during the tenure of D.A. Evans, Inc. stopped the BRM landslide, and the work of Bing Yen & Associates improved matters assuring safety in what was at that time, the near future. As strongly suggested by the record, the City in its AD 98-1 managerial cloak seems now to be presiding, albeit unintentionally, over vitiating the good work they did.

9.1 AREA-WIDE CONCERNS

Much can be done to extend what amounts to an introduction in the DAE and BYA to the problem of the BRM landslide. In the 28 years since completion of the study by BYA Staff events and time for reflection indicate the need for additional and quite specific studies extremely desirable if not absolutely necessary to assure continued stability.

9.1.1 Voluntary Water Usage Reduction

But by far most important today – now, this instant - is a voluntary reduction in individual water usages – less frequent household activities and in yard watering, an immediate reduction to one-third of that commonly practiced. All plants, I am told, have something called a “wilting coefficient” if I heard correctly. A landscape consultant on-site tomorrow for advice on the matter is strongly recommended – at the grass-roots level so to speak – if not the first order of business. For now, the BRMPOA’s primary effort should focus on less water use. The garden hose bib and the household faucet in the hands of the 400–500 individuals who make the BRM area their home is a very strong dewatering device.

9.1.2 Dewatering System Rehabilitation

The City, on the advice of Public Works should undertake such procedures that AD 98-1 either mandates or provides, to increase the assessment or reallocate funds to meet the necessary rehabilitation costs the conditions now demand.
example, a rough estimate of the cost to rehabilitate all wells is $50,000 including pump replacements. But more to the point, the AD 98-1 Exhibit A Budget Summary for fiscal year 2017-2018 (DTA Staff, 2018) says it all - $100,000 to replace an inclinometer, and zero for all other capital improvements including water well replacements and hydrauger “cleaning.”

9.1.3 Piedra Gorda Canyon Exploratory Dewatering Well

The presence of water beneath the BRM landslide debris mass can be at least as dangerous as the water that percolates into the mass. In most circumstances, it is not the weight of ground water that affects the stability of either an unfailed slope or one, such as in the BRM area, in which a mass of slide debris is present. Only if the debris mass has an effectively impermeable basal shear surface does water weight become a design variable. The question to be addressed is whether the regional ground-water zone in the adjacent mountain mass - and make no mistake, such a zone exists - is at an elevation high enough near the coast to have significant hydraulic continuity with the BRM slide mass. To determine this, an exploratory boring capable of being converted to a dewatering well should be considered. Research to determine the location of the Ocean Mutual standby well reported to have been located in Piedra Gorda Canyon should be a first order of business. In fact, it may still exist.

9.1.4 Hydrologic Balance Study

Since the question of ground-water inflow to the BRM area has never been investigated, a hydrologic balance for the slide area such as that performed during the DAE investigation is essentially a matter of speculation. However, with reliable ground-water inflow and outflow data in hand, the degree to which irrigation water is wasted could be determined as a critical variable in stability analysis. It is to be
noted that while the hydrologic balance commonly is considered in terms of annual use, it also might provide a means to limit irrigation seasonally.

9.1.5 Recharge Study

Aside from ground-water inflow recharge, a consideration of surface recharge is necessary in order to limit it to the necessary level. That over-irrigation is a common practice is so well established as to require no specific confirmation. The study of BRM area recharge amounts to investigating the consumptive use of the vegetation and a means to determine allocations of water use for domestic purposes and landscaping, both readily capable of investigation, but also – and possibly determinative of the problem - ground-water inflow.

The effort starts with a review of water-meter data and the number of individuals the meters serves. Whether or not the privacy of one’s home is an issue in such investigation, the question is pertinent only if one has a home. But beyond all that, it is quite possible that failing to keep ground-water inflow low, thereby assuring a dangerously low safety factor, may effectively render all dewatering efforts simply a matter of academic interest.

9.1.6 Coastal Well Field Investigation

The natural buttressing effect derived from the base-failure character of the BRM landslide as has been discussed (Sec. 2.3.1, supra) and its potential for increasing the safety factor needs to be investigated. Generally consistent with the “Deep Dewatering Well Mitigation Scheme” of BYA Staff (1992, Fig. 9-2.2) in the sense of better determining subsurface conditions, the feasibility of establishing a shallow dewatering well field along PCH should be investigated by installing a test well along the north side of PCH at some convenient drill site west of a SI-7 and preferably in the vicinity SI-29. Such a test, coupled with measurements of nearby ground-water levels to determine the cone of depression, is highly desirable in or-
order to: [i] estimate the landslide resisting force that such pumping would induce, and [ii] determine feasibility.

9.2 PIEDRA CHICA ROAD PERCHED GROUND WATER

The problem of perched ground that early became apparent in the Piedra Chica Road area -, as initially discussed by Eagen and Brown (1972, p. 3) and later elucidated by Merifield (1972; 1973a, b) - has now emerged as an example of how mansionization, or its equivalent, while perhaps due to infect Malibu generally in the near future, is especially objectionable in the BRM area because of the increased use of water it demands.

The question is not just one of fairness but also of the special BRN area conditions of that can’t be easily shoe-horned into a code of health or building and safety standards. Simply put, so long as a certain minor degree of OWTS perched effluent seeps to the surface in Lot 2 and perhaps also neighboring Inland Lane properties without adverse health effect, the physical risk it presents should remain minimal. This is especially a matter to be recognized in view of the fact that such perched ground water most likely comes not just from Lot 8 but other properties along Piedra Chica Road as well.

Judging from the MMDC-sponsored survey by Merifield (1973a), cracks in curbs and streets that were apparent along Piedra Chica Road in the early 1970s were common throughout much of Tracts 26263 and 28463; however, along Piedra Chica Road they were more noticeable. Eagen and Brown (1972, p. 3), following up on Merifield’s crack survey stated:

“The only significant areas of cracking that might be attributed to causes other than normal shrinkage or construction type cracks were observed on Piedra Chica in the vicinity of Lots 6, 7, 14, and 15 (Tract 26263) Separations and cracks in the curbing as much as one inch horizontal and one-half inch lateral displacement were observed.”
With perfect hindsight, the conditions along Piedra Chica Road, not just cracks in curbs, but also significant structural damage in at least one house and reported minor separations in another, are attributable to periodically high perched ground water that locally has caused basal fill consolidation and consequent surface settlement thus inducing local excessive stress in parts of some structures.

### 9.2.1 Lot 8 Emergency Warning

It would be a simple matter to install a warning signal if perched ground water in Lot 8 were to raise high enough to threaten the stability of the slope along the rear yards of Inland Lane Lots 1 – 3 (see Photo 4-3). A quite simple such device would be a 3/4-inch PVC pipe installed in Lot 8 near the upper edge of the slope in Lot 2 to the base of the fill at a depth of about 9 feet.

A battery-powered light or buzzer, connected to a small cable installed in the pipe at a particular depth, would signal when a dangerous condition was about to develop, at which point Lot 8 would temporarily reduce OWTS effluent production or, alternatively, actuate one or more pumps, the intakes of which have been placed strategically with respect to the slope. Because of reported boulders in the fill, attempting to install the pipe by jetting should be done by someone with a great deal of patience. A consultant with experience in dewatering and slope stability should recommend the signal actuating depth.

### 9.2.2 Community Perched Ground-water Disposal Facility

Unusual circumstances call for unusual measures. An effective way to reduce perched ground water along Piedra Chica Road would be to install a gravel drain, also referred to as a “French drain,” but fitted a slotted drain pipe laid at the elevation of the fill-slide debris contact along the trench invert. Gravity-driven perched ground water would enter the gravel and then the pipe in the gravel. The gradient in the pipe would lead to an underground collection and treatment facility located -
ideally but not necessarily - in Piedra Chica Road cul-de-sac. Putatively, a 0.20-inch half-slotted 6-inch diameter Schedule 80 pipe would be ideal with the pipe slots, incidentally, facing downward to avoid silting. One or more drain clean-outs would be advisable.

The feasibility and specific design of such an installation initially would depend on data from a series of exploratory borings along the roadway to determine the depth of the fill, the gradient of its base and, of course, the presence of a perched zone. Supervision of the job would best be by Fugro since subsequent to installation, it occasionally require inspection and maintenance.

______________________________
E.D. Michael
CG 270, EG 157, HG 574.

*   *   *

E.D. MICHAEL, Consulting Geologist
edm@malibuongline.com
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E.D. MICHAEL, Consulting Geologist
edm@malibuonline.com
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E.D. MICHAEL, Consulting Geologist
edm@malibuonline.com

* * *
Honorable Planning Commissioners,

On Nov. 2 please do not approve the above CDP and variance, modifications, etc on the location in
Big Rock of 20272 Inland Lane. These plans should be dismissed.

CEQA exemptions should not apply given the cumulative and significant impact of the landslide that has a factor of safety close to unity (1) due to ongoing creep movement not the legal 1.5 necessary for new builds. No variance can be given for a factor of safety this low. Since the upgrade of the dewatering system 25 years ago there has been the cumulative factor of additional water added to our sensitive geology in our hill by over 100,000 sq ft of new builds and additions and over 35 OWTS and 18 pools and spas that can leak and overflow into our hill. Earlier this year, Patricia Salazar of your planning department helped me compile a spreadsheet of all the builds in the area since 1992 (see attached). All of the slope stability studies by the applicant do not take this into account and base their findings on bing yen’s report from 25 years ago before this much increased development. As well they referred to aerial photographs from 1928 & 1952 long before the BRM landslide occurred.

The build does not pass geological standards for a build in an active landslide area. It has moved off its original footprint by over 50% which should disqualify it as a rebuild. As a new build there should be stricter geological standards. It is also going over it’s original 15 ft high rooftop that goes against our Big Rock CC&Rs (attached) and will block significant scenic views enjoyed by other homeowners thus going against Malibu city codes. CC&Rs create the neighborhood character of a community. As per the excerpt from Malibu City code attached under purpose, see item B last sentence, the city has set a precedent and recognized CC&Rs when it comes to View Preservation. The home does not match the neighborhood’s character in its overhanging uber modern design and will attract more developers to big rock to increase home sizes and continue to risk landslide and likely cause another big landslide reactivation in Big Rock. Last time this happened our homes dropped below 50% in values and lives were endangered.

As you can see in the photo below the potential home is perched on a sensitive oceanside cliff which holds all kinds of dewatering equipment where there have been multiple bluff failures damaging hydrauger equipment over the years as per Bing Yen and Fugro monitoring reports (see attached photo of extreme large bluff damaged cage covering hydrauger directly below project site). The hydraugers have these cages to protect them from constant rockfall. The cliff has a history of large rock slides during our rainy seasons which has thrown boulders & slope debris onto and across PCH (see attached article). There is supposed to be a minimum 50-100 foot setback as per building code but this is perched right on the cliff’s edge that is set to erode at minimum 1.5” per year, possibly 3” per year that would be an extra 18-20 ft in 75 years of erosion and the city code requires 100 years of erosion control setback. It is also subject to sea level rise which advances erosion. The City, Caltrans and beyond would be liable if something would happen should development cause death or injury to someone on or living on pch (see attached article re: encinitas rockslide caused by overdevelopment). There also exists no 1.5 factor of safety line on this bluff so no build should be allowed here:

" 10.4 DEVELOPMENT STANDARDS

D. All new development located on a bluff top shall be setback from the bluff edge a sufficient distance to ensure that it will not be endangered by erosion or threatened by slope instability for a projected 100 year economic life of the structure. In no case shall development be set back less than 100 feet. This distance may be reduced to 50 feet if the City geotechnical staff determines that either of the conditions below can be met with a lesser setback. This requirement shall apply to the principle structure and accessory or ancillary structures such as guesthouses, pools, tennis courts, cabanas, and septic systems etc. Ancillary structures such as decks, patios and walkways that do not require structural foundations may extend into the setback area but in no case shall be sited closer than 15 feet from the bluff edge. Ancillary structures shall be removed or relocated landward when threatened by erosion. Slope stability analyses and erosion rate estimates shall be performed by a licensed Certified
Engineering Geologist and/or Geotechnical Engineer, or a Registered Civil Engineer with experience in soil engineering. Generally, one of two conditions will exist:

1. If the bluff exhibits a factor of safety of less than 1.5 for either gross or surficial landsliding, then the location on the bluff top at which a 1.5 factor of safety exists shall be determined. Development shall be set back a minimum distance equal to the distance from the bluff edge to the 1.5 factor-of-safety-line, plus the distance that the bluff might reasonably be expected to erode over 100 years. These determinations, to be made by a state-licensed Certified Engineer Geologist, Registered Civil Engineer, or Geotechnical Engineer, shall be based on a site-specific evaluation of the long-term bluff retreat rate at this site and shall include an allowance for possible acceleration of historic bluff retreat rates due to sea level rise.”

In the attached EIR completed in 2013 for the Crummer project at 20400 PCH (which still has not been built as they suddenly tried to change the development to hotels??), which has a similar blufftop distance to the ocean, the erosion back then was conservatively set at 0.2 ft per year. That would be 20 ft of erosion over 100 years. That proposed development was ordered to be set back by 190 ft.

A variance cannot be granted as the safety of the public is at risk as well as the community of Big Rock: 17.72.060 "The commission may approve and/or modify an application for a variance in whole or in part, with or without conditions, provided that it makes all of the following findings of fact:

B. The granting of such variance or modification will not be detrimental to the public interest, safety, health or welfare, and will not be detrimental or injurious to the property or improvements in the same vicinity and zone(s) in which the property is located."

We cannot take these risks for granted when this project already states that “the adjacent residents and foundations may be adversely affected by the proposed construction and demolition procedures on the subject site.” This is clearly stated on the geotechnical review sheet dated May 6, 2016 under building plan check stage review.

The sandstone is already porous and falls easily and there are risks to people driving on the pch as well as our own landslide reactivation when adding water into the hillside as the current septic system plans will do. We talked to Paul Shin in permits at caltrans, copied here, about this and he says it’s the city’s job to protect the integrity of the hillside and ensure the safety of pch with any projects that are in application. Caltrans must be informed of projects that could negatively affect PCH and the homes down there so they can weigh in. So we hope you can see the affects on not only our community but the safety of PCH. Both the County and Caltrans were found responsible for the original landslide so the City and Caltrans must protect residents from a known hazard now. I’ve copied the deputy attorney for DOT, Andy Cho, here so he is informed of our correspondence.

As previously submitted to you there should be no development in a very high fire severity zone period. In the 1993 fire flames ravaged up and across the hillside and burned down the property on the original lot and several homes on Inland Lane and Rockport Way.

There is a puddle on Inland Lane across from a dewatering well ironically with septic inside that has not ever dissipated that shows the perched nature of the area which makes septic systems less viable and spreading horizontally into the ground rather than vertically causing groundwater mounding which causes damages to structures, soil saturation which weakens the soil and slopes, and health issues. Taken from section 4.4.4 OWTS Analysis Limitation from ED Michael’s attached report on the area, "does not address the fundamental problem presented...that of a perched condition which unquestionably limits the extent to which it may be useful for spreading OWTS effluent without either groundwater mounding or otherwise flowing in response to gradient." The
county has tested this puddle where it showed possibly to be coming from a septic field above and referred this to the city for testing but the city still has not done so. Below is also a photo taken at the site at 20272 Inland Lane on March 26, 2018 - note the standing water at the potential build site showing these perched conditions where the water doesn’t drain properly and floods regularly.

The site has expansive soils on the property which have not been properly evaluated. “Of the various geologic hazards that affect the State of California, expansive soils have caused millions of dollars in damages, particularly to single-family residences and private property improvements. The State Department of Natural Resources estimates that to the year 2000, expansive soils will be a 150 million dollar problem in the state.” Malibu general plan 5.2.2. Expansive soils also prevent proper drainage as indicated with the standing water and septic tanks will fail. All this needs to be taken into consideration and this build as it is designed right now must not be approved. It is already well known that the eastern Mesa is an area of low permeability where water can become trapped and therefore a greater risk of landslide.

I have attached a petition signed by over 90 residents in Big Rock, that you have already been delivered, asking for a moratorium on development here in Big Rock until the stability can be determined and our dewatering equipment no longer deteriorated as it is currently and running at optimal levels. Yeh & Associates will be giving a presentation on the state of our dewatering equipment on Oct 6 (we have many questions for them) but NOT of the slope stability of the area so this case should be delayed until this can be completed or added to the scope of the BRM Assessment District. Again the geologist, ED Michael, who you’ve all heard, who predicted the last landslide here to the year has warned us that we are close to unity in our current factor of safety due to recent movement he’s discovered and overdevelopment plus a deteriorated dewatering system. I’ll add a closeup taken on sept. 24 of the bottom of the cliff from this build where dewatering equipment is located and note this duct taped unattached broken pipe just holding up another hydrauger pipe system as just one of many examples of deterioration.

Our dewatering system only produces about half of what we did just over 10 years ago. See attached graphs from 2019 & 2007 as compared to water consumption which is even higher today.

I’ve also added a geological review written by H. Gary Greene who agrees with ED Michael’s findings and also discusses the cumulative affect of earthquake faults in the area, sea rise at the toe of the landslide just below this build and increased development in detail for further evidence that CEQA exclusions should not apply to this build. He also mentions the possibility of masking of groundwater levels of inclinometers close to dewatering wells. There had been regular movement and high groundwater levels in inclinometer SP-33 near the property for years. The wells are also very close by and groundwater readings could be inaccurate and masking actual high local levels and regular movement. Only recent aerial images can detect movement and the applicant only used data from 1928 & 1952 in their geological reports before the landslide occurred to guage measurements of this.

There are also many burrowing animals in big rock that can destabilize the site and cliffside further. We have them all over Piedra Chica rd just above this property and they are known to be in the hillside.

Thanks very much and please stop this build,

Jo Drummond on behalf of Friends of Big Rock

From the Archives: Boulder enters Malibu garage
From the Archives: Boulder enters Malibu garage
An early morning rock slide had again closed Pacific Coast Highway in Malibu.

Family sues state, city, others over Encinitas bluff collapse that killed three

An Encinitas woman, her mother and her mother's sister died in the August 2019 collapse at Grandview Beach

TREND LINE

Trend Line

Flow Rate (gpd)

Date Observed

Jan-91 Jan-92 Jan-93 Jan-94 Jan-95 Jan-96 Jan-97 Jan-98 Jan-99 Jan-00 Jan-01 Jan-02 Jan-03 Jan-04 Jan-05

All Wells, All Hydraulics, Wells & Hydraulics (Combined), Total Water Consumption

TOTAL DEWATERING RATE VS. TOTAL WATER CONSUMPTION

2007 through 2008 Annual Report
Big Rock Mesa Landslide Assessment District
Malibu, California
TOTAL DEWATERING PRODUCTION AND TOTAL WATER
Wells & Hydraulers (Combined) / Total Water Con:
Big Rock Mesa Landslide Assessment District
Malibu, California
This petition has collected 91 signatures using the online tools at ipetitions.com.

Printed on 2020-09-24
Preserve Big Rock Mesas

About this petition

ATTN City of Malibu Council Members, Planning Commission, and Planning Dept:

The following petition demands a moratorium on any new development over the existing footprint of a home in Big Rock Mesa's Landslide Assessment District 98-1 in it's current state. We demand that our dewatering system is put on high alert and all repairs made in swift order.

Our community agrees to respect people's rights to build from the fire and deal with our own home improvements so we can feel comfortable in our home and investment here. Our concern is excessive water usage with over development in a high risk zone for both wildfire and landslide that threatens every home in Big Rock.

Only these past few years, after decades of practically no development in Big Rock, the City of Malibu Planning's basic building rules and codes are noticeably not coinciding with the Big Rock landslide Assessment District (AD 98-1). Variances of size, height, slope, landscaping and safety factors that other homes on the same street have not been granted are being approved without any independent City scientific evaluation or updates or acknowledgment of independent geological reviews.

The county installed our dewatering equipment over 30 years ago and it is in need of a major overhaul according to the geologist who supervised the installation, ED Michael. His recent geological review of the BRM Landslide was submitted to the Big Rock Property Owners Association Board in January of this year. The Board immediately submitted this plus a summary abstract of the details to the City of which you should all have read by now. It has so far resulted in emergency rehabilitation of 5 wells in Big Rock and a 6 year capital improvement plan on the equipment prepared by Fugro and City Public Works though there are still many unanswered detailed questions on how our AD 98-1 funds have been allocated all these years with NO reserve fund left. There is also much more work that needs to be completed but we have apparently run out of time. The geological report clearly states that Big Rock is in a dire situation where in order to remain safe and stable we not only need to ensure the equipment is in top production shape but need a drastic reduction in water usage and consideration for a moratorium on development and rehabs (as they use more water and septic facilities than the average home with 30-40 residents and staff per house). The City has not refuted this report scientifically or completed a comparable independent geological evaluation on our hill and every FUGRO annual report states right up front that they are not reporting on landslide, only maintenance and improvements.

Please cease all development that has been proven time and time again to hurt our hill. If we 'collapse, crack, or slide off foundations' as we did in '83 as per the LA Times, none of our homes will be worth anything. We have not had substantial and regular rain in years. When El Nino comes it will likely be disastrous for our community if our voices are not heard so please honor this request and stand by Malibu's Vision and Mission Statement.

Thank you, Friends of Big Rock
1. Name: Jo Drummond  (joannedrummond@yahoo.com)  on 2019-08-24 20:57:03
   Comments: Please stop development in Big Rock and keep our hill safe.
   STREET NAME:

2. Name: Hank and Nancy Corwin  (harriswinthrop@yahoo.com)  on 2019-08-25 08:32:15
   Comments:
   STREET NAME:

3. Name: Al Broussard  (ALBE357@AOL.COM)  on 2019-08-25 14:32:24
   Comments: Lets all band together to protest our community from threat of over development and to all work together to make our community fire safe
   STREET NAME:

4. Name: Una Damon  (unadamon1@gmail.com)  on 2019-08-25 15:16:12
   Comments:
   STREET NAME:

5. Name: colin drummond  (colindrummond@gmail.com)  on 2019-08-25 15:19:24
   Comments:
   STREET NAME:

6. Name: Asha and Paul Randall  (drasharandall@gmail.com)  on 2019-08-25 15:52:24
   Comments: Our community needs pragmatic solutions that work for every neighborhood in Malibu, taking into account the history.
   STREET NAME:

7. Name: Ken Button  (kenbutton@yahoo.com)  on 2019-08-25 15:56:35
   Comments: I am a Big Rock homeowner. I am very concerned about the stability of the Big Rock area, and the risks to our safety and homes. I encourage the City to take steps to protect the existing residents and homes.
   STREET NAME:

8. Name: Frank Albino  (falbino@pmcos.com)  on 2019-08-25 16:14:35
   Comments:
   STREET NAME:

9. Name: Brenda Safranko  (brenda.safranko@gmail.com)  on 2019-08-25 16:39:37
   Comments:
   STREET NAME:

10. Name: Dorinne Graves   (deed3204@yahoo.com)  on 2019-08-25 16:52:50
    Comments: Absolutely
11. Name: Dennis leverne graves (dennis1465@gmail.com) on 2019-08-25 19:21:58
Comments:

12. Name: Georgia Goldfarb (georgia.goldfarb@healthquality.net) on 2019-08-25 19:58:05
Comments: I oppose mansionization because of adverse effects on climate change and neighborhood character and building in high risk zones: wildfire, landslide, and ocean level rise are 3 present risks for our area.

13. Name: Pearl Burns (pob1244@yahoo.com) on 2019-08-25 21:35:24
Comments:

14. Name: Georganne Bartylak (ebargbar@icloud.com) on 2019-08-25 22:13:14
Comments: I am a homeowner in Big Rock and oppose development in this neighborhood because of our “active landslide zone” history and the high groundwater levels we already have - we can’t support ANY development that put add more water to our already landslide prone geography

15. Name: Robert Dankanyin (rdankanyin@gmail.com) on 2019-08-26 02:12:08
Comments:

16. Name: Charlene Dankanyin (cdankanyin@aol.com) on 2019-08-26 02:15:10
Comments:

17. Name: Kristine Szabo (kristineszabo@mac.com) on 2019-08-26 12:12:09
Comments: I agree with and support this movement to protect and preserve Big Rock Mesas community. Thank you "Friends of Big Rock".

18. Name: Adriana cherry (adrianaicherry@gmail.com) on 2019-08-26 18:36:47
Comments:

19. Name: Brandon cherry (bcherry1717@yahoo.com) on 2019-08-26 18:37:19
Comments:
20. Name: Betty Keefe (bettykeefe@gmail.com) on 2019-08-26 19:22:16
Comments:
STREET NAME: Big

21. Name: JULY PITSCHKA (JULYKRAUSE@HOTMAIL.COM) on 2019-08-26 22:54:16
Comments:
STREET NAME: ROCA CHICA

22. Name: Ellen Kawana (kawanaellen@gmail.com) on 2019-08-26 23:24:33
Comments:
STREET NAME: Roca Chica

23. Name: Robert Wolff (rwolff1@mac.com) on 2019-08-28 03:43:19
Comments:
STREET NAME: Roca Chica

24. Name: Linda Ellrod (lellrod@yahoo.com) on 2019-08-30 14:06:13
Comments:
STREET NAME:

25. Name: Alex Pitschka (alex@montagemx.com) on 2019-08-30 21:46:24
Comments:
STREET NAME: Roca Chica Drive

26. Name: Peter Monge (monge@usc.edu) on 2019-08-31 16:43:13
Comments: For 30 years now the residents in the Big Rock community have been paying a sizeable annual tax to fund a landslide abatement maintenance district and program in the Big Rock area. We need to take significant substantive steps to ensure that these funds are preserving underground water levels that prevent landslides in the Big Rock abatement district.
STREET NAME: Rockpoint Road

27. Name: Judy Shockley (judyshockley2016@icloud.com) on 2019-08-31 22:32:29
Comments:
STREET NAME: Seaboard Road

28. Name: Paul Boulet (possibletodo@yahoo.com) on 2019-09-05 19:19:41
Comments: why can't rational thinking prevail? The city is risking a mega multi million dollar lawsuit by us homeowners if they continue to allow our slide zone to degrade, and even worsened by hazardous development. Obviously I oppose any more development in Big Rock
STREET NAME: 20512 Little Rock Way

29. Name: DAVID COCKRELL (dwcock@yahoo.com) on 2019-09-05 21:31:20
Comments:
30. Name: david kelmenson  (david@davidkelmenson.com)  on 2019-09-05 21:31:52
   Comments:
   STREET NAME: ROCA CHICA DRIVE

31. Name: Erin  (smlwaist@aol.com)  on 2019-09-05 21:43:10
   Comments:
   STREET NAME: McAnany way

32. Name: Erin Scott  (smlwaist@aol.com)  on 2019-09-05 21:44:07
   Comments:
   STREET NAME: McAnany Way

33. Name: Madison kelmenson  (madisonkelmenson@gmail.com)  on 2019-09-05 21:45:39
   Comments:
   STREET NAME: Roca chica

34. Name: Jason fisher   (jmfisher34@hotmail.com)  on 2019-09-05 21:54:40
   Comments:
   STREET NAME: Royal Stone

35. Name: Wendy Widell Wolff  (wendyww@mac.com)  on 2019-09-05 22:00:05
   Comments:
   STREET NAME:

36. Name: Eric Sosa  (esports00@yahoo.com)  on 2019-09-05 22:14:42
   Comments:
   STREET NAME: ROCA CHICA DR

37. Name: Christopher Cunningham  (cwkcunningham2@gmail.com)  on 2019-09-05 22:26:25
   Comments:
   STREET NAME: Roca Chica Drive

38. Name: Lisa A Fisher  (lfisher56@yahoo.com)  on 2019-09-05 22:44:13
   Comments: Ugh. Please stop this.
   STREET NAME: 20480 Royal Stone Drive

39. Name: Rilla Rogan  (rillarogan@yahoo.com)  on 2019-09-05 23:00:17
   Comments:
   STREET NAME: 20406 Seaboard Rd

40. Name: Patty Phillips  (patty@pattyspizza.com)  on 2019-09-05 23:46:11
   Comments:
41. Name: jeff grier (grierj@live.com) on 2019-09-05 23:54:58
   Comments:
   STREET NAME: 20330 big rock dr

42. Name: Pam Feldsted (pamfeldsted@gmail.com) on 2019-09-06 00:53:38
   Comments:
   STREET NAME:

43. Name: Rosalie Strickland (rosiestrickland2@gmail.com) on 2019-09-06 02:29:47
   Comments: We lived in Big Rock in '83 and the landslide was a nightmare. Homes were lost and our home and the entire Big Rock community was in danger. It is imperative that the city take the wellbeing of its residents seriously and make sure that all is done to ensure their safety.
   Rosie and Bob Strickland
   STREET NAME: 20350 Big Rock Drive

44. Name: ROMY BENNETT (romy90265@gmail.com) on 2019-09-06 03:11:58
   Comments:
   STREET NAME: Seaboard

45. Name: Anna Varakso (annlusinchi@gmail.com) on 2019-09-06 04:28:45
   Comments:
   STREET NAME: Roca Chica drive

46. Name: Lyuba C Harris (Lyubow555@yahoo.com) on 2019-09-08 00:31:54
   Comments: We need sustainable management of existing hillsides, not more development.
   STREET NAME: Seaboard

47. Name: Julie Masterson (julie.masterson@verizon.net) on 2019-09-10 21:37:56
   Comments:
   STREET NAME: 3800 Seamoor Drive

48. Name: Doug Masterson (doug.masterson@verizon.net) on 2019-09-10 22:27:40
   Comments:
   STREET NAME: Seamoor

49. Name: RENATE L DOLIN (megmir00@aol.com) on 2019-09-11 00:53:39
   Comments: It is surprising that after the class action suit in the 80th and the following remedial installations of dewatering equipment - for which an assessment district was developed - and maintenance was kept at a minimum - despite extensive payments assessed on our tax bills - there seems no consideration given by the planning commission by granting permits for variances of housing size with additional water input
into the hills. Must we wait for another slide with resulting law-suits to recognize that there is an enormous problem in a geological very sensitive area, supported by geological reports going back more than 30 years.

STREET NAME: 20375 Seaboard Rd

50. Name: Linda Rivera (rubysboxing99@gmail.com) on 2019-09-22 15:56:24  
Comments: 
STREET NAME: Serra Road

51. Name: Juan Rivera (lilsuge@mac.com) on 2019-09-22 15:57:07  
Comments: 
STREET NAME: Serra Road

52. Name: Marilou Hamill (myhamill211@gmail.com) on 2019-09-27 05:43:26  
Comments: Please let’s learn from the past and be diligent to maintain and improve the stability of Big Rock.  
STREET NAME: Big Rock

53. Name: Georg Treu (georg.treu@gmail.com) on 2019-10-14 18:45:55  
Comments: fully behind this  
STREET NAME: 20647 Seaboard Road

54. Name: yuji kawana (bu_surfer@yahoo.com) on 2019-10-14 19:22:14  
Comments: 
STREET NAME: 20418 Roca Chica Dr.

55. Name: James Sarantinos (sarantinos@aol.com) on 2019-10-14 19:40:45  
Comments: Is common sense / rational maintenance of our dewatering infrastructure too much to ask for?  
STREET NAME: Seaboard Rd

56. Name: john morris (jmorris@cybermesa.com) on 2019-10-15 00:15:31  
Comments: 
STREET NAME: rock pointbway

57. Name: Sadiqa Stelzner (drstelzner@drstelzner.com) on 2019-10-15 04:17:19  
Comments: 
STREET NAME: 20245 Piedra Chica Rd Malibu, CA 90265

58. Name: Patricia Neuray (patricia@tangelo-media.com) on 2019-10-15 07:01:30  
Comments: 
STREET NAME: 20491 Royal Stone Drive

59. Name: Nancy Corwin (nancycorwin@gmail.com) on 2019-10-17 03:25:19
Comments: We’ve had mudslides several times in the past!
STREET NAME: Seaboard Rd.

60. Name: Emily Cable (ekcable@gmail.com)  on 2019-12-12 22:46:32
Comments:
STREET NAME: 20241 Piedra chica Rd.

61. Name: Dana Krupinski (dana.krupinski@gmail.com)  on 2019-12-17 21:09:27
Comments:
STREET NAME:

62. Name: Hak Wong (hpwbigrrock@yahoo.com)  on 2020-02-01 02:20:04
Comments: Better late than never for corrective actions.
STREET NAME: Inland Lane

63. Name: Dorina schiro (dgschiro@yahoo.com)  on 2020-02-06 22:01:33
Comments:
STREET NAME: Inlandlane

64. Name: Rosemarie Ihde (rosemarie.ihde@gmail.com)  on 2020-03-04 00:43:06
Comments:
STREET NAME: 20246 Piedra Chica Road

65. Name: John Cadarette (jcadarette@theclarogroup.com)  on 2020-06-03 01:57:51
Comments:
STREET NAME: Seaboard Road

66. Name: Joanne gorby (malibublondes@aol.com)  on 2020-06-03 03:01:46
Comments:
STREET NAME: Inland In

67. Name: Adele Glatis (adeleuddo@gmail.com)  on 2020-06-03 04:47:31
Comments:
STREET NAME: Seaboard Rd.

68. Name: Christopher Glatis (cgman103@gmail.com)  on 2020-06-03 05:11:41
Comments:
STREET NAME:

69. Name: Dawn Kelmenson (dawnalanekehmenson@gmail.com)  on 2020-06-03 06:01:55
Comments:
STREET NAME: Roca Chica

70. Name: Wade Major (wm@lakemajor.com)  on 2020-06-03 06:09:33
Comments: For what we've paid, for as long as we've paid, it's unconscionably derelict that the dewatering installations have fallen into disrepair. The annual assessment is supposed to keep them consistently functional AT ALL TIMES. At the very least there should be an investigation and an accounting for why this was allowed to happen. And the cost of remedying the situation should fall on those who allowed it to happen - not the homeowners.

<table>
<thead>
<tr>
<th>Comment</th>
<th>Date</th>
<th>Email Address</th>
<th>Street Name</th>
</tr>
</thead>
<tbody>
<tr>
<td>71.</td>
<td>2020-06-03</td>
<td><a href="mailto:smittti@aol.com">smittti@aol.com</a></td>
<td>Big Rock drive</td>
</tr>
<tr>
<td>72.</td>
<td>2020-06-03</td>
<td><a href="mailto:aje@manningllp.com">aje@manningllp.com</a></td>
<td>Roca Chica</td>
</tr>
<tr>
<td>73.</td>
<td>2020-06-03</td>
<td><a href="mailto:jenapel@me.com">jenapel@me.com</a></td>
<td></td>
</tr>
<tr>
<td>74.</td>
<td>2020-06-03</td>
<td><a href="mailto:dbfoto@gmail.com">dbfoto@gmail.com</a></td>
<td>Seaboard road!</td>
</tr>
<tr>
<td>75.</td>
<td>2020-06-03</td>
<td><a href="mailto:sherylmyerson@gmail.com">sherylmyerson@gmail.com</a></td>
<td>Seaboard Road</td>
</tr>
<tr>
<td>76.</td>
<td>2020-06-03</td>
<td><a href="mailto:lobstrlovr@gmail.com">lobstrlovr@gmail.com</a></td>
<td>Seaboard Road</td>
</tr>
<tr>
<td>77.</td>
<td>2020-06-03</td>
<td><a href="mailto:lluzader3@gmail.com">lluzader3@gmail.com</a></td>
<td>Inland In</td>
</tr>
<tr>
<td>78.</td>
<td>2020-06-03</td>
<td><a href="mailto:stevenvahedi@gmail.com">stevenvahedi@gmail.com</a></td>
<td>Piedra Chica Rd</td>
</tr>
<tr>
<td>79.</td>
<td>2020-06-03</td>
<td><a href="mailto:hooshangvahedi63@gmail.com">hooshangvahedi63@gmail.com</a></td>
<td>Piedra Chica Rd</td>
</tr>
</tbody>
</table>
80. Name: Gerhard Ihde  (gerhard.ihde@gmail.com)  on 2020-06-03 22:21:05
Comments: No new construction in an active landslide area.
STREET NAME: Piedra Chica Road

81. Name: Juergen Cords  (Cordsmm@verizon.net)  on 2020-06-04 02:18:38
Comments:
STREET NAME: 20400 Little Rock Way

82. Name: John McNeil  (johnlmcneil25@gmail.com)  on 2020-06-04 04:01:54
Comments:
STREET NAME: Big Rock Drive

83. Name: K Hill  (kraig.malibu@gmail.com)  on 2020-06-04 04:03:27
Comments: A basic problem is that there is no executive authority to evaluate the outputs of the monitoring and render an expert opinion on the current stability of the local geology. Fugro does the monitoring, pulls all the data together in an annual report, but no one puts their name on the line to say what it all means. In the early years, Bing Yen would render an opinion. Nowadays, I guess it should be City geologist Chris Dean – or perhaps a (Fugro) consultant specialized in slides and dewatering – but it seems the City is reluctant to draw conclusions from the data, out of concern that any subjective interpretation could expose them to liability. That's my speculation.

There has been some some movement of the hill in recent years, perhaps in isolated areas. Given the variety of observations made by neighbors – some factual, some more circumstantial – it would be prudent for the City to impose a moratorium on any further development that adds fixtures (sinks, toilets, etc) or otherwise increases water inputs to the hill (within that constraint, if you want to remodel or make an addition, that should be okay). A moratorium, especially because no authority will put its name on the line to certify the hill’s safety – apart from the City’s implicit assumption that it’s safe.

Note that just because the contract is up for renewal and out for bid, it doesn’t mean that Fugro won’t still be the selected contractor (unless you know something I don’t).

For years I’d read the annual report without questioning its findings too cynically. As I’ve looked closer in the past few years, that has changed. It's clear that Big Rock is not getting what it’s paying for. The FinanceDTA report, on page 9 of 31 of the staff report, has a list of “facilities and maintenance financed.” Some significant number of those wells, hydraulers, etc have not been functional for years. For example, three hydraulers on my property have not worked for about 20 years. When Bing Yen was running the show, a guy called John would come once a month to monitor, clean and maintain the hydraulers. He stopped coming about 20 years ago. So it appears that, for those three hydraulers at least, the district has been billed for 20 years for nothing. I’ve heard anecdotally of other equipment on the hill not having worked for a long time too, but I’ve not made any sort of inventory of it. If you know of equipment that hasn’t worked for a long time, let the Council know – because it appears we’re still being billed for a lot of it.
STREET NAME: Seaboard
84. Name: PAUL Berning (paullberning@verizon.net) on 2020-06-05 02:42:10
Comments:
STREET NAME: 20309 SEABOARD ROAD

85. Name: Jim Dooley (jimd3spam@gmail.com) on 2020-06-29 23:16:58
Comments:
STREET NAME: 20832 Big Rock Drive

86. Name: RICHARD EHRMAN (richardkehrman@gmail.com) on 2020-06-30 02:40:49
Comments: Thank u
STREET NAME: Big rock drive

87. Name: Herb Tannen (herbtannen@herbtannen.com) on 2020-06-30 12:57:10
Comments:
STREET NAME: Pinnacle Way

88. Name: Shelley Pedersen cox (shelleypcox@gmail.com) on 2020-06-30 15:32:46
Comments:
STREET NAME: 20470 Seaboard Road

89. Name: Janet Fulk (fulk@usc.edu) on 2020-07-01 18:42:02
Comments:
STREET NAME: 20790 Rockpoint Way

90. Name: Joyce Hoover (cathy@ponywagon.com) on 2020-07-01 18:43:51
Comments:
STREET NAME: Big Rock Dr. Malibu

91. Name: Dean Wilcox (blucojoldings@gmail.com) on 2020-09-18 02:37:35
Comments:
STREET NAME: Roca Chica
#3 TRACT 27463
LOTS 1-15
malibu estates
Exclusive Agents

A Hanson Homes, Inc. Development

Black Circles refer to Tract 27463
White Circles refer to Tract 26263
DECLARATION OF ESTABLISHMENT
OF
COVENANTS, CONDITIONS AND RESTRICTIONS

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, CAVE CLUB, INC., a California corporation, is the owner of real property in the County of Los Angeles, State of California, described as lots 1 through 15 inclusive of tract 27463 as per map recorded in book 701 at page 70,71 in the office of the County Recorder of Los Angeles County; and

WHEREAS, it is the desire and intention of CAVE CLUB, INC. to sell the above described property and to impose on it mutual, beneficial restrictions under a general plan or scheme of improvement for the benefit of all the lots in said tract and the future owners of said lots;

NOW, THEREFORE, CAVE CLUB, INC. Hereby certifies and declares that all of the property described above is held and shall be held, conveyed, hypothecated or encumbered, leased, rented, used, occupied and improved subject to the following provisions, limitations, conditions, restrictions, covenants, easements and reservations, all of which are declared and agreed to be in furtherance of a plan for the subdivision, improvement, and sale of the said lots in said tract and are established and agreed upon for the purpose of enhancing and protecting the value, desirability, and attractiveness of the above described property and every part thereof.

All of the herein provisions, limitations, restrictions, covenants, easements and reservations shall be binding on all parties and all persons claiming under them until December 31, 1983, after which time said provisions, limitations, restrictions, covenants, easements and reservations shall be automatically extended for successive periods of ten (10) years, unless an instrument signed by a majority of the then owners of the lots has been recorded agreeing to change said provisions, limitations, restrictions, covenants, easements and reservations in whole or in part.

(a) The ground floor area of the main structure, exclusive of one story open porches, patios and garage shall not be less than 2,000 square feet for a dwelling of more than one story.

(b) No lot shall be used except for residential purposes. Except for lots 5 and 7, no building shall be erected, altered, placed or permitted to remain on any lot of the above tract other than one detached single family dwelling of not more than one story in height and not exceeding fifteen (15) feet in height from the ground level of such dwelling to the highest point of the roof thereof, and a private garage. No building shall be erected, altered, placed or permitted to remain on either of lots 5 and 7 of the above tract other than one detached single family dwelling of not more than two stories in height and not exceeding twenty-five (25) feet in height from the ground
level of such dwelling to the highest point of the roof thereof, and a private garage. The restrictions of this paragraph (b) shall not apply to structures incidental to a single family dwelling such as cabanas or dressing rooms provided, further, that the Architectural Committee hereinafter referred to may allow exceptions to this provision.

(c) No building shall be located on any lot nearer than twenty (20) feet to the front lot line, nor nearer than ten (10) feet to any side street or interior lot line, and no residential dwelling shall be located on any interior lot nearer than fifteen (15) feet to the rear lot line. For the purpose of this paragraph (c), eaves, steps and open porches shall not be considered as a part of a building provided, however, that this shall not be construed to permit any encroachment upon another lot.

The above listed requirement of twenty (20) foot setback to the front lot line shall not apply to lots 2, 4, 5, 7, 8, 9, 10, 11 and 12 in the event the Regional Planning Commission or other governmental agencies will allow lesser distance. In addition, the lots 2, 4, 5, 7, 8, 9, 10, 11 and 12 will have no construction or permanent structures within the “Geological hazard Area” as shown on the recorded tract map of Tract No. 27463.

(d) No outside television or radio pole or antenna shall be constructed, erected or maintained on any building or any building site, or located in such a manner as to be visible from the outside of any such building, except by and with the prior written consent of the Architectural committee.

(e) No fences, trees, plants, shrubs, or hedges shall be erected, planted or permitted on any lot, other than fences, plants, trees, shrubs or hedges not over six (6) feet high or those approved by the Architectural Committee. In no event shall any fence, tree, plant, hedge, shrub or any other structure or device be placed on any lot or any part thereof if the placing thereon will interfere with the ocean view enjoyed by adjacent lots of said tract.

(f) No building, garage or fence shall be erected, placed or altered on any lot until the building plan, specifications and plot plans showing the location of such building, garage or fence have been approved in writing as to the conformity and harmony of external design with the existing structures in the tract and as to the location with respect to topography and finished ground elevation by an Architectural Committee composed of John H. Hadley, Ray K. Cherry and John W. Hunter, all of Los Angeles, California, or by a representative designated by a majority of said Architectural Committee. In the event of the death or resignation of any member of said committee, the remaining members shall have full authority to approve or disapprove such design and location or to designate a representative with like authority, or to elect a successor. In the event said committee or its designated representative fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, or in the event that no legal
actions have been commenced to enjoin the erection of any such building or the making of alterations prior to the completion thereof, then the plans for such building or alteration shall be deemed to have been fully complied with. Neither the members of such committee nor its designated representatives shall be entitled to any compensation for services performed pursuant to this covenant.

The aforesaid individuals or the successor or successors of any of them, shall serve as members of said Architectural Committee until April 1, 1964, at which time the Architectural Committee shall be composed of the then members of the Board of Directors of Malibu Mutual Drainage Company, a non-profit California corporation. In the event that any such board member thereafter ceases to be a member of the Board of Directors of said Malibu Drainage Company, he shall cease to be a member of the Architectural Committee and his successor to the position of director of said Company shall become a member of said Architectural Committee in his place and stead. In the event that the owner of any lot is dissatisfied with any decision of the Architectural Committee, said owner shall have the right to submit the matter to arbitration in accordance with the rules of the American Arbitration Association.

(g) No noxious or offensive trade or activity shall be carried on or upon any lot, nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood.

(h) No trailer, basement, tent, shack, garage, barn or other out-building shall be erected or maintained in the tract for the purpose of a residence, temporarily or permanently, nor shall any structure of any temporary character be used as a residence.

(i) No oil drilling, oil development operation, oil refining, quarrying, or mining operation of any kind shall be permitted upon or in any lot, nor shall oil wells, tanks, tunnels or mineral excavations or shafts be permitted upon or in any lot. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained, or permitted upon any lot.

(j) No animals, livestock, or poultry of any kind shall be raised, bred or kept on any lot, except that dogs, cats, canaries or parakeets may be kept as pets, provided that they are not kept, bred, or maintained for any commercial purposes.

(k) Each and every owner or owners of any lot in the aforesaid tract shall consent in writing to become or members of the Malibu Mutual Drainage Company, a non-profit California corporation, organized for the purpose of providing for the maintenance of sub-surface drainage pipes and disposal of drainage therefrom below and from the above tract. The acceptance of record ownership to any of the aforesaid lots shall be deemed an automatic election by the owner or owners thereof to become a member or members of said Malibu Mutual Drainage Company. All lots
tract shall be subject to assessment in the manner specified in the Articles of Incorporation and the By-laws of said Malibu Mutual Drainage Company and any such assessment is hereby deemed to be a lien on the lot so assessed.

THIS COMPANY HAS BEEN DISSOLVED. NO LONGER EXISTS.

(l) That each owner of a lot in said tract shall not in any way interfere with the established drainage in or over any lot of said tract. In the event it is necessary to change the established drainage over any lot, adequate provisions for proper drainage shall be made therefor. For the purpose hereof "Established Drainage" is defined as the drainage as the same existed at the time of the overall grading of said tract as completed by the undersigned.

(m) No sign of any kind shall be displayed to the public view on any lot, except one sign of not more than two (2) square feet advertising the property for sale or rent, and except signs of any size used by the declarant or its authorized agents, successors or assigns to advertise the herein described property during the construction and sales period.

CAVE CLUB, INC. Does hereby certify and declare that the foregoing provisions, limitations, conditions, restrictions, covenants, easements and reservations, all and singular, are for the benefit of each owner of said lots in said tract or any interest therein, and are imposed upon said tract as a servitude in favor of or binding upon each and every parcel of land therein as the dominate tenement or servient tenement as the case may be.

It is further provided, as to the owner and owner's successors in interest of any lot or lots in said tract, the provisions, limitations, conditions, restrictions, covenants, easements and reservations, all and singular, are and shall be hereby made covenants running with the land, and breach or violation thereof or continuance of any such breach may be enjoined, abated, or damages may be recovered by appropriate proceedings by the undersigned, its successors or assigns, or by any owners of any lot in said tract, or such owner's successors in interest; provided, however, that the breach of any said provisions, restrictions or covenants shall not defeat or render invalid the lien of any mortgage or deed of trust made in good faith and for value as to said lots or property, or any part thereof, but such provisions, restrictions or covenants shall be binding and effective against any owner of said property whose title thereto is acquired by foreclosure, trustee's sale or otherwise.

PROVIDED, FURTHER, enforcement of the foregoing provisions, limitations, conditions, restrictions, covenants, easements and reservations may be by proceeding at law or in equity against any person or persons violating or attempting to violate the same, either to restrain violation or to recover damages.

Any invalidation of any of the provisions, limitations, conditions, restriction, covenants, easements or reservations by judgement or court order, shall in no way affect any of the other such terms, and they shall remain in full force and effect.
IN WITNESS WHEREOF, CAVE CLUB, INC. has hereunto subscribed its corporate name and affixed its corporate seal this 8th day of April, 1963.

CAVE CLUB, INC.

BY _____________________________

John H. Hadley, President

BY _____________________________

Ray K. Cherry, Assistant Secretary
MODIFICATION OF
DECLARATION OF ESTABLISHMENT
OF COVENANTS, CONDITIONS, RESTRICTIONS

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, CAVE CLUB, INC., a California Corporation, is the owner of real property in the County of Los Angeles, State of California, described as lots 1 through 15 inclusive of tract 27463 as per map recorded in book 701 at pages 70 and 71 in the office of the County Recorder of Los Angeles; and

WHEREAS, CAVE CLUB, INC., has heretofore executed and caused to be recorded a Declaration of Establishment of Covenants, Conditions, and Restrictions in book M1247, page 332 in the Office of the County Recorder of Los Angeles County, which Declaration imposes certain restrictions on the aforementioned real property; and

WHEREAS, CAVE CLUB, INC., desires to modify said Declaration of Establishment of Covenants, Conditions and Restrictions in certain particulars.

NOW, THEREFORE, CAVE CLUB, INC. does hereby modify the aforesaid Declaration of Establishment of Covenants, Conditions and Restrictions by deleting therefrom paragraph © in its entirety and substituting in the place and stead thereof the following paragraph (c):

For the purposes of this paragraph (c), eaves, steps and open porches shall not be considered as a part of a building; provided, however, that this shall not be construed to permit any encroachment upon another lot. The restrictions of this paragraph may be modified or removed in whole or in part as to any lot with the prior written consent of the Architectural Committee.

The above listed requirement of twenty (20) foot setback to the front lot line shall not apply to lots 2,4,5,7,8,9,10,11,12 in the event the Regional Planning Commission or other governmental agencies will allow a lesser distance. In addition, the lots 2,4,5,7,8,9,10,11 and 12 will have no construction or permanent structures within the "Geological Hazard Area" as shown on the recorded tract map of tract 27463.

IN WITNESS WHEREOF, CAVE CLUB, INC., has hereunto subscribed its corporate name and affixed its corporate seal this 28th day of October, 1965.

CAVE CLUB, INC.

BY ____________________________
John H. Hadley, President

BY ____________________________
Ray K. Cherry, Assistant Secretary
SECOND MODIFICATION OF DECLARATION OF ESTABLISHMENT OF COVENANTS, CONDITIONS AND RESTRICTIONS

KNOW ALL MEN THESE PRESENTS:

WHEREAS, CAVE CLUB, INC., a California Corporation, is the owner of real property in the County of Los Angeles, State of California, described as lots 1 through 15 inclusive of tract 27463 as per map recorded in book 701 at pages 70 and 71 in the office of the County Recorder of Los Angeles; and

WHEREAS, CAVE CLUB, INC. has heretofore executed and caused to be recorded a Declaration of Establishment of Covenants, Conditions and Restrictions in book M1247, page 332 in the office of the County Recorder of Los Angeles County, which declaration imposes certain restrictions on the aforementioned real property; and

WHEREAS, CAVE CLUB, INC. desires to further modify said Declaration as modified in certain particulars.

NOW, THEREFORE, CAVE CLUB, INC. does hereby modify the aforesaid Declaration of Establishment of Covenants, Conditions and Restrictions as modified by the aforesaid modification of Declaration of Establishment of Covenants, Conditions and Restrictions by deleting therefrom paragraph (c) in its entirety and substituting in the place and stead thereof the following paragraph (c).

No building shall be located on any lot nearer than twenty (20) feet to the front lot line, nor nearer than ten (10) feet to any side street or interior lot line, and no residential dwelling shall be located on any interior lot nearer than fifteen (15) feet to the rear lot line. For the purpose of this paragraph (c), eaves, steps and open porches shall not be considered as a part of a building; provided, however, that this shall not be construed to permit any encroachment upon another lot. The restrictions of this paragraph may be modified or removed in whole or in part as to any lot with the prior written consent of the architectural Committee.

In no event shall any residential dwelling be located nearer than seven (7) feet from the top of the slope at the rear of lots 3 and 6.

The above listed requirement of twenty (20) foot setback to the front lot line shall not apply to lots 2, 4, 5, 7, 8, 9, 10, 11 and 12 in the event the Regional Planning
Commission or other governmental agencies will allow a lesser distance. In addition, the lots 2,4,5,7,8,9,10,11,12 will have no construction or permanent structures within the "Geological Hazard Area" as shown on the recorded tract map of tract 27463.

IN WITNESS WHEREOF, CAVE CLUB, INC., has hereunto subscribed its corporate name and affixed its corporate seal this 18th day of February, 1964.

CAVE CLUB, INC.

BY _______________________
John H. Hadley, President

BY _______________________
Ray K. Cherry, Assistant Secretary
Section 3. Zoning Text Amendment.

Malibu Municipal Code Chapter 17.45 is hereby amended to read as follows:

Chapter 17.45

17.45.010. Title.

This Chapter shall be known as the “Citywide View Preservation and Restoration.”

17.45.020. Purpose.

A. The purpose of this Chapter is to establish a right for property owners to preserve a primary view that existed on or after February 13, 2012 and to restore a pre-existing view, as defined in this Chapter, which has been significantly obstructed by foliage, while striking an equitable balance between the right to reasonable use of one's property including the maintenance of privacy and the right to protection against unreasonable loss of views. This Chapter applies to all properties within the City’s permitting jurisdiction, excluding state and county-owned properties.

B. This Chapter is not intended to encourage or result in the clear-cutting or substantial denuding of any property of its trees by overzealous application of provisions of this Chapter. It is also not the intent or purpose of this Chapter for the City to supplant any private covenants, conditions, and restrictions (CC&Rs) which may place more restrictive controls on the growth or placement of foliage.

C. This Chapter is not intended to affect, and shall not be construed as affecting, Chapter 17.43 (View Restoration and Preservation for Malibu Country Estates).

17.45.030. Definitions.

The following definitions shall apply for purposes of this Chapter.

A. “Arbitration” means a voluntary legal procedure for settling disputes and leading to a determination of rights of parties, usually consisting of a hearing before an arbitrator where all relevant evidence may be freely admitted.

B. “Arbitrator” means a mutually agreed upon neutral third party professional intermediary who conducts a hearing process, and who hears testimony, considers evidence and makes decisions for the disputing parties.

C. “Certified arborist” means an individual certified as an arborist by the International Society of Arboriculture (ISA).

D. “Claimant” means a property owner who alleges that foliage is causing a significant obstruction of a primary view.
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121 NEW BUILDS WITH ADDITIONS IN BIG ROCK MESAS ASSESSMENT DISTRICT SINCE 1992 BING YEN REPORT COMPLETED
Includes: 20 homes on PCH but still over 80 homes on Big Rock's hill! At least 30 new OWTS increased.
18 new pools/spas

TOTAL ADDED SQ FOOTAGE: 109,045

THIS DOES NOT INCLUDE BREITMAN, OR THE TWO APPROVED PROJECTS ON WHITECAP WAY FOR OVER 15,000 SQ FT OR ANY POOLS OR SPAS. MISSING SOME DATA AS WELL SO LIKELY WELL OVER 100K SQ FOOTAGE ADDED SINCE 1992.
Dear Ms. Rudolph,

I am writing to you to object to the variances being considered for the construction of a two story home at 20272 Inland Lane. As a resident of Pacific Coast Highway, I am concerned about the plans for the home proposed to be on the bluff overlooking the highway. Please enforce the safety factor of 1.5 as all of the Big Rock area requires.

I appreciate your consideration of the safety for all residents of Big Rock.

Thank you.

Ron Underwood
Hi Lilly,
Let's be certain to include this correspondence. Perhaps Aaron can upload it to OnBase for you.

Richard Mollica, AICP
Acting Planning Director
City of Malibu
310-456-2489 Ext. 346

-----Original Message-----
From: Ron Underwood
Sent: Monday, November 2, 2020 4:08 PM
To: Richard Mollica <rmollica@malibucity.org>
Subject: 20272 Inland Lane

Dear Mr. Mollica,

I am a resident of Pacific Coast Highway in Big Rock and would like to express my concern for the proposed construction of a two-story home on the edge of the bluff at 20272 Inland Lane. Please enforce the safety factor of 1.5 for the proposed construction as all of the Big Rock area requires.

I appreciate your consideration of the safety for all residents of Big Rock.

Thank you.

Ron Underwood
Thank you for the update. We are very concerned about a possible landslide. My property is in Piedra Chica Rd one street above. I noticed there is a flooring dipping, I thought it is a water issue. I had an expert come in for inspection but they did not find any moisture. There is a drainage pipe and water well in front of my property. We had a broken well pump issue. The city came and replaced it but the pump is not working and the water plate is high. My neighbor's driveway has many deep cracks by the well too. We are afraid we may be facing a landslide. I would like city help to investigate this issue ASAP. The rainy season is on our way and we do not want more water build up and a major disaster of landslide for many properties here. Pls direct or advise us about this urgent issue. I appreciate your kind attention on this urgent matter.

thank you,

On Thu, Dec 3, 2020 at 3:17 PM Kathleen Stecko <kstecko@malibucity.org> wrote:

*You have received this email because you are listed as an interested party for Item No. 5.E. (20272 Inland Lane – CDP No. 19-001) on the next Planning Commission meeting agenda

The applicant has requested a continuance of this item to the January 4, 2021 Regular Planning Commission meeting; staff is in agreement with this request.

The request will be considered by the Planning Commission when they review and approve the meeting agenda at the beginning of the Monday, December 7, 2020 Regular Planning Commission meeting.

Regards,

Kathleen Stecko

Administrative Assistant

City of Malibu

Planning Department

23825 Stuart Ranch Road

Malibu, CA 90265

Phone: (310) 456-2489, ext. 374

Fax: (310) 456-7650

Connect with the City of Malibu!

Date Received 12/4/20 Time 8:00 AM
Planning Commission meeting of 12/7/20
Agenda Item No. 5E
Total No. of Pages 1

CC: Planning Commission, PD, Recording Secretary, Reference Binder, File
Dear People:

On behalf of all of us who live on PCH and who see daily the water and dirt and stones and rocks runoff from Big Rock, please do not consider adding to the danger. To build too close to the cliff edge is obscenely foolish. Everyone needs to think about the earth and the safety of all of us here. Please deny any permits or variances to 20272 Inland Ln so the rest of us can be safe. PCH needs all the help it can get!

Thank you

Peter and Connie Goetz

Sent from my iPhone
Dear Richard:

In light of the substantial number of people that will likely want to comment on the proposed house at 20272 Inland Lane and the fact that the project is at the very end of a very long agenda for Monday’s Planning Commission hearing, I have discussed the situation with the property owner, Jon Congdon, and with Planning Commission Chair Mazza, and the applicant is requesting to be continued to the next Planning Commission meeting and to be first on the agenda, i.e. Item 4A.

Thank you for your help in this matter.

Norman R. Haynie
Project Representative
November 25, 2020

VIA EMAIL ONLY kstecko@malibucity.org

John Mazza, Chair
City of Malibu Planning Commission
c/o Kathleen Stecko, Administrative Office Assistant
23825 Stuart Ranch Road
Malibu, CA 90265-4861

Re: 20272 Inland Lane
Coastal Development Permit Amendment, Variance, Site Plan Review and Minor Modification - No. 19-001
Hearing Date: December 7, 2020
Support for Project Approval

Dear Chair Mazza and Honorable Commissioners:

This office represents applicant The Jonathan L. Congdon Revocable Trust (“Congdon” or “Applicant”) with regard to the proposed Coastal Development Permit (“CDP”) and related entitlements No. 19-001, for the property located at 20272 Inland Lane (the “Property”). The proposed CDP will allow for the building of a new a two-story home to replace the previous home which was destroyed by fire (the “Project”). We have reviewed the Staff Report and agree with its findings and conclusions. The Applicant accepts the proposed Conditions of Approval.

We have also reviewed the public correspondence submitted in opposition to the Project by neighboring property owners. We submit this letter to respond to those concerns. For the reasons stated in the Staff Report and below, we respectfully request that the Project be approved pursuant to staff’s recommendation.

I. INTRODUCTION.

A. The Project.

The Applicant seeks approval to allow the construction of a new two-story, 3,792 square foot single-family residence on the Property. The Project is consistent with the City’s Local Coastal Program (“LCP”) with regard to height, allowed square footage, impermeable lot coverage and non-exempt grading, and should be approved. The only entitlement requests sought are: (1)
Coastal Development Permit; (2) Minor Modification for partial reduction of an east side yard; (3) Site Plan Review for maximum height of 24 feet; and (4) Variance from City geotechnical standards for factor of safety. The requested variance would be required for the development of any home on the Property, and in fact, for any property located in the Big Rock Neighborhood and affected by the Big Rock Mesa Landslide.

**B. The Facts Support Findings for Project Approval.**

As detailed in the Staff Report, the facts in this case support making the required findings for each of the entitlement requests. As discussed in detail below, the opponents fail to present any argument or evidence that would justify denial of the Project, and as such, the Project should be approved.

**II. THE PROJECT IS ENVIRONMENTALLY EXEMPT FROM CEQA.**

Staff has appropriately found that the Project qualifies for a categorical exemption from CEQA pursuant to CEQA Guidelines § 15303(a) - construction of one new single family residence. The Staff Report details findings that support that none of the six exceptions to the use of a categorical exemption applies. It is the burden of a party challenging an exemption determination to show that the project is not exempt because it falls within one of the exceptions listed in the CEQA guidelines. *Banker’s Hill, Hillcrest, Park West Community Preservation Group v. City of San Diego* (2006) 139 Cal.App.4th 249.

Opponents claim that the Project falls into the “unusual circumstances” exception to the categorical exemption. CEQA Guidelines § 15300.2(c) (“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.”) Opponents point to the Project’s grading and location to argue that there are “unusual circumstances” present. However, they fail to address the crucial element of the exception: they present no evidence that any purported unusual circumstance leads to “a reasonable possibility that the [Project] will have a significant effect on the environment. . . .” Without this crucial element, there is no exception available and the Project is de facto categorically exempt. *Berkeley Hillside Preservation v. City of Berkeley* (2015) 60 Cal.4th 1086, 1097.

We note that this Supreme Court case, and its follow-up decision after remand, holds that a large house built on a steep hillside lot is not within the “unusual circumstances” exception to CEQA categorical exemptions. The Court reasoned that even though that house would be larger than other houses in the area and would be located in an area designated as a potential landslide, there was a site-specific geological study, the house was a single-family residence in a residential zone, and was in-fill development. *Berkeley Hillside Preservation, supra; Berkeley Hillside Preservation v. City of Berkeley* (2015) 241 Cal.App.4th 943. The Supreme Court held that a proper “unusual circumstances” analysis looks at the conditions in the immediate neighborhood to determine whether the environmental effects of a proposed project are unusual or typical. *Berkeley Hillside Preservation, supra*, 60 Cal.4th at 1118-1119. Here, similar to the home
considered in Berkeley Hillside Preservation, the Project is similar in size and massing to other homes in the neighborhood (i.e all of the homes lived in by the opponents).

III. THE REQUESTED VARIANCE IS LEGALLY AND FACTUALLY JUSTIFIED.

Despite the Staff Report’s detailed findings in support of the Project’s requested variance, and technical reports cited in support thereof, opponents suggest that the requested variance should not be granted because staff relies on technical reports commissioned by the Applicant in making its findings. This position is not supported by law.

To support a variance, the record must contain substantial evidence in support of each of the required findings. Eskeland v. City of Del Mar (2014) 224 Cal.App.4th 936, 949. Substantial evidence has been defined to include fact, a reasonable assumption predicated upon fact, or expert opinion supported by fact. Pub. Res. Code § 21080(e)(1). “Substantial evidence is not argument, speculation, [or] unsubstantiated opinion or narrative...” Pub. Res. Code § 21080(e)(2). Here, the Applicant has submitted various expert technical supports to the City to support that the Project will not result in an increased threat of landslide, slope instability, or any other geologic hazard. This is the precise type of evidence that the law contemplates the City rely on as substantial evidence in support of a variance request.

IV. THE VARIANCE IS REQUIRED TO AVOID A TAKING.

The requested variance is required for the development of the Property with a home of any design. As detailed in the Staff Report, it was not feasible for even the previously approved project to meet the LCP’s standards for slope stability, and a variance was previously granted based upon extensive geologic and geotechnical engineering studies that were reviewed and approved by City geotechnical staff. Relative to the pending Project, City geotechnical staff has reviewed the revised design and updated geotechnical reports and has determined that the Project will not adversely affect the stability of the slope. No evidence in the record supports a contrary conclusion.

In fact, as described in the Staff Report: “The proposed site design and construction measures are anticipated to produce a higher degree of site and structure performance than what previously existed on the site.” This is supported by the findings of the Project’s civil, structural and geotechnical engineers. As found by the Project Engineering Group: “all specific designs and measures included in the QCMM will increase the safety of the site as well as adjacent properties.” As stated by GeoConcepts: “Our recommendations provide an increase in the safety relative to the current conditions and previous development on the subject site.”

Given that neither the previously approved project or the current Project will adversely affect slope stability, the Staff Report’s finding that the Project as proposed, with the narrower design, reduced footprint, and lower finished elevation is the environmentally superior design is well supported. See Eskeland v. City of Del Mar, supra 224 Cal.App.4th at 955 [“Looking at the
various alternatives, the siting of the home with the front yard Variance was found to be the best alternative to achieve development that would preserve public and private scenic views…”

The facts is that denial of the requested variance will result in the Applicant being deprived of privileges enjoyed by others in the vicinity, including the opponents themselves, whose homes are all maintained on the exact same landslide. As detailed in the Staff Report, the granting of a variance is required in this instance in order to allow viable economic use of the Property, and to avoid an unconstitutional taking of private property and corresponding liability for the City.

As the Staff Report states: “Requiring the proposed development to provide a factor of safety of 1.5 (static) and a factor of safety of 1.1 (pseudostatic) would likely constitute a taking of private property. Therefore, the proposed project should be allowed to avoid a taking.” “Approval of the variance from the required geotechnical standard for factor of safety will permit the construction of the residence on the property; otherwise, the property could not be developed. Any development on the site would require a variance from this standard.”

V. CONCLUSION.

As set forth above, the Staff Report properly recommends approval of the Project and finds that the Project is categorically exempt from CEQA. The Staff Report correctly makes the necessary findings for approving the CDP, Minor Modification for a reduced side yard, Site Plan Review, and the Variance. The opponents have provided no evidence to the contrary. The home has been designed to be as minimally impactful as possible. The Congdons deserve to receive the same treatment as their neighbors. We respectfully request that this Commission approve the Project.

Thank you for your consideration of this matter.

Sincerely,

GAINES & STACEY LLP

Fred Gaines
By FRED GAINES

cc: All Commission Members (Via Email)
Richard Mollica, Acting Planning Director (Via Email)
Lilly Rudolph, Planner (Via Email)
From: Jo Drummond
Sent: Saturday, December 19, 2020 8:08 AM
To: Lilly Rudolph; Hak Wong; Bruce Silverstein
Cc: Joanne Gorby; Dorina Schiro; andy.cho@dot.ca.gov; Jefferson Wagner; Steve Uhring; Mikke Pierson; John Mazza; Dee Dee Graves; Christopher Cunningham; Georgia Goldfarb
Subject: Re: Request to continue the Congdon case

This case for 20272 Inland Lane – CDP No. 19-001 should definitely be one of the investigated permits for any impropriety. Things do not add up at all from non noticed residents to alternative physics to implied permit application extensions to factor of safety and obstructed view violations.

Thanks, Jo Drummond

On Saturday, December 19, 2020, 06:31:00 AM PST, Hak Wong wrote:

Lilly My Dear:

Ooops, I am afraid the sh*t just hit the fan! Guess we should expect reckoning times a-coming. Someone has to look under the belly of the City, to shine a harsh light on irregular transactions with public servants. Wasn't it delicious the way Bruce excoriated the City Attorney and Manager? Wonder if Feldman's going to retire and stay home too. Maybe she has pet babies to take care of.

It behooves you to continue the Jon Congdon case to whenever. It will be difficult to wriggles pass when the City is under magnified scrutiny in the foreseeable future. I have already been in contact with Zuma Jay and Bruce about the puzzling twisted logic and irregular process that Jo Drummond and I encountered in dealing with the City. We just can't figure out your upside theory of the lower part obscuring a planned illegal taller part, since we are not from the tribe of earthworms. And I can't stop the symphony of 'Implied Application' in the city hall echoing in my head. We will share these and more. I still have not heard how your department will spin around the low safety factor of Big Rock, and not to build below 1.5. Caltrans attorney, Andy Cho, and my PCH neighbors would like to know, and I'll keep them informed.

I am So glad that we may meet again. After all, what do I know about these Alternative Physics? I only graduated from Harvard with a Magna. Maybe when we get to be in front a kind judge, he/she will explain the nuances in how west coast city works to an Ivy Leaguer. Toodaloo.

Sent from Yahoo Mail on Android
Notice of Public Hearing

The Malibu Planning Commission will hold a public hearing on Monday, December 7, 2020, at 6:30 p.m. on the project identified below which will be held via teleconference only in order to reduce the risk of spreading COVID-19 & pursuant to the Governor’s Executive Orders N-25-20 & N-29-20 and the County of Los Angeles Public Health Officer’s Safer at Home Order.

COASTAL DEVELOPMENT PERMIT NO. 19-001, VARIANCE NO. 19-001, SITE PLAN REVIEW NO. 19-001, AND MINOR MODIFICATION NO. 19-001 - An application to construct a new 4,392 square foot, two-story single-family residence, plus a 602 square foot attached two-car garage with storage, a detached 192 square foot cabana, hardscape, grading, drainage, and installation of a new onsite wastewater treatment system including a variance from the City’s geotechnical standards for factor of safety, a site plan review for the roof height in excess of 18 feet, up to 24 feet for a flat roof, and a minor modification for the reduction of the required side yard setback.

LOCATION / APN / ZONING: 20272 Inland Lane / 4450-012-032 / Single-family Low Density (SFL)
APPLICANT / OWNER: Blue Onyx Design and Engineering, Inc. / Jonathan Congdon
APPEALABLE TO: City Council and California Coastal Commission
ENVIRONMENTAL REVIEW: Categorical Exemption CEQA Guidelines Section 15303(a)
APPLICATION FILED: January 3, 2019
CASE PLANNER: Lilly Rudolph, Contract Planner, lrudolph@malibucity.org (310) 456-2489, ext. 374

A written staff report will be available at or before the hearing for the project, typically 10 days before the hearing in the Agenda Center: http://www.malibucity.org/agendacenter. Related documents are available for review by contacting the Case Planner during regular business hours. You will have an opportunity to testify during the public hearing; written comments, which shall be considered public record, may be submitted any time prior to the beginning of the public hearing, if the City’s action is challenged in court, testimony may be limited to issues raised before or at the public hearing. To view or sign up to speak during the meeting, visit malibucity.org/virtualmeeting.

LOCAL APPEAL - A decision of the Planning Commission may be appealed to the City Council by an aggrieved person by written statement setting forth the grounds for appeal. An appeal shall be emailed to psalazar@malibucity.org within ten days following the date of action and the filing fee shall be mailed to Malibu Planning Department, attention: Patricia Salazar, 23825 Stuart Ranch Road, Malibu, CA 90265. Payment must be received within 10 days of the appeal deadline. Appeal forms may be found online at www.malibucity.org/plan. If you are unable to submit your appeal online, please contact Patricia Salazar by calling (310) 456-2489, extension 245, at least two business days before your appeal deadline to arrange alternative delivery of the appeal.

COASTAL COMMISSION APPEAL - An aggrieved person may appeal the Planning Commission’s approval directly to the Coastal Commission within 10 working days of the issuance of the City’s Notice of Final Action. More information may be found online at www.coastal.ca.gov or by calling 805-585-1800.

RICHARD MOLLICA, Acting Planning Director
Date: November 12, 2020

ATTACHMENT 10
Commission Agenda Report

To: Chair Mazza and Members of the Planning Commission

Prepared by: Didier Murillo, Assistant Planner

Approved by: Richard Mollica, Acting Planning Director

Date prepared: December 22, 2020  Meeting date: January 4, 2021

Subject: Coastal Development Permit No. 17-085, Variance No. 19-059, Site Plan Review No. 17-001 and Demolition Permit No. 17-001 – An application for an interior and exterior remodel, additions to an existing single-family residence and new accessory development

Location: 3710 Decker Edison Road, not within the appealable coastal zone

APN: 4473-005-014

Owner: Tao Guan

RECOMMENDED ACTION: Adopt Planning Commission Resolution No. 21-02 (Attachment 1) determining the project is categorically exempt from the California Environmental Quality Act (CEQA), approving Coastal Development Permit (CDP) No. 17-085 to allow for an interior and exterior remodel and 920 square feet of additions to the existing single-family residence, a new 900 square foot detached second residential unit with an attached 400 square foot garage, a new 440 square foot detached swimming pool house, swimming pool, native vegetation restoration, hardscape, fire department access improvements and a new onsite wastewater treatment system (OWTS); including Variance (VAR) No 19-059 for the required fuel modification to encroach onto Environmentally Sensitive Habitat Area (ESHA), Site Plan Review (SPR) No. 17-001 for construction up to 28 feet in height for a pitched roof and Demolition Permit (DP) No. 17-001 for the exterior wall demolition to accommodate the additions to the existing single-family residence and abandon the existing OWTS, located in the Rural Residential-Ten Acre (RR-10) zoning district at 3710 Decker Edison Road (Tao Guan).

DISCUSSION: This agenda report provides a project overview, a summary of project setting and surrounding land uses, a description of the project scope, an analysis of the project’s consistency with applicable provisions of the Malibu Local Coastal Program (LCP) and Malibu Municipal Code (MMC), and environmental review pursuant to CEQA. The analysis and findings contained herein demonstrate the project is consistent with the LCP and MMC.
Project Overview

On December 19, 2013, the current property owner purchased the subject property. Prior to the purchase, the unpermitted clearing of approximately 7,630 square feet of Environmentally Sensitive Habitat Area (ESHA) and the construction of two barns, a horse corral, and fencing occurred on the property on the west side of Decker Edison Road. This unpermitted development occurred approximately 800 feet west of the approved development area (Figure 1). The unpermitted barns, horse corral and fencing have since been removed from the property. As part of the subject application, the applicant is proposing to restore the unpermitted pad with native vegetation. The City Biologist has reviewed and approved the proposed restoration plan and conditioned the application to include a five-year monitoring plan.

According to the Local Coastal Program (LCP) ESHA and Marine Resources Map and Biological Assessment dated October 2018, prepared by UltraSystems, Inc., the project’s consulting biologist, chaparral ESHA is located throughout the subject property with the exception of the previously approved development area and previously approved fuel modification area (Attachment 4 – Biological Assessment).

Figure 1 – Restoration Area

![Figure 1 – Restoration Area](source: Google Maps 2020)

The proposed development is located entirely within the disturbed portions of the subject parcel (non-ESHA). However, portions of the required 200-foot fuel modification radius (approximately 80 feet to the south and 53 feet to the north) extend into chaparral ESHA. As fuel modification will encroach into ESHA, LIP Section 4.7.1 states the allowable development area shall not exceed 10,000 square feet. The subject application includes
the restoration of ESHA on the west side of Decker Edison Road and a proposed
development area of less than 10,000 square feet (9,996 square feet).

The subject application includes an interior and exterior remodel resulting in approximately
a ten percent remodel of exterior walls and 920 square feet of additions to the existing
one- and partial two-story single-family residence, a 900 square foot detached second
residential unit with an attached 400 square foot garage, a 440 square foot swimming pool
house, new swimming pool and new OWTS. The previously approved development area
under Administrative Coastal Development Permit (ACDP) No. 04-043 was approximately
6,300 square feet. The proposed development area under CDP No. 17-085 is
approximately 9,996 square feet. The proposed development will expand the existing
development area; however, the proposed development area will remain in compliance
with the required 10,000 square foot development area.

Figures 2 and 3 show the previously approved fuel modification areas approved under
ACDP No. 04-043 and the proposed fuel modification under the subject application. Under
the subject application, the proposed swimming pool house (shown in red in Figure 3) will
expand the previously approved fuel modification approximately 80 feet to the south of the
existing single-family residence. Additionally, the proposed detached second residential
unit and garage (shown in green) would expand the previously approved fuel modification
approximately 53 feet to the north.

![Figure 2 – Previously Approved Fuel Modification](source: ACDP No. 04-043 Fuel Modification Plan)
Pursuant to LIP Section 4.8.1, the applicant is required to offset impacts to ESHA. Pursuant to LCP Land Use Plan (LUP) Policy 5.5 and LIP Section 13.7(C), the application is subject to review by the ERB because the proposed development will impact ESHA. As residential development, including related fuel modification, is not a permitted activity in the applicable chaparral ESHA, a variance from LCP Local Implementation Plan (LIP) Section 4.5.3 is required. Additionally, the project shall be conditioned to provide mitigation for impacts to ESHA for the removal, conversion, or modification of natural habitat for new development, including required fuel modification.

The ERB, in consultation with the City Biologist, reviewed the subject application on February 11, 2020 due to the onsite ESHA. The ERB considered the individual and cumulative impacts of the development on ESHA.

Furthermore, according to the Biological Assessment prepared by UltraSystems, Inc., four native protected trees were observed on the subject property: one toyon, two coast live oaks, and one western sycamore. The western sycamore was severely burned by the Woolsey Fire and the City Biologist verified that the tree is no longer viable and is no longer considered a protected tree. All proposed development is sited more than five feet (no closer than 25 feet) from the drip lines of the remaining protected trees and will, therefore, not impact the identified trees.

The subject parcel is an irregularly shaped lot similar to a bow tie that stretches approximately 855 feet to the west of Decker Edison Road and 1,075 feet to the east (Figure 4). The single-family residence and associated development are located on the

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**Figure 3 – Proposed Fuel Modification**

Source: CDP No. 17-085 Fuel Modification Plan
east side of Decker Edison Road. The subject parcel consists of steep slopes descending from Decker Edison Road towards the rear eastern and western edges of the property.

Figure 4 – Aerial Photograph

The subject property is not located within the Appeal Jurisdiction as depicted on the Post-LCP Certification Permit and Appeal Jurisdiction Map. The subject property does not contain mapped trails according to the LCP Park Lands Map. Therefore, the proposed project is not appealable to the California Coastal Commission.

**Surrounding Land Uses and Project Setting**

As previously shown on Figure 4, the subject project is located on the eastern side of Decker Edison Road along the northern edge of the City of Malibu municipal boundary.

Table 1 provides a summary of the lot dimensions and lot area of the subject parcel.

<table>
<thead>
<tr>
<th>Table 1 - Property Data</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lot Depth</td>
</tr>
<tr>
<td>Lot Width</td>
</tr>
<tr>
<td>Gross Lot Area</td>
</tr>
<tr>
<td>Net Lot Area*</td>
</tr>
</tbody>
</table>

*Net Lot Area = Gross Lot Area minus the area of public or private access easements and 1 to 1 slopes.*
Project Description

The proposed scope of work is as follows (Attachment 2 – Project Plans):

Construction
(The proposed Total Development Square Footage for the property is 6,036 square feet)
- Interior and exterior remodel of the existing single-family residence including:
  i. 920 square feet of additions to the upper level; and
  ii. 457 square feet of additions to the lower level consisting of covered patios;
- 900 square foot detached second residential unit with an attached 400 square foot garage;
- 440 square foot pool house;
- Swimming pool and spa measuring 33.5 feet in length by 14 feet in width;
- Pool equipment with enclosure;
- Native vegetation restoration;
- 1,579 square feet of new hardscape;
- Fire Department access improvements; and
- OWTS.

Additional Discretionary Requests
- VAR No. 19-059 to allow for the required fuel modification to encroach onto ESHA;
- SPR No. 17-001 to allow for construction up to 28 feet in height for the pitched roof; and
- DP No. 17-001 for the demolition of exterior walls to accommodate the house additions and abandon the existing OWTS.

LCP Analysis

The LCP consists of the LUP and the LIP. The LUP contains programs and policies implementing the Coastal Act in Malibu. The LIP carries out LUP policies and contains specific requirements to which every project requiring a coastal development permit must adhere.

The LIP contains 14 chapters that potentially apply depending on the nature and location of the proposed project. Of these, five are for conformance review only and require no findings: 1) Zoning; 2) Grading; 3) Archaeological/Cultural Resources; 4) Water Quality; and 5) OWTS. These chapters are discussed in the LIP Conformance Analysis section of this report. The nine remaining LIP chapters contain specific findings: 1) Coastal Development Permit; 2) ESHA; 3) Native Tree Protection; 4) Scenic, Visual and Hillside Resource Protection; 5) Transfer of Development Credits; 6) Hazards; 7) Shoreline and Bluff Development; 8) Public Access; and 9) Land Division.
For the reasons described herein, based upon the project site, the scope of work and substantial evidence in the record, only the following chapters and associated findings are applicable or required for the project: Coastal Development Permit, including the required findings for the VAR for reduction of ESHA buffer, SPR for construction in excess of 18-feet in height, Native Tree Protection, Scenic, Visual and Hillside Resource Protection Chapter and Hazards. These chapters are discussed in the LIP Findings section of this report. The findings required by MMC Section 17.70.060 for the demolition permits are also discussed.

**LIP Conformance Analysis**

The proposed project has been reviewed by the Planning Department, City Biologist, City Environmental Health Administrator, City Public Works Department, City geotechnical staff, Los Angeles County Waterworks District No. 29 (LCWD29), and the Los Angeles County Fire Department (LACFD) (Attachment 3 – Department Review Sheets). The other specialists determined the project, as proposed and conditioned, to be consistent with all applicable LCP codes, standards, goals and policies, with the inclusion of VAR No. 19-059, SPR No. 17-001 and DP No. 17-001.

**Zoning (LIP Chapter 3)**

The project is subject to non-beachfront residential development and design standards set forth under LIP Sections 3.5 and 3.6. Table 3 provides a summary and indicates the proposed project meets those standards, with the inclusion of the variance and site plan review.

<table>
<thead>
<tr>
<th>Development Requirement</th>
<th>Allowed/Required</th>
<th>Proposed</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>SETBACKS (ft.)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Front Yard (20% or 65 ft., whichever is less)</td>
<td>65 ft.</td>
<td>1,693 ft.</td>
<td>Complies</td>
</tr>
<tr>
<td>Rear Yard</td>
<td>160 ft., 5 in.</td>
<td>293 ft., 6 in.</td>
<td>Complies</td>
</tr>
<tr>
<td>Side Yard (10% - Minimum)</td>
<td>24 ft., 5 in.</td>
<td>124 ft., 5 in.</td>
<td>Complies</td>
</tr>
<tr>
<td>Side Yard (25% - Cumulative)</td>
<td>61 ft., 2 in.</td>
<td>303 ft., 3 in.</td>
<td>Complies</td>
</tr>
<tr>
<td>PARKING</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Enclosed</td>
<td>2</td>
<td>4</td>
<td>Complies</td>
</tr>
<tr>
<td>Unenclosed</td>
<td>2</td>
<td>2</td>
<td>Complies</td>
</tr>
<tr>
<td>TOTAL DEVELOPMENT SQUARE FOOTAGE</td>
<td>11,172 sq. ft.</td>
<td>6,036 sq. ft.</td>
<td>Complies</td>
</tr>
<tr>
<td>1st Floor x 2/3rds = 2nd Floor square feet (single-family residence)</td>
<td>2,657 sq. ft. x 2/3 = 1,771 sq. ft.</td>
<td>1,673 sq. ft.</td>
<td>Complies</td>
</tr>
</tbody>
</table>
Table 2 – LCP Zoning Conformance

<table>
<thead>
<tr>
<th>Development Requirement</th>
<th>Allowed/ Required</th>
<th>Proposed</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>1st Floor x 2/3rds = 2nd Floor square feet (Second Residential Unit)</td>
<td>790 sq. ft. x 2/3 = 526.6 sq. ft.</td>
<td>502 sq. ft.</td>
<td>Complies</td>
</tr>
<tr>
<td><strong>IMPERMEABLE COVERAGE</strong></td>
<td>25,000 sq. ft.</td>
<td>8,138 sq. ft.</td>
<td>Complies</td>
</tr>
<tr>
<td><strong>DEVELOPMENT AREA</strong></td>
<td>10,000 sq. ft.</td>
<td>9,996 sq. ft.</td>
<td>Complies</td>
</tr>
<tr>
<td><strong>HEIGHT (ft.)</strong></td>
<td>18 ft.</td>
<td>18 ft.</td>
<td>Complies</td>
</tr>
<tr>
<td><strong>Additions</strong></td>
<td>18 ft.</td>
<td>21 ft. 9 in.</td>
<td>SPR No. 17-001</td>
</tr>
<tr>
<td><strong>Second Residential Unit</strong></td>
<td>18 ft.</td>
<td>21. ft. 4 in.</td>
<td>SPR No. 17-001</td>
</tr>
<tr>
<td>Swimming Pool House</td>
<td>18 ft.</td>
<td>11 ft. 9 in.</td>
<td>Complies</td>
</tr>
<tr>
<td><strong>SITE OF CONSTRUCTION</strong></td>
<td>&lt; 3 to 1</td>
<td>&lt; 3 to 1</td>
<td>Complies</td>
</tr>
<tr>
<td><strong>NON-EXEMPT GRADING</strong></td>
<td>&lt; 1,000 cubic yards</td>
<td>0 cubic yards</td>
<td>Complies</td>
</tr>
<tr>
<td><strong>FENCES/WALLS/HEDGES/ GATES</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Front Yard</td>
<td>6 ft.; lower 42 in. view impermeable</td>
<td>None Proposed</td>
<td>Complies</td>
</tr>
<tr>
<td>Rear Yard</td>
<td>6 ft.</td>
<td>None Proposed</td>
<td>Complies</td>
</tr>
<tr>
<td>Side Yards</td>
<td>6 ft.</td>
<td>None Proposed</td>
<td>Complies</td>
</tr>
</tbody>
</table>

With the inclusion of the site plan review, the proposed project complies with the LCP and MMC, and the applicable residential development standards.

**Grading (LIP Chapter 8)**

As shown in Table 3, the proposed project does not include any non-exempt grading. The project includes 20 cubic yards of safety grading for fire department purposes and 115 cubic yards of exempt understructure grading for the swimming pool, pool house and detached garage and second unit. The subject property was previously approved for 968 cubic yards of non-exempt grading. Non-exempt grading, less than 1,000 cubic yards, is allowed pursuant to LIP Section 8.3. The City Public Works Department has reviewed the proposed project for conformance with LCP grading requirements and has deemed the project is consistent with these requirements. The project will be conditioned to cease any earthmoving during the rainy season unless required to remediate hazardous geologic conditions that endanger public health and safety.
### Table 3 – LCP Grading Conformance

<table>
<thead>
<tr>
<th></th>
<th>Exempt**</th>
<th>Non-Exempt</th>
<th>Remedial</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cut R&amp;R*</td>
<td>56 cy</td>
<td>63 cy</td>
<td>0 cy</td>
<td>119 cy</td>
</tr>
<tr>
<td>Fill</td>
<td>56 cy</td>
<td>52 cy</td>
<td>20 cy</td>
<td>128 cy</td>
</tr>
<tr>
<td>Total</td>
<td>112 cy</td>
<td>115 cy</td>
<td>20 cy</td>
<td>247 cy</td>
</tr>
<tr>
<td>Import</td>
<td>0 cy</td>
<td>9 cy</td>
<td>0 cy</td>
<td>9 cy</td>
</tr>
<tr>
<td>Export</td>
<td>0 cy</td>
<td>0 cy</td>
<td>0 cy</td>
<td>0 cy</td>
</tr>
</tbody>
</table>

*Note: R&R= Removal and Recompaction; cy = cubic yards
**Exempt grading includes all Removal and Recompaction (R&R), understructure and safety grading. Safety grading is the incremental grading required for fire department access (such as turnouts, hammerheads and turnarounds and any other increases in driveway width above 15 feet required by the Los Angeles County Fire Department).

### Archaeological / Cultural Resources (LIP Chapter 11)

LIP Chapter 11 requires certain procedures be followed to determine potential impacts on archaeological resources. Pursuant to these requirements, staff has reviewed the City of Malibu Cultural Resources Sensitivity Map and reviewed a prior Phase I archeological report prepared by Robert J. Wlodarski of H.E.A.R.T, Inc. in July 2004 for the subject parcel which states that the subject site has low potential to contain archaeological resources. The report concluded that any improvements within the project area would not have adverse effects on cultural resources.

Nevertheless, a condition of approval is included which states that in the event that potentially important cultural resources be found in the course of geologic testing or during construction, work shall immediately cease until a qualified archaeologist can provide an evaluation of the nature and significance of the resources and until the Planning Director can review this information. The project has been conditioned to meet this requirement and complies with LIP Chapter 11.

### Water Quality (LIP Chapter 17)

The City Public Works Department reviewed and approved the proposed project for conformance to LIP Chapter 17 requirements for water quality protection. A standard condition of approval for this project requires that prior to the issuance of any development permit, a Local Storm Water Pollution Prevention Plan incorporating construction-phase Erosion and Sediment Control Plan and Best Management Practices, must be approved by the City Public Works Department. Additionally, the ocean between Latigo Point and the western City limits has been established by the State Water Resources Control Board as an Area of Special Biological Significance (ASBS) as part of the California Ocean Plan. As such, the applicant’s drainage system is required to retain all non-storm water runoff on the property without discharge to the ASBS, and to maintain the natural water quality within the ASBS by treating storm runoff for pollutants in residential storm runoff that would cause a degradation of ocean water quality in the ASBS. A condition is also included requiring a Water Quality Mitigation Plan. With the implementation of these conditions, the proposed project conforms to the water quality protection standards of LIP Chapter 17.
Wastewater Treatment Systems Standards (LIP Chapter 18)

LIP Chapter 18 addresses OWTS. LIP Section 18.7 includes specific siting, design, and performance requirements. The project includes an OWTS to serve the proposed development, which includes a 4,000-gallon concrete pretreatment tank and advantex treatment pods with disinfection. The OWTS can serve nine bedrooms and 100 fixture units. The OWTS has been reviewed by the City Environmental Health Administrator and found to meet the minimum requirements of the LCP and MMC. The proposed OWTS has been approved for installation by the City Environmental Health Administrator having met all applicable requirements. Conditions of approval have been included in the resolution, which require continued operation, maintenance, and monitoring of onsite facilities.

LIP Findings

A. General Coastal Development Permit (LIP Chapter 13)

LIP Section 13.9 requires that the following four findings be made for all coastal development permits.

Finding 1. That the project as described in the application and accompanying materials, as modified by any conditions of approval, conforms with the certified City of Malibu Local Coastal Program.

The project is located in the RR-10 residential zoning district, an area designated for residential uses. A single-family residence and associated development are permitted uses. The project has been reviewed for conformance with the LCP by the Planning Department, City Biologist, City Environmental Health Administrator, City Public Works Department, City geotechnical staff, LACWD29, and LACFD. As discussed herein, based on submitted reports, project plans, visual analysis and site investigations, the proposed project, as conditioned, conforms to the LCP in that it meets all applicable residential development standards with the inclusion of the requested VAR and SPR.

Finding 2. If the project is located between the first public road and the sea, the project conforms to the public access and recreation policies of Chapter 3 of the Coastal Act of 1976 (commencing with Sections 30200 of the Public Resources Code).

The project is not located between the first public road and the sea. Therefore, this finding does not apply.

Finding 3. The project is the least environmentally damaging alternative.

This analysis assesses whether alternatives to the proposed project would significantly lessen adverse impacts to coastal resources. Based on MMC and LCP conformance review, the project will not result in any significant adverse impacts. Nevertheless, the following alternatives to the proposed project were considered.
Alternative Project – A smaller or alternative project could be proposed on the subject parcel. A smaller project may be proposed that removes the proposed swimming pool and pool house, thereby reducing the proposed development area. Reducing the size of the development area would reduce the overall footprint. If the footprint were reduced, the required fuel modification area (200 feet) would also be reduced. However, the proposed development area is less than 10,000 square feet (9,996 square feet) which is consistent with LIP Section 4.7.1. An alternative project could be proposed that relocates the proposed second residential unit and garage toward the southern property line (at the end of the existing driveway). However, that area has been identified as the most feasible location for the proposed fire department turnaround. In conclusion, an alternate location for the proposed second residential unit may result in greater potential negative impacts including grading on steep slopes and additional ESHA disturbance. As such, it is not anticipated that a smaller or relocated residence would be an environmentally superior alternative nor would the alternative project accomplish the project objectives requested by the property owner.

Proposed Project – The project consists of interior and exterior remodel and additions to an existing one- and partial two-story, single-family residence, detached second residential unit with attached garage, detached swimming pool house, swimming pool, OWTS and associated development which are permitted uses within the RR zoning classification of the subject property. The selected location of all proposed development has been reviewed and conditionally approved by the Planning Department, City Biologist, City Environmental Health Administrator, City geotechnical staff, City Public Works Department and LACFD and meets the City’s residential development policies. A variance for the reduction of the required ESHA buffer and a site plan review for construction in excess of 18-feet in height have been requested for the project. The proposed development is located within the disturbed portions of the subject parcel (non-ESHA). However, the required fuel modification (200-foot radius) would extend into ESHA. The proposed development area is less than 10,000 square feet which is consistent with LIP Section 4.7.1. Additionally, the proposed project is required to conserve an area containing intact habitat, restore an area of degraded habitat equivalent to the affected habitat, or pay an in-lieu fee for habitat conservation pursuant to LIP Section 4.8.1. As the proposed project is required to offset ESHA impacts and is consistent with ESHA protection standards, additionally, as the proposed development is not visible from a public viewing area, no adverse impacts to public views are expected. Therefore, the project, as proposed, is the least environmentally damaging alternative and meets the property owner’s objectives.

Finding 4. If the project is located in or adjacent to an environmentally sensitive habitat area pursuant to Chapter 4 of the Malibu LIP [Environmentally Sensitive Habitat Area (ESHA)] Overlay), that the project conforms with the recommendations of the Environmental Review Board, or if it does not conform with the recommendations, findings explaining why it is not feasible to take the recommended action.
According to the Local Coastal Program (LCP) ESHA and Marine Resources Map and Biological Assessment dated October, 2018, prepared by UltraSystems, Inc., the project’s consulting biologist, chaparral ESHA is located throughout the subject property with the exception of the previously approved development area and previously approved fuel modification area. The proposed development is located entirely within the disturbed portions of the subject parcel (non-ESHA). However, portions of the required 200-foot fuel modification radius (approximately 80 feet to the south and 53 feet to the north) extends into chaparral ESHA. As fuel modification will encroach into ESHA, LIP Section 4.7.1 states the allowable development area shall not exceed 10,000 square feet. The subject application includes the restoration of ESHA on the west side of Decker Edison Road and a proposed development area of less than 10,000 square feet (9,996 square feet). Therefore, pursuant to LUP Policy 5.5 and LIP Section 13.7(C), the ERB reviewed the proposed project on February 11, 2020. One ERB member made the following recommendation though some of the other members did not agree:

a. The property owner / applicant should consider the expansion of the residence’s fuel modification area to 300 feet instead of the Fire Department required 200 feet.

The applicant kept the required 200 feet fuel modification as required by the Fire Department.

B. Variance for the Required Fuel Modification to extend into Chaparral ESHA (LIP Section 13.26.5)

A variance is proposed to allow the proposed projects fuel modification to extend into Chaparral ESHA. As residential development, including related fuel modification, is not a permitted activity in the applicable chaparral ESHA, a variance from LCP Local Implementation Plan (LIP) Section 4.5.3 is required. LIP Section 13.26.5 requires that the City make ten findings in consideration and approval of a variance. Based on the foregoing evidence contained within the record, the required findings for VAR No. 19-059 are made as follows.

**Finding 1.** There are special circumstances or exceptional characteristics applicable to the subject property, including size, shape, topography, location, or surroundings such that strict application of the zoning ordinance deprives such property of privileges enjoyed by other property in the vicinity and under the identical zoning classification.

Chaparral ESHA is located throughout the subject property with the exception of the previously approved development area and previously approved fuel modification area. The proposed development is located entirely within the disturbed portions of the subject parcel (non-ESHA). However, portions of the required 200-foot fuel modification radius (approximately 80 feet to the south and 53 feet to the north) extend into chaparral ESHA. The proposed development will expand the existing development area; however, the proposed development area will remain in compliance with the required 10,000 square foot development area. Strict application of the zoning ordinance would preclude further
development on the property. Thus, the proposed variance would permit the construction of additions to the existing single-family residence, a new second residential unit, a swimming pool house, swimming pool and associated development on a lot that has been zoned to permit rural residential land uses. LIP Section 4.7.1 states the allowable development area shall not exceed 10,000 square feet. The subject application includes the restoration of previously disturbed ESHA on the west side of Decker Edison Road and a proposed development area of less than 10,000 square feet (9,996 square feet) therefore, denial of the variance would deprive the property owner of developing the property in a similar manner of surrounding properties.

Finding 2. The granting of such variance will not be detrimental to the public interest, safety, health or welfare, and will not be detrimental or injurious to the property or improvements in the same vicinity and zone(s) in which the property is located.

The City Biologist, City Environmental Health Administrator, City geotechnical staff and the City Public Works Department have reviewed the proposed project and determined it was consistent with all applicable safety, health or welfare regulations and policies. Additionally, the proposed project will meet LACFD requirements. Therefore, the proposed project will have adequate access for emergency vehicles. The granting of the proposed variance will not be detrimental to the public interest, safety, health or welfare, and will not be detrimental or injurious to the property or improvements in the same vicinity and zone in which the property is located.

Finding 3. The granting of the variance will not constitute a special privilege to the applicant or property owner.

The granting of the proposed variance will not constitute a special privilege to the applicant or property owner because other properties in the immediate vicinity have been developed with similar ESHA constraints, and similar development such as single-family residences, and accessory structures like swimming pools. The proposed project is consistent with the uses permitted in the applicable zoning designation. Therefore, granting the proposed variance does not constitute a special privilege to the property owner.

Finding 4. The granting of such variance will not be contrary to or in conflict with the general purposes and intent of this Chapter, nor to the goals, objectives and policies of the LCP.

The requested variance is to allow the proposed additions to the existing single-family residence, a new second residential unit, a swimming pool house, swimming pool and associated development, including related fuel modification, to extend into chaparral ESHA. This variance will not be contrary to or in conflict with the zoning provisions nor LCP goals, objectives and policies as variances to ESHA protection standards may be granted pursuant to LIP Section 4.6.4(A). As previously discussed in Finding B1, the proposed project is consistent with the LCP as impacts to ESHA cannot be avoided. The City Biologist, City geotechnical staff, City Environmental Health Administrator and the City
Public Works Department deemed the proposed project consistent with the LCP and applicable goals and policies, inclusive of the proposed variance and site plan review.

**Finding 5.** For variances to environmentally sensitive habitat area buffer standards or other environmentally sensitive habitat area protection standards, that there is no other feasible alternative for siting the structure and that the development does not exceed the limits on allowable development area set forth in Section 4.7 of the Malibu LIP.

As previously discussed in Finding A3, the proposed project, including the related fuel modification area, on the subject parcel is designed to be the least environmentally damaging alternative. Other siting alternatives have greater potential negative impacts including grading on steep slopes and additional ESHA disturbance. Pursuant to LIP Section 4.7, which states that “where all feasible building sites are ESHA or ESHA buffer, the City may only permit development as specified in Sections 4.7.1 through 4.7.4”. LIP Sections 4.7.1 through 4.7.4 have been satisfied given the proposed development area (9,996 square feet) does not exceed 10,000 square feet.

**Finding 6.** For variances to stringline standards, that the project provides maximum feasible protection to public access as required by Chapter 2 of the Malibu LIP.

The proposed variance does not pertain to stringline standards; therefore, this finding does not apply.

**Finding 7.** The variance request is consistent with the purpose and intent of the zone(s) in which the site is located. A variance shall not be granted for a use or activity, which is not otherwise expressly authorized by the zone regulation governing the parcel of property.

The proposed project consists of additions to the existing single-family residence, a new second residential unit, pool house, swimming pool and associated development. The proposed use is consistent with the permitted uses in the RR zoning district. Therefore, the proposed variance would not authorize an unpermitted use or activity.

**Finding 8.** The subject site is physically suitable for the proposed variance.

The granting of the proposed variance will allow the construction of additions to the existing single-family residence, a new second residential unit, pool house, swimming pool and associated development including the fuel modification zone that is compatible with the surrounding built environment. The subject parcel is physically suitable for the proposed variance in that there is no alternate building site or configuration which would eliminate the need for a variance because the entire parcel is sited within a Chaparral ESHA.
Finding 9. The variance complies with all requirements of state and local law.

The City Biologist, City geotechnical staff, City Environmental Health Administrator, the Public Works Department, LACFD and LACWD No. 29 reviewed the proposed project and determined it was in conformance with state and local requirements. In addition, with being consistent with the LCP, the proposed variance will comply with all requirements of state and local law in that the proposed project will be required to obtain applicable permits from the Building Safety Division prior to construction. Construction of the proposed improvements will comply with all building code requirements and incorporate all recommendations from applicable City and County agencies. Therefore, the proposed project complies with all applicable requirements of state and local law.

Finding 10. A variance shall not be granted that would allow reduction or elimination of public parking for access to the beach, public trails or parklands.

The variance does not pertain to public parking; therefore, this finding does not apply.

C. Site Plan Review for Construction in Excess of 18 Feet in Height (LIP Section 13.27.5)

A site plan review is required to allow the construction over 18 feet in height, up to 28 feet for a pitched roof, pursuant to LIP Section 13.27.1. LIP Section 13.27.5(A) requires that the City make four findings in consideration and approval of a site plan review. Two additional findings are required pursuant to MMC Section 17.62.040(D). Based on the foregoing evidence contained in the record, the required findings for SPR No. 17-001 are made as follows.

Finding 1. The project is consistent with policies and provisions of the Malibu LCP.

As previously discussed in Finding A1, the proposed project, as designed and conditioned is consistent with the LCP.

Finding 2. The project does not adversely affect neighborhood character.

Properties along Decker Edison Road are developed with one- and two-story single-family residences. The proposed development consists of additions to the existing single-family residence, a new second residential unit, pool house, swimming pool and associated development. The proposed project will be consistent with the surrounding built environment as it will be near other existing development in the same community. Therefore, the proposed project, as designed and conditioned, does not adversely affect neighborhood character.
Finding 3. The project provides maximum feasible protection to significant public views as required by Chapter 6 of the Malibu LIP.

Story poles were installed, and photo documented in January 2020 to demonstrate the location, height, and bulk of the proposed project. Based on a site visit after the story poles were installed, it was determined that the proposed residential development would not be visible from Pacific Coast Highway, Encinal Canyon Road or Decker Canyon Road.

The subject parcel is visible from certain trails in Charmlee Wilderness Park, a public viewing area, approximately 2,000 feet from the project site. However, other properties along Decker Edison Road have been developed with one- and two-story single-family residences. Thus, the proposed project will be consistent with the surrounding built environment as it will be near other existing development in the same community. Additionally, although the portion of the residence above 18 feet in height would increase visibility of the residence from Charmlee Wilderness Park, such portion would have a less than significant impact on surrounding mountains views and no impacts on bluewater views of the Pacific Ocean.

As conditioned, the exterior of the proposed residential development must use earth-tone colors based on existing colors of the actual surrounding backdrop to minimize potential visual impacts. Therefore, the proposed project is not expected to have significant adverse effects from public viewing areas.

Finding 4. The proposed project complies with all applicable requirements of state and local law.

As previously discussed in Finding B9, the proposed project complies with all applicable requirements of state and local law.

Finding 5. The project is consistent with the City’s general plan and local coastal program.

The proposed project would not have significant impacts on public and private views and view corridors as previously discussed in Finding 3. The proposed project is sited on previously disturbed, flat land and would require minimal landform alteration. As conditioned, the exterior materials of the proposed residential development must use earth-tone colors based on existing colors of the actual surrounding backdrop of the building pad to minimize visual impacts on scenic areas. The proposed project, as designed and conditioned, is consistent with the General Plan and LCP, inclusive of the proposed variance and site plan review.
Finding 6. The portion of the project that is in excess of 18 feet in height does not obstruct visually impressive scenes of the Pacific Ocean, off-shore islands, Santa Monica Mountains, canyons, valleys or ravines from the main viewing area of any affected principal residence as defined in M.M.C. Section 17.40.040(A)(17).

In January 2020, story poles were installed representing the height, bulk and location of the proposed development. Based on a site visit after story poles were installed, it was observed that the proposed development is not expected to obstruct primary views of surrounding existing residences. The existing residence to the north has views to the ocean over the existing residence on the subject property and it is also located at a higher elevation. Because of this elevation difference, the proposed additions and second residential unit are not expected to obstruct bluewater views of the ocean of existing surrounding residences. To date, staff has not received any correspondence on the subject application.

Based on the site inspection and review of the project plans, staff has determined that the proposed development will not obstruct visually impressive scenes of the Pacific Ocean, off-shore islands, Santa Monica Mountains, canyons, valleys, or ravines from the main viewing area of any affected principal residence as defined in MMC Section 17.40.040(A)(17).

D. Environmentally Sensitive Habitat Area Overlay (LIP Chapter 4)

As previously discussed in Section A, Chaparral ESHA is located throughout the subject property with the exception of the previously approved development area and previously approved fuel modification area. The proposed development is located entirely within the disturbed portions of the subject parcel (non-ESHA). However, portions of the required 200-foot fuel modification radius (approximately 80 feet to the south and 53 feet to the north) extend into chaparral ESHA. The proposed development will expand the existing development area; however, the proposed development area will remain in compliance with the required 10,000 square foot development area. Therefore, the supplemental ESHA findings in LIP Section 4.7.6 are made as follows.

Finding 1. Application of the ESHA overlay ordinance would not allow construction of a residence on an undeveloped parcel.

The subject parcel is not an undeveloped parcel. Therefore, this finding is not applicable. The project is for proposed additions to an existing single-family residence, a new second residential unit, a swimming pool house, swimming pool and associated development, including related fuel modification, to extend into chaparral ESHA which is not a permitted activity in the applicable chaparral ESHA, a variance from LCP Local Implementation Plan (LIP) Section 4.5.3 is required.
Finding 2. The project is consistent with all provisions of the certified LCP with the exception of the ESHA overlay ordinance and it complies with the provisions of Section 4.7 of the Malibu LIP.

As previously discussed in Finding A1, the proposed project is consistent with all provisions of the LCP. As previously discussed in Finding B1, Chaparral ESHA is located throughout the subject property with the exception of the previously approved development area and previously approved fuel modification area. The proposed development is located entirely within the disturbed portions of the subject parcel (non-ESHA). However, portions of the required 200-foot fuel modification radius (approximately 80 feet to the south and 53 feet to the north) extend into chaparral ESHA. Because ESHA impacts could not be avoided, LIP Section 4.7.1 states the allowable development area shall not exceed 10,000 square feet. The proposed development area (9,996 square feet) is less than 10,000 square feet consistent with LIP Section 4.7.1. Additionally, the project shall be conditioned to provide mitigation for impacts to ESHA for the removal, conversion, or modification of natural habitat for new development, including required fuel modification. Therefore, the proposed project complies with the provision of LIP Section 4.7.

E. Native Tree Protection (LIP Chapter 5)

According to the Biological Assessment prepared by UltraSystems, Inc., four native protected trees were observed on the subject property: one toyon, two coast live oaks, and one western sycamore. Therefore, the supplemental ESHA findings in LIP Section 4.7.6 are made as follows.

Finding 1. The proposed project is sited and designed to minimize removal of or encroachment in the protected zone of native trees to the maximum extent feasible.

According to the above-mentioned Biological Assessment, the western sycamore was severely burned by the Woolsey Fire and the City Biologist verified that the tree is no longer viable and is no longer considered a protected tree. All proposed development is sited more than five feet (no closer than 25 feet) from the drip lines of the remaining protected trees and will, therefore, not be affected during or after the construction activity.

Finding 2. The adverse impact of tree removal and/or encroachment cannot be avoided because there is no other feasible alternative.

As stated in Finding 1 above, there will be no tree removal and/or encroachments on the remaining protected trees on site.

Finding 3. All feasible mitigation measures that would substantially lessen any significant impact on native trees have been incorporated into the approved project through design or conditions of approval.

The project is designed to avoid any significant impact on native trees.
F. Scenic, Visual and Hillside Resource Protection Chapter (LIP Chapter 6)

The Scenic, Visual, and Hillside Resource Protection Chapter governs those CDP applications concerning any parcel of land that is located along, within, provides views to or is visible from any scenic area, scenic road or public viewing area. LIP policies require that new development not be visible from scenic roads or public viewing areas. Where this is not feasible, new development must minimize impacts through siting and by incorporating design measures to ensure visual compatibility with the character of surrounding areas. In January 2020, Planning staff visited the subject parcel after story poles representing the height, location and bulk of the proposed buildings were installed. Based on the site visit, staff determined that the proposed development would be visible from certain trails in Charmlee Wilderness Park, a public viewing area, approximately 2,000 feet from the project site. LIP Chapter 6 applies and the five findings in LIP Section 6.4 are made as follows.

Finding 1. The project, as proposed, will have no significant adverse scenic or visual impacts due to project design, location on the site or other reasons.

As previously discussed in Finding C3, the proposed residential development would not be visible from Pacific Coast Highway, Encinal Canyon Road or Decker Canyon Road because of intervening, undulating mountains and elevation differences. The subject parcel is visible from certain trails in Charmlee Wilderness Park, a public viewing area, approximately 2,000 feet from the project site. However, other properties along Decker Edison Road have been developed with one- and two-story single-family residences. Thus, the proposed project will be consistent with the surrounding built environment as it will be near other existing development in the same community.

Additionally, although the portion of the residence above 18 feet in height would increase visibility of the residence from Charmlee Wilderness Park, such portion would have a less than significant impact on surrounding mountains views and no impacts on bluewater views of the Pacific Ocean. As conditioned, the exterior of the proposed residential development must use earth-tone colors based on existing colors of the actual surrounding backdrop to minimize potential visual impacts. Therefore, the proposed project is not expected to have significant adverse effects from public viewing areas.

Finding 2. The project, as proposed, will not have significant adverse scenic or visual impacts due to required project modifications, landscaping or other conditions.

As previously discussed in Finding 1, the proposed project, as designed and conditioned, will not have significant adverse scenic or visual impacts due to the distance and difference in elevation from scenic roads, use of earth-tone colors and compatibility to the existing surrounding rural residential built environment.
Finding 3. The project, as proposed or as conditioned, is the least environmentally damaging alternative.

As previously discussed in Finding A3, the proposed project, as designed and conditioned, is the least environmentally damaging alternative.

Finding 4. There are no feasible alternatives to development that would avoid or substantially lessen any significant adverse impacts on scenic and visual resources.

As previously discussed in Finding 1, the proposed project, as designed and conditioned, is not anticipated to have significant adverse impacts on scenic and visual resources.

Finding 5. Development in a specific location on the site may have adverse scenic and visual impacts but will eliminate, minimize or otherwise contribute to conformance to sensitive resource protection policies contained in the certified LCP.

As previously discussed in Finding 1, no significant adverse impacts on scenic and visual resources are anticipated to result from the project.

G. Transfer of Development Credit (LIP Chapter 7)

The proposed project does not include a land division or multi-family development. Therefore, the findings of LIP Chapter 7 are not applicable.

H. Hazards (LIP Chapter 9)

Pursuant to LIP Section 9.3, written findings of fact, analysis and conclusions addressing geologic, flood and fire hazards, structural integrity or other potential hazards listed in LIP Section 9.2(A) must be included in support of all approvals, denials or conditional approvals of development located on a site or in an area where it is determined that the proposed project has the potential to create adverse impacts upon site stability or structural integrity.

The proposed development has been analyzed for the hazards listed in LIP Chapter 9 and has been reviewed and approved for conformance with all relevant policies and regulations of the LCP and MMC by the Planning Department, City Biologist, City Environmental Health Administrator, City Public Works Department, City geotechnical staff, LCWD29, and LACFD. The required findings are made as follows:

Finding 1. The project, as proposed will neither be subject to nor increase instability of the site or structural integrity from geologic, flood, or fire hazards due to project design, location on the site or other reasons.

Analysis for potential hazards included review of the submitted geotechnical reports prepared by GeoQuake, Inc., dated December 12, 2016; May 25, and June 27, 2017;
February 28, March 16, October 5, and October 20, 2018, January 3, March 15, and June 24, 2019 and an Engineering study by Absolute Consulting Engineers dated January 22, 2019. The plans and analysis evaluate site-specific conditions and recommendations are provided to address any pertinent issues. Potential hazards analyzed include geologic, seismic and fault rupture, liquefaction, landslide and fire hazards. It has been determined that the project is not located in a hazard zone, except that the project site is located within an extreme fire hazard area. Based on review of the project plans by City Environmental Health Administrator, City geotechnical staff, City Public Works Department and LACFD, these specialists and agency determined that adverse impacts to the project site related to the proposed development are not expected. The proposed project, including the new OWTS, will neither be subject to nor increase the instability from geologic or fire hazards. In summary, the proposed development is suitable for the intended use provided that the certified engineering geologist and/or geotechnical engineer’s recommendations and governing agency’s building codes are followed.

The project, as conditioned, will incorporate all recommendations contained in the above cited geotechnical report and conditions required by the City Public Works Department, City geotechnical staff, and the LACFD, including foundations, OWTS, and drainage. As such, the proposed project will not increase instability of the site or structural integrity from geologic or any other hazards.

Fire Hazard

The entire city limits of Malibu are within an identified fire hazard zone. The property is currently subject to wildfire, however, development of a residence on the subject property will not increase the site’s susceptibility to wildfire. The scope of work proposed as part of this application is not expected to have an impact on wildfire hazards. The proposed development may actually decrease the site’s susceptibility to wildfire through the use of appropriate building materials during construction. Nonetheless, a condition of approval has been included which requires that the property owner indemnify the City against wildfire hazards.

As such, the proposed project, as designed, constructed, and conditioned, will not be subject to nor increase the instability of the site or structural integrity involving wildfire hazards.

Finding 2. The project, as conditioned, will not have significant adverse impacts on site stability or structural integrity from geologic, flood or fire hazards due to required project modifications, landscaping or other conditions.

As discussed in Finding 1, the proposed project, as designed, conditioned and approved by the applicable departments and agencies, will not have any significant adverse impacts on site stability or structural integrity from geologic or flood hazards due to project modifications, landscaping or other conditions.
Finding 3. The project, as proposed or as conditioned, is the least environmentally damaging alternative.

As previously stated in Section A, the project, as proposed and conditioned, is the least environmentally damaging alternative.

Finding 4. There are no alternatives to development that would avoid or substantially lessen impacts on site stability or structural integrity.

As stated in Finding 1, the project as designed, constructed, and conditioned, and approved by the City Public Works Department and City geotechnical staff, does not have any significant adverse impacts on site stability or structural integrity of the proposed project.

Finding 5. Development in a specific location on the site may have adverse impacts but will eliminate, minimize or otherwise contribute to conformance to sensitive resource protection policies contained in the certified Malibu LCP.

As discussed in Section A, the proposed project, as designed and conditioned, is the least environmentally damaging alternative and no adverse impacts to sensitive resources are anticipated.

I. Shoreline and Bluff Development (LIP Chapter 10)

LIP Chapter 10 applies to land that is located on or along the shoreline, a coastal bluff or bluff-top fronting the shoreline. The proposed project is not located near the shore. Therefore, LIP Chapter 10 findings do not apply.

J. Public Access (LIP Chapter 12)

LIP Section 12.4 requires public access for lateral, bluff-top, and vertical access near the ocean, trails, and recreational access for the following cases:

A. New development on any parcel or location specifically identified in the LUP or in the LCP zoning districts as appropriate for or containing a historically used or suitable public access trail or pathway.
B. New development between the nearest public roadway and the sea.
C. New development on any site where there is substantial evidence of a public right of access to or along the sea or public tidelands, a bluff-top trail or an inland trail acquired through use or a public right of access through legislative authorization.
D. New development on any site where a trail, bluff-top access or other recreational access is necessary to mitigate impacts of the development on public access where there is no feasible, less environmentally damaging, project alternative that would avoid impacts to public access.
As described herein, the subject property and the proposed project do not meet any of these criteria in that no trails are identified on the LCP Park Lands Map on or adjacent to the property, and the property is not located between the first public road and the sea, or on a bluff or near a recreational area. The requirement for public access of LIP Section 12.4 does not apply and further findings are not required.

K. Land Division (LIP Chapter 15)

This project does not involve a division of land as defined in LIP Section 15.1; therefore, LIP Chapter 15 does not apply.

L. Demolition Permit (MMC Chapter 17.70)

MMC Section 17.70.060 requires that a demolition permit be issued for projects that result in the demolition of any building or structure, or for a major remodel, except for a demolition initiated by the City and ordered or authorized under the provisions of the building code. The proposed project includes the demolition of exterior walls of the existing single-family residence to accommodate the additions abandonment of the existing and OWTS. The findings for DP No. 17-001 are made as follows.

Finding 1. The demolition permit is conditioned to assure that it will be conducted in a manner that will not create significant adverse environmental impacts.

Conditions of approval, including the recycling of demolished materials, have been included to ensure that the proposed project will not create significant adverse environmental impacts.

Finding 2. A development plan has been approved or the requirement waived by the city.

A CDP application is being processed concurrently with DP No. 17-001. Therefore, approval of the demolition permits is subject to the approval of CDP No. 17-085.

ENVIRONMENTAL REVIEW: Pursuant to the authority and criteria contained in CEQA, the Planning Department has analyzed the proposed project. The Planning Department found that this project is listed among the classes of projects that have been determined not to have a significant adverse effect on the environment. Therefore, the project is categorically exempt from the provisions of CEQA pursuant to Sections 15301(a) and (e) – Existing Facilities, 15303(a) and (e) - New Construction and 15304(b) – Minor Alterations to Land. The Planning Department has further determined that none of the six exceptions to the use of a categorical exemption apply to this project (CEQA Guidelines Section 15300.2).

CORRESPONDENCE: To date, staff has not received any correspondence on the subject application.
PUBLIC NOTICE: On December 10, 2020, staff published a Notice of Public Hearing in a newspaper of general circulation within the City of Malibu and mailed the notice to all property owners and occupants within a 1,000-foot radius of the subject property (Attachment 7).

SUMMARY: The required findings can be made that the project complies with the LCP. Further, the Planning Department’s findings of fact are supported by substantial evidence in the record. Based on the analysis contained in this report and the accompanying resolution, staff recommends approval of this project, subject to the conditions of approval contained in Section 5 (Conditions of Approval) of Planning Commission Resolution No. 21-02. The project has been reviewed and conditionally approved for conformance with the LCP by Planning Department staff and appropriate City, state and county departments.

ATTACHMENTS:

1. Planning Commission Resolution No. 21-02
2. Project Plans
3. Department Review Sheets
4. Biological Assessment prepared in October 2018
5. Story Poles Photographs
6. 1,000-Foot Radius Map
7. Public Hearing Notice
A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MALIBU, DETERMINING THE PROJECT IS CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, AND APPROVING COASTAL DEVELOPMENT PERMIT NO. 17-085 TO ALLOW FOR AN INTERIOR AND EXTERIOR REMODEL AND 920 SQUARE FEET OF ADDITIONS TO THE EXISTING SINGLE-FAMILY RESIDENCE, A NEW 900 SQUARE FOOT DETACHED SECOND RESIDENTIAL UNIT WITH AN ATTACHED 400 SQUARE FOOT GARAGE, A NEW 440 SQUARE FOOT DETACHED POOL HOUSE, SWIMMING POOL, NATIVE VEGETATION RESTORATION, HARDSCAPE, FIRE DEPARTMENT ACCESS IMPROVEMENTS AND A ONSITE WASTEWATER TREATMENT SYSTEM, INCLUDING VARIANCE NO. 19-059 FOR THE REQUIRED FUEL MODIFICATION TO ENCROACH ONTO ENVIRONMENTALLY SENSITIVE HABITAT AREA AND SITE PLAN REVIEW NO. 17-001 FOR CONSTRUCTION UP TO 28- FEET IN HEIGHT FOR A PITCHED ROOF AND DEMOLITION PERMIT NO. 17-001 FOR THE DEMOLITION OF EXTERIOR WALLS TO ACCOMMODATE THE HOUSE ADDITIONS AND ABANDON THE EXISTING ONSITE WASTEWATER TREATMENT SYSTEM, LOCATED IN THE RURAL RESIDENTIAL-TEN ACRE ZONING DISTRICT LOCATED AT 3710 DECKER EDISON ROAD (TAO GUAN)

The Planning Commission of the City of Malibu does hereby find, order and resolve as follows:

SECTION 1. Recitals.

A. On December 20, 2016, an application for an Administrative Plan Review (APR) No. 16-087 was submitted to the Planning Department, on behalf of property owner, Tao Guan. The application was routed to the City Biologist, City Environmental Health Administrator, City geotechnical staff, City Public Works Department, Los Angeles County Fire Department (LACFD) and Los Angeles County Waterworks District No. 29 (WD29) for review.

B. On March 21, 2017, staff conducted a site visit to document site conditions.

C. On March 31, 2017, due to the scope of work the application was converted into Coastal Development Permit (CDP) No. 17-085, Variance (VAR) No. 19-059, Site Plan Review No. 17-001, and Demolition Permit (DP) No. 17-001 for construction in excess of 18-feet in height was assigned to the project.

D. On February 11, 2020, the Environmental Review Board (ERB), reviewed the proposed project.

E. On May 29, 2020, the application was deemed complete by the Planning Department.

F. On June 15, 2020, a Notice of CDP Application was posted on the subject property.
G. On October 29, 2020, staff conducted a site visit to determine visual impacts and document the story poles installed in January 2020 to demonstrate the location, height and bulk of the proposed project. The story poles were certified by a licensed surveyor.

H. On December 10, 2020, a Notice of Planning Commission Public Hearing was published in a newspaper of general circulation within the City of Malibu and was mailed to all property owners and occupants within a 1,000-foot radius of the subject property.

I. On January 4, 2021, the Planning Commission held a duly noticed public hearing on the subject application, reviewed and considered the staff report, reviewed and considered written reports, public testimony, and other information in the record.

SECTION 2. Environmental Review.

Pursuant to the authority and criteria contained in the California Environmental Quality Act (CEQA), the Planning Commission has analyzed the proposed project. The Planning Commission found that this project is listed among the classes of projects that have been determined not to have a significant adverse effect on the environment. Therefore, the project is categorically exempt from the provisions of CEQA pursuant to Sections 15301(a) and (e) – Existing Facilities, 15303(a) and (e) - New Construction and 15304(b) – Minor Alterations to Land. The Planning Commission has further determined that none of the six exceptions to the use of a categorical exemption apply to this project (CEQA Guidelines Section 15300.2).

SECTION 3. Coastal Development Permit Findings.

Based on substantial evidence contained within the record and pursuant to Local Coastal Program (LCP) Local Implementation Plan (LIP) Sections 13.7(B) and 13.9, the Planning Commission adopts the analysis in the agenda report, incorporated herein, and the findings of fact below for CDP No. 17-085 to allow for an interior and exterior remodel resulting in approximately a ten percent remodel of exterior walls and 920 square feet of additions to the existing single-family residence, a new 900 square foot detached second residential unit with an attached 400 square foot garage, a new 440 square foot detached swimming pool house, swimming pool, native vegetation restoration, hardscape, fire department access improvements and a new onsite wastewater treatment system (OWTS); including Variance (VAR) No 19-059 for the required fuel modification to encroach onto Environmentally Sensitive Habitat Area (ESHA), Site Plan Review (SPR) No. 17-001 for construction up to 28 feet in height for a pitched roof and Demolition Permit (DP) No. 17-001 for the exterior wall demolition to accommodate the additions to the existing single-family residence and abandon the existing OWTS.

The project is consistent with the zoning, grading, cultural resources, water quality, and onsite wastewater treatment requirements of the LCP. With the inclusion of the proposed variance and site plan review, the project, as conditioned, has been determined to be consistent with all applicable LCP codes, standards, goals, and policies. The required findings are made herein.

A. General Coastal Development Permit (LIP Chapter 13)

1. The project is located in the RR-10 zoning district, an area designated for residential uses. The project has been reviewed for conformance with the LCP by the Planning Department, the City Biologist, City Environmental Health Administrator, City geotechnical staff, City Public Works Department, and LACFD. As discussed herein, based on submitted reports, project plans, visual analysis, and detailed site investigation, the proposed project with the inclusion of the
requested variance and site plan review, as conditioned, conforms to the LCP and MMC in that it meets all applicable residential zone development standards.

2. The proposed project meets the development policies of the LCP, with the inclusion of the variance and site plan review. The proposed development is located within the disturbed portions of the subject parcel (non-ESHA). However, the required fuel modification area (200-foot radius) would extend into ESHA. The proposed development area is less than 10,000 square feet which is consistent with LIP Section 4.7.1. No adverse impacts to public views are expected to occur as a result of the proposed development. Evidence in the record demonstrates that the project as proposed and conditioned, is the least environmentally damaging alternative. There is no evidence that an alternative project would substantially lessen any potential significant adverse impacts of the development on the environment. Therefore, the proposed project has been determined to be the least environmentally damaging feasible alternative.

3. Chaparral ESHA is located throughout the subject property with the exception of the previously approved development area and previously approved fuel modification area. The proposed development is located entirely within the disturbed portions of the subject parcel (non-ESHA). However, portions of the required 200-foot fuel modification radius (approximately 80 feet to the south and 53 feet to the north) extend into chaparral ESHA. The subject application includes the restoration of ESHA on the west side of Decker Edison Road and a proposed development area of less than 10,000 square feet (9,996 square feet). The ERB reviewed the proposed project on February 11, 2020.

B. Variance for the Required Fuel Modification to Extend into Chaparral ESHA (LIP Section 13.26.5)

1. The proposed development will expand the existing development area; however, the proposed development area will remain in compliance with the required 10,000 square foot development area. Strict application of the zoning ordinance would preclude further development on the property. Thus, the proposed variance would permit the construction of additions to the existing single-family residence, a new second residential unit, a swimming pool house, swimming pool and associated development on a lot that has been zoned to permit rural residential land uses. LIP Section 4.7.1 states the allowable development area shall not exceed 10,000 square feet. The subject application includes the restoration of previously disturbed ESHA on the west side of Decker Edison Road and a proposed development area of less than 10,000 square feet (9,996 square feet) therefore, denial of the variance would deprive the property owner of developing his property in a similar manner that surrounding properties.

2. The City Biologist, City Environmental Health Administrator, City geotechnical staff and the City Public Works Department have reviewed the proposed project and determined it was consistent with all applicable safety, health or welfare regulations and policies. Additionally, the proposed project will meet LACFD requirements. Therefore, the proposed project will have adequate access for emergency vehicles. The granting of the proposed variance will not be detrimental to the public interest, safety, health or welfare, and will not be detrimental or injurious to the property or improvements in the same vicinity and zone in which the property is located.

3. The granting of the proposed variance will not constitute a special privilege to the applicant or property owner because other properties in the immediate vicinity have been developed with similar ESHA constraints, and similar development such as single-family residences, and accessory structures like swimming pools. The proposed project is consistent with
the uses permitted in the applicable zoning designation. Therefore, granting the proposed variance does not constitute a special privilege to the property owner.

4. This variance will not be contrary to or in conflict with the zoning provisions nor LCP goals, objectives and policies as variances to ESHA protection standards may be granted pursuant to LIP Section 4.6.4(A). As previously discussed in Finding B1, the proposed project is consistent with the LCP as impacts to ESHA cannot be avoided. The City Biologist, City geotechnical staff, City Environmental Health Administrator and the City Public Works Department deemed the proposed project consistent with the LCP and applicable goals and policies, inclusive of the proposed variance and site plan review.

5. As previously discussed in Finding A3, the proposed project, including the related fuel modification area, on the subject parcel is designed to be the least environmentally damaging alternative. Other siting alternatives have greater potential negative impacts including grading on steep slopes and additional ESHA disturbance. Pursuant to LIP Section 4.7, which states that “where all feasible building sites are ESHA or ESHA buffer, the City may only permit development as specified in Sections 4.7.1 through 4.7.4”. LIP Sections 4.7.1 through 4.7.4 have been satisfied given the proposed development area (9,996 square feet) does not exceed 10,000 square feet.

6. The proposed project consists of additions to the existing single-family residence, a new second residential unit, a pool house, swimming pool and associated development. The proposed use is consistent with the permitted uses in the applicable zoning district. Therefore, the proposed variance would not authorize an unpermitted use or activity.

7. The granting of the proposed variance will allow the construction of additions to the existing single-family residence, a new second residential unit, a pool house, swimming pool and associated development including the fuel modification zone that is compatible with the surrounding built environment. The subject parcel is physically suitable for the proposed variance in that there is no alternate building site or configuration which would eliminate the need for a variance because the entire parcel is sited within a Chaparral ESHA.

8. The City Biologist, City Geologist, City Environmental Health Administrator, the Public Works Department, LACFD and LACWD No. 29 reviewed the proposed project and determined it was in conformance with state and local requirements. In addition, with being consistent with the LCP, the proposed variance will comply with all requirements of state and local law in that the proposed project will be required to obtain applicable permits from the Building Safety Division prior to construction. Construction of the proposed improvements will comply with all building code requirements and incorporate all recommendations from applicable City and County agencies. Therefore, the proposed project complies with all applicable requirements of state and local law.

C. Site Plan Review for Construction in Excess of 18 Feet in Height (LIP Section 13.27.5)

1. As previously discussed in Finding A1, the proposed project, as designed and conditioned is consistent with the LCP.

2. Properties along Decker Edison Road are developed with one- and two-story single-family residences. The proposed development consists of additions to the existing single-family residence, a new second residential unit, a pool house, swimming pool and associated
development. The proposed project will be consistent with the surrounding built environment as it will be near other existing development in the same community. Therefore, the proposed project, as designed and conditioned, does not adversely affect neighborhood character.

3. Based on a site visit after the story poles were installed, it was determined that the proposed residential development would not be visible from Pacific Coast Highway, Encinal Canyon Road or Decker Canyon Road. The subject parcel is visible from certain trails in Charmlee Wilderness Park, a public viewing area, approximately 2,000 feet from the project site. However, other properties along Decker Edison Road have been developed with one- and two-story single-family residences. Thus, the proposed project will be consistent with the surrounding built environment as it will be near other existing development in the same community. Additionally, although the portion of the residence above 18 feet in height would increase visibility of the residence from Charmlee Wilderness Park, such portion would have a less than significant impact on surrounding mountains views and no impacts on bluewater views of the Pacific Ocean.

4. As previously discussed in Finding B9, the proposed project complies with all applicable requirements of state and local law.

5. The proposed project would not have significant impacts on public and private views and view corridors as previously discussed in Finding 3. The proposed project is sited on previously disturbed, flat land and would require minimize landform alteration. As conditioned, the exterior materials of the proposed residential development must use earth-tone colors based on existing colors of the actual surrounding backdrop of the building pad to minimize visual impacts on scenic areas. The proposed project, as designed and conditioned, is consistent with the General Plan and LCP, inclusive of the proposed variance and site plan review.

6. Based on a site visit after story poles were installed, it was observed that the proposed development is not expected to obstruct primary views of surrounding existing residences. The existing residence to the north has views to the ocean over the existing residence on the subject property and it is also located at a higher elevation. Because of this elevation difference, the proposed additions and second residential unit are not expected to obstruct bluewater views of the ocean of existing surrounding residences. Based on the site inspection and review of the project plans, staff has determined that the proposed development will not obstruct visually impressive scenes of the Pacific Ocean, off-shore islands, Santa Monica Mountains, canyons, valleys, or ravines from the main viewing area of any affected principal residence as defined in MMC Section 17.40.040(A)(17).

D. Environmentally Sensitive Habitat Area Overlay (LIP Chapter 4)

1. The subject parcel is not an undeveloped parcel. Therefore, this finding is not applicable. The project is for proposed additions to an existing single-family residence, a new second residential unit, a swimming pool house, swimming pool and associated development, including related fuel modification, to extend into chaparral ESHA which is not a permitted activity in the applicable chaparral ESHA, a variance from LCP Local Implementation Plan (LIP) Section 4.5.3 is required.

2. As previously discussed in Finding A1, the proposed project is consistent with all provisions of the LCP. As previously discussed in Finding B1, Chaparral ESHA is located throughout the subject property with the exception of the previously approved development area and previously approved fuel modification area. The proposed development is located entirely
within the disturbed portions of the subject parcel (non-ESHA). However, portions of the required 200-foot fuel modification radius (approximately 80 feet to the south and 53 feet to the north) extend into chaparral ESHA. Because ESHA impacts could not be avoided, LIP Section 4.7.1 states the allowable development area shall not exceed 10,000 square feet. The proposed development area (9,996 square feet) is less than 10,000 square feet consistent with LIP Section 4.7.1. Additionally, the project shall be conditioned to provide mitigation for impacts to ESHA for the removal, conversion, or modification of natural habitat for new development, including required fuel modification. Therefore, the proposed project complies with the provision of LIP Section 4.7.

E. Native Tree Protection (LIP Chapter 5)

1. According to the Biological Assessment prepared by UltraSystems, Inc., four native protected trees were observed on the subject property: one toyon, two coast live oaks, and one western sycamore. The western sycamore was severely burned by the Woolsey Fire and the City Biologist verified that the tree is no longer viable and is no longer considered a protected tree. All proposed development is sited more than five feet (no closer than 25 feet) from the drip lines of the remaining protected trees and will, therefore, not be affected during or after the construction activity.

2. As stated in Finding 1 above, there will be no tree removal and/or encroachments on the remaining protected trees on site.

3. The project is designed to avoid any significant impact on native trees.

F. Scenic, Visual and Hillside Resource Protection Chapter (LIP Chapter 6)

1. As previously discussed in Finding C3, the proposed residential development would not be visible from Pacific Coast Highway, Encinal Canyon Road or Decker Canyon Road because of intervening, undulating mountains and elevation differences. The subject parcel is visible from certain trails in Charmlee Wilderness Park, a public viewing area, approximately 2,000 feet from the project site. However, other properties along Decker Edison Road have been developed with one- and two-story single-family residences. Thus, the proposed project will be consistent with the surrounding built environment as it will be near other existing development in the same community. Additionally, although the portion of the residence above 18 feet in height would increase visibility of the residence from Charmlee Wilderness Park, such portion would have a less than significant impact on surrounding mountains views and no impacts on bluewater views of the Pacific Ocean. As conditioned, the exterior of the proposed residential development must use earth-tone colors based on existing colors of the actual surrounding backdrop to minimize potential visual impacts. Therefore, the proposed project is not expected to have significant adverse effects from public viewing areas.

2. As previously discussed in Finding 1, the proposed project, as designed and conditioned, will not have significant adverse scenic or visual impacts due to the distance and difference in elevation from scenic roads, use of earth-tone colors and compatibility to the existing surrounding rural residential built environment.

3. As previously discussed in Finding A3, the proposed project, as designed and conditioned, is the least environmentally damaging alternative.
4. As previously discussed in Finding 1, the proposed project, as designed and conditioned, is not anticipated to have significant adverse impacts on scenic and visual resources.

5. As previously discussed in Finding 1, no significant adverse impacts on scenic and visual resources are anticipated to result from the project.

G. Hazards (LIP Chapter 9)

1. City geotechnical staff reviewed the submitted reports and relevant information and determined the project will not be located in a hazard area, except for the extreme wildfire hazard zone. Staff determined that the proposed project is not anticipated to result in potential adverse impacts on site stability or structural integrity. Based on review of the project plans and the City geotechnical staff and the City Public Works Department approvals, the proposed project, as conditioned, does not have an adverse impact on the subject site or surrounding properties.

   All recommendations of the Fire Department, City geotechnical staff and City Public Works Department shall be incorporated into the final design and construction including foundations and grading. Final plans shall be reviewed and approved by the Fire Department, City geotechnical staff and City Public Works Department prior to the issuance of a grading permit.

2. The proposed project, as designed, conditioned and approved by the applicable departments and agencies, will not have any significant adverse impacts on the site stability or structural integrity from geologic hazards because the project is not located in a geotechnical hazard area and conditions require incorporation of all project geotechnical recommendations into the project.

3. As discussed in Section A, Finding 2, the evidence in the record demonstrates that the project as proposed and conditioned is the least environmentally damaging alternative.

4. The proposed project, as designed and conditioned, is the least environmentally damaging alternative and no adverse impacts to sensitive resources are anticipated.

5. As discussed in Section A, Finding 2, the proposed project, as designed and conditioned, is the least environmentally damaging alternative and no adverse impacts to sensitive resources are anticipated.

H. Demolition Permit Findings (MMC Chapter 17.70)

1. The demolition permit is conditioned to assure that it will be conducted in a manner that will not create significant adverse environmental impacts. Conditions of approval, including the recycling of demolished materials, have been included to ensure that the proposed project will not create significant adverse environmental impacts.

2. This CDP application is being processed concurrently with DP No. 17-001, approval of the demolition permit is subject to the approval of CDP No. 17-085.

Based on the foregoing findings and evidence contained within the record, the Planning Commission hereby approves CDP No. 17-085, VAR No. 19-059, SPR No. 17-001 and DP No. 17-001, subject to the following conditions.

SECTION 5. Conditions of Approval.

Standard Conditions

1. The property owners, and their successors in interest, shall indemnify and defend the City of Malibu and its officers, employees and agents from and against all liability and costs relating to the City's actions concerning this project, including (without limitation) any award of litigation expenses in favor of any person or entity who seeks to challenge the validity of any of the City's actions or decisions in connection with this project. The City shall have the sole right to choose its counsel and property owners shall reimburse the City’s expenses incurred in its defense of any lawsuit challenging the City’s actions concerning this project.

2. Approval of this application is to allow for the project described herein. The scope of work approved includes:
   a. The demolition of exterior walls to accommodate the house additions;
   b. The abandonment of existing OWTS;
   c. Interior and exterior remodel of the existing single-family residence including:
      i. 920 square feet of additions to the upper level; and
      ii. 457 square feet of additions to the lower level consisting of covered patios;
   d. The construction of a new 900 square foot detached second residential unit with an attached 400 square foot garage;
   e. The construction of a new 440 square foot pool house;
   f. New swimming pool and spa measuring 33.5 feet in length by 14 feet in width;
   g. Pool equipment with enclosure
   h. Native vegetation restoration;
      i. 1,579 square feet of new hardscape;
   j. Fire Department access improvements;
   k. OWTS.; and
   l. Discretionary Request:
      i. VAR No. 19-059 to allow for the required fuel modification to encroach onto ESHA;
      ii. SPR No. 17-001 to allow for construction up to 28 feet in height for the pitched roof; and
      iii. DP No. 17-001 for the demolition of exterior walls to accommodate the house additions and abandon the existing OWTS.

3. Except as specifically changed by conditions of approval, the proposed development shall be constructed in substantial conformance with the approved scope of work, as described in Condition No. 2 and depicted on plans on file with the Planning Department date stamped April 20, 2020. The proposed development shall further comply with all
conditions of approval stipulated in this resolution and Department Review Sheets attached hereto. In the event project plans conflict with any condition of approval, the condition shall take precedence.

4. Pursuant to LIP Section 13.18.2, this permit and rights conferred in this approval shall not be effective until the property owner signs, notarizes and returns the Acceptance of Conditions Affidavit accepting the conditions of approval set forth herein. The applicant shall file this form with the Planning Department within 10 days of this decision and/or prior to the issuance of any development permits.

5. The applicant shall digitally submit a complete set of plans, including the items required in Conditions No. 6 to the Planning Department for consistency review and approval prior to plan check and again prior to the issuance of any building or development permits.

6. This resolution, signed Acceptance of Conditions Affidavit and all Department Review Sheets attached to the agenda report for this project shall be copied in their entirety and placed directly onto a separate plan sheet behind the cover sheet of the development plans submitted to the City of Malibu Environmental Sustainability Department for plan check, and the City of Malibu Public Works Department for an encroachment permit (as applicable).

7. The CDP shall expire if the project has not commenced within three (3) years after issuance of the permit, unless a time extension has been granted. Extension of the permit may be granted by the approving authority for due cause. Extensions shall be requested in writing by the applicant or authorized agent prior to expiration of the three-year period and shall set forth the reasons for the request. In the event of an appeal, the CDP shall expire if the project has not commenced within three years from the date the appeal is decided by the decision-making body or withdrawn by the appellant.

8. Any questions of intent or interpretation of any condition of approval will be resolved by the Planning Director upon written request of such interpretation.

9. All development shall conform to requirements of the City of Malibu Environmental Sustainability Department, City Biologist, City Coastal Engineer, City Environmental Health Administrator, City geotechnical staff, City Public Works Department, Los Angeles County Waterworks District No. 29 and LACFD, as applicable. Notwithstanding this review, all required permits shall be secured.

10. Minor changes to the approved plans or the conditions of approval may be approved by the Planning Director, provided such changes achieve substantially the same results and the project is still in compliance with the Malibu Municipal Code and the Local Coastal Program. Revised plans reflecting the minor changes and additional fees shall be required.

11. Pursuant to LIP Section 13.20, development pursuant to an approved CDP shall not commence until the CDP is effective. The CDP is not effective until all appeals, have been exhausted.

12. The property owner must submit payment for all outstanding fees payable to the City prior to issuance of any building permit, including grading or demolition.

**Cultural Resources**
13. In the event that potentially important cultural resources are found in the course of geologic testing or during construction, work shall immediately cease until a qualified archaeologist can provide an evaluation of the nature and significance of the resources and until the Planning Director can review this information. Thereafter, the procedures contained in LIP Chapter 11 and those in MMC Section 17.54.040(D)(4)(b) shall be followed.

14. If human bone is discovered during geologic testing or during construction, work shall immediately cease and the procedures described in Section 7050.5 of the California Health and Safety Code shall be followed. Section 7050.5 requires notification of the coroner. If the coroner determines that the remains are those of a Native American, the applicant shall notify the Native American Heritage Commission by phone within 24 hours. Following notification of the Native American Heritage Commission, the procedures described in Section 5097.94 and Section 5097.98 of the California Public Resources Code shall be followed.

**Lighting**

15. Exterior lighting must comply with the Dark Sky Ordinance and shall be minimized, shielded, or concealed and restricted to low intensity features, so that no light source is directly visible from public view. Permitted lighting shall conform to the following standards:
   a. Lighting for walkways shall be limited to fixtures that do not exceed two feet in height and are directed downward, and limited to 850 lumens (equivalent to a 60 watt incandescent bulb);
   b. Security lighting controlled by motion detectors may be attached to the residence provided it is directed downward and is limited to 850 lumens;
   c. Driveway lighting shall be limited to the minimum lighting necessary for safe vehicular use. The lighting shall be limited to 850 lumens;
   d. Lights at entrances as required by the Building Code shall be permitted provided that such lighting does not exceed 850 lumens;
   e. Site perimeter lighting shall be prohibited; and
   f. Outdoor decorative lighting for aesthetic purposes is prohibited.

16. Night lighting for sports courts or other private recreational facilities shall be prohibited.

17. No permanently installed lighting shall blink, flash, or be of unusually high intensity or brightness. Lighting levels on any nearby property from artificial light sources on the subject property(ies) shall not produce an illumination level greater than one foot candle.

18. Night lighting from exterior and interior sources shall be minimized. All exterior lighting shall be low intensity and shielded directed downward and inward so there is no offsite glare or lighting of natural habitat areas. High intensity lighting of the shore is prohibited.

19. String lights are allowed in occupied dining and entertainment areas only and must not exceed 3,000 Kelvin.

20. Motion sensor lights shall be programmed to extinguish ten minutes after activation.
21. Three violations of the conditions by the same property owner will result in a requirement to permanently remove the outdoor light fixture(s) from the site.

Demolition/Solid Waste

22. Prior to demolition activities, the applicant shall receive Planning Department approval for compliance with conditions of approval.

23. The applicant/property owner shall contract with a City approved hauler to facilitate the recycling of all recoverable/recyclable material. Recoverable material shall include but shall not be limited to: asphalt, dirt and earthen material, lumber, concrete, glass, metals, and drywall.

24. Prior to the issuance of a building/demolition permit, an Affidavit and Certification to implement waste reduction and recycling shall be signed by the Owner or Contractor and submitted to the Environmental Sustainability Department. The Affidavit shall indicate the agreement of the applicant to divert at least 65 percent (in accordance with CalGreen) of all construction waste from the landfill.

25. Upon plan check approval of demolition plans, the applicant shall secure a demolition permit from the City. The applicant shall comply with all conditions related to demolition imposed by the Building Official.

26. No demolition permit shall be issued until building permits are approved for issuance. Demolition of the existing structure and initiation of reconstruction must take place within a six month period. Dust control measures must be in place if construction does not commence within 30 days.

27. The project developer shall utilize licensed subcontractors and ensure that all asbestos containing materials and lead-based paints encountered during demolition activities are removed, transported, and disposed of in full compliance with all applicable federal, state and local regulations.

28. Any building or demolition permits issued for work commenced or completed without the benefit of required permits are subject to appropriate “Investigation Fees” as required in the Building Code.

29. Upon completion of demolition activities, the applicant shall request a final inspection by the Building Safety Division.

Construction / Framing

30. Prior to the commencement of work, the applicant shall submit a copy of their Construction Management Plan. The Construction Management Plan shall include a dedicated parking location for construction workers, not within the public right of way.
31. A construction staging plan shall be reviewed and approved by the Planning Director prior to plan check submittal.

32. Construction hours shall be limited to Monday through Friday from 7:00 a.m. to 7:00 p.m. and Saturdays from 8:00 a.m. to 5:00 p.m. No construction activities shall be permitted on Sundays or City-designated holidays.

33. Construction management techniques, including minimizing the amount of equipment used simultaneously and increasing the distance between emission sources, shall be employed as feasible and appropriate. All trucks leaving the construction site shall adhere to the California Vehicle Code. In addition, construction vehicles shall be covered when necessary; and their tires rinsed prior to leaving the property.

34. All new development, including construction, grading, and landscaping shall be designed to incorporate drainage and erosion control measures prepared by a licensed engineer that incorporate structural and non-structural Best Management Practices (BMPs) to control the volume, velocity and pollutant load of storm water runoff in compliance with all requirements contained in LIP Chapter 17, including:
   a. Construction shall be phased to the extent feasible and practical to limit the amount of disturbed areas present at a given time.
   b. Grading activities shall be planned during the southern California dry season (April through October).
   c. During construction, contractors shall be required to utilize sandbags and berms to control runoff during on-site watering and periods of rain in order to minimize surface water contamination.
   d. Filter fences designed to intercept and detain sediment while decreasing the velocity of runoff shall be employed within the project site.

35. When framing is complete, a site survey shall be prepared by a licensed civil engineer or architect that states the finished ground level elevation and the highest roof member elevation. Prior to the commencement of further construction activities, said document shall be submitted to the assigned Building Inspector and Planning Department for review and sign off on framing.

36. For the transportation of heavy construction equipment and/or material, which requires the use of oversized-transport vehicles on State highways, the applicant / property owner is required to obtain a transportation permit from the California Department of Transportation.

**Swimming Pool / Spa / Mechanical Equipment**

37. Onsite noise, including that which emanates from swimming pool and air conditioning equipment, shall be limited as described in MMC Chapter 8.24 (Noise).

38. Pool and air conditioning equipment that will be installed shall be screened from view by a solid wall or fence on all four sides. The fence or walls shall comply with LIP Section 3.5.3(A).

39. All swimming pools shall contain double walled construction with drains and leak detection systems capable of sensing a leak of the inner wall.
40. Pursuant to the Clean Water Act and the Malibu Water Quality Ordinance, discharge of water from a pool / spa is prohibited. Provide information on the plans regarding the type of sanitation proposed for pool.
   a. Ozonation systems are an acceptable alternative to chlorine. The discharge of clear water from ozonation systems is not permitted to the street;
   b. Salt water sanitation is an acceptable alternative to chlorine. The discharge of salt water is not permitted to the street; and
   c. Chlorinated water from pools or spas shall be trucked to a publicly-owned treatment works facility for discharge.
41. Discharges not meeting the above-mentioned methods must be trucked to a Publicly Owned Wastewater Treatment Works.

42. The discharge of chlorinated and non-chlorinated pool / spa water into streets, storm drains, creeks, canyons, drainage channels, or other locations where it could enter receiving waters is prohibited.

43. A sign stating “It is illegal to discharge pool, spa, or water feature waters to a street, drainage course, or storm drain per MMC Section 13.04.060(D)(5)” shall be posted in the filtration and/or pumping equipment area for the property.

**Colors and Materials**

44. The project is visible from scenic roads or public viewing areas, therefore, shall incorporate colors and exterior materials that are compatible with the surrounding landscape.
   a. Acceptable colors shall be limited to colors compatible with the surrounding environment (earth tones) including shades of green, brown and gray, with no white or light shades and no bright tones. Colors shall be reviewed and approved by the Planning Director and clearly indicated on the building plans.
   b. The use of highly reflective materials shall be prohibited except for solar energy panels or cells, which shall be placed to minimize significant adverse impacts to public views to the maximum extent feasible.
   c. All windows shall be comprised of non-glare glass.

45. All driveways shall be a neutral color that blends with the surrounding landforms and vegetation. Retaining walls shall incorporate veneers, texturing and/or colors that blend with the surrounding earth materials or landscape. The color of driveways and retaining walls shall be reviewed and approved by the Planning Director and clearly indicated on all grading, improvement and/or building plans.

**Biology/Landscaping**

46. Pursuant to LIP Section 4.7.1 the allowable development area is limited to 10,000 square feet as all feasible building areas will result in impacts to ESHA.

47. Pursuant to LIP Section 4.8.1, all new development shall include mitigation for unavoidable impacts to ESHA from the removal, conversion, or modification of natural habitat for new and previously unauthorized development, including required fuel modification and brush clearance.
Without the benefit of permits, the property’s previous owner cleared land on the subject and adjacent parcel for a horse corral. Chaparral impacts on the subject parcel included 0.302 acre and an additional 0.102 acre on the adjacent parcel.

Since the current owner was not responsible for the unauthorized clearing of native vegetation, there is no punitive restoration requirement. However, their responsibility will include removing all fencing, structure, and accessories of the corral in the eastern portion of the site, and restoring that area at a 1:1 ratio pursuant to Section 4.1 of the UltraSystems Habitat Mitigation and Monitoring Plan. The monitoring shall occur for a minimum of five years. If at the end of five years the restoration plan is not successful, the property owner and City Biologist will communicate and investigate other potential remedies at the time.

Impacts to ESHA resulting from additional required fuel modification associated with the proposed development total 0.78 acre. Mitigation for these impacts will be accomplished through in lieu fee paid to the Santa Monica Mountains Conservancy. Prior to Final Plan Check the applicant shall provide of payment of in lieu fees to the Santa Monica Mountains Conservancy.

48. Prior to installation of any landscaping, the applicant shall obtain a plumbing permit for the proposed irrigation system from the Building Safety Division.

49. Vegetation forming a view impermeable condition serving the same function as a fence or wall (also known as a hedge) located within the side or rear yard setback shall be maintained at or below a height of six feet. A hedge located within the front yard setback shall be maintained at or below a height of 42 inches. Three violations of this condition will result in a requirement to permanently remove the vegetation from the site.

50. Invasive plant species, as determined by the City of Malibu, are prohibited.

51. Vegetation shall be situated on the property so as not to obstruct the primary view from private property at any given time (given consideration of its future growth).

52. No non-native plant species shall be approved greater than 50 feet from the residential structure.

53. The landscape plan shall prohibit the use of building materials treated with toxic compounds such as creosote and copper arsenate.

54. Grading, excavation and vegetation removal scheduled between February 1 and September 15 will require nesting bird surveys by a qualified biologist prior to initiation of grading activities. Surveys shall be completed no more than five days from proposed initiation of site preparation activities. Should active nests be identified, a buffer area no less than 150 feet (300 feet for raptors) shall be fenced off until it is determined by a qualified biologist that the nest is no longer active. A report discussing the results of the surveys shall be turned in to the City within two business days of completion of surveys.

55. The restoration and landscape plans have been conditioned to protect natural resources in accordance with the Malibu General Plan. All areas shall be planted and maintained as described in the approved plans. Failure to comply with the landscape conditions is a violation of the conditions of approval for this project.
56. Night lighting from exterior and interior sources shall be minimized. All exterior lighting shall be low intensity and shielded so it is directed downward and inward so that there is no offsite glare or lighting of natural habitat areas. All fencing shall be indicated on the site plan.

57. Necessary boundary fencing shall be of an open rail-type design with a wooden rail at the top (instead of wire), be less than 40-inches high, and have a space greater than 14-inches between the ground and the bottom post or wire. A split rail design that blends with the natural environment is preferred.

Fuel Modification

58. The project shall receive LACFD approval of a Final Fuel Modification Plan prior to the issuance of final building permits.

Public Works

59. Clearing and grading during the rainy season (extending from November 1 to March 31) shall be prohibited for development pursuant to LIP Section 17.3.1 that:
   a. Is located within or adjacent to ESHA, or
   b. Includes grading on slopes greater than 4 to 1
   Approved grading for development that is located within or adjacent to ESHA or on slopes greater than 4 to 1 shall not be undertaken unless there is sufficient time to complete grading operations before the rainy season. If grading operations are not completed before the rainy season begins, grading shall be halted and temporary erosion control measures shall be put into place to minimize erosion until grading resumes after March 31, unless the City determines that completion of grading would be more protective of resources.

60. Exported soils shall be taken to the County landfill, or to a site with an active grading permit and the ability to accept the material in compliance with LIP Section 8.3. A note shall be placed on the project plans that addresses this condition.

61. A Grading and Drainage Plan for the excavation containing the following information shall be reviewed and approved by the Public Works Department, prior to the issuance of grading permits for the project:
   a. Public Works Department general notes;
   b. The existing and proposed square footage of impervious coverage on the property shall be shown on the grading plan (including separate areas for buildings, driveways, walkways, parking tennis courts and pool decks);
   c. The limits of land to be disturbed during project development shall be delineated and a total area shall be shown on this plan. Areas disturbed by grading equipment beyond the limits of grading, areas disturbed for the installation of the detention system shall be included within the area delineated;
   d. The grading limits shall include the temporary cuts made for retaining walls, buttresses, and over-excavation for fill slopes shall be shown;
   e. Any native trees required to be protected shall be highlighted on the grading plan;
f. Any rare or endangered species as identified in the biological assessment, along with fencing of these areas if required by the City Biologist;
g. Private storm drains, and systems greater than 12-inch diameter shall also include a plan and profile; and
h. Public storm drain modifications shown on the grading plan shall require approval by the Public Works Department prior to the issuance of the grading permit.

62. The ocean between Latigo Point and the west City limits has been established by the State Water Resources Control Board as an Area of Special Biological Significance (ASBS) as part of the California Ocean Plan. This designation prohibits the discharge of any waste, including stormwater runoff, directly into the ASBS. The applicant shall provide a drainage system that accomplishes the following:
   a. Installation of BMPs that are designed to treat the potential pollutants in the stormwater runoff so that it does not alter the natural ocean water quality. These pollutants include trash, oil and grease, metals, bacteria, nutrients, pesticides, herbicides and sediment.
   b. Prohibits the discharge of trash.
   c. Only discharges from existing storm drain outfalls are allowed. No new outfalls will be allowed. Any proposed or new storm water discharged shall be routed to existing storm drain outfalls and shall not result in any new contribution of waste to the ASBS (i.e., no additional pollutant loading).
   d. Elimination of non-storm water discharges.

63. A Local Storm Water Pollution Prevention Plan shall be provided prior to the issuance of the Grading/Building permits for the project. This plan shall include an Erosion and Sediment Control Plan (ESCP) that includes, but not limited to:

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64. All BMPs shall be in accordance to the latest version of the California Stormwater Quality Association (CASQA) BMP Handbook. Designated areas for the storage of construction materials, solid waste management, and portable toilets must not disrupt drainage patterns or subject the material to erosion by site runoff.

65. A Storm Water Management Plan (SWMP) is required for this project. Storm drainage improvements are required to mitigate increased runoff generated by property development. The applicant shall have the choice of one method specified within the City’s
LIP Section 17.3.2.B.2. The SWMP shall be supported by a hydrology and hydraulic study that identifies all areas contributory to the property and an analysis of the predevelopment and post development drainage of the site. The SWMP shall identify the site design and source control BMPs that have been implemented in the design of the project (see LIP Chapter 17 Appendix A). The SWMP shall be reviewed and approved by the Public Works Department prior to the issuance of the grading/building permits for this project.

66. A Water Quality Mitigation Plan (WQMP) is required for this project. The WQMP shall be supported by a hydrology and hydraulic study that identifies all areas contributory to the property and an analysis of the predevelopment and post development drainage of the site. The WQMP shall meet all the requirements of the City’s current Municipal Separate Stormwater Sewer System (MS4) permit. The following elements shall be included within the WQMP:
   a. Site Design BMPs;
   b. Source Control BMPs;
   c. Treatment Control BMPs that retains on-site the Stormwater Quality Design Volume (SWQDV). Or where it is technically infeasible to retain on-site, the project must biofiltrate 1.5 times the SWQDV that is not retained on-site.
   d. Drainage Improvements;
   e. A plan for the maintenance and monitoring of the proposed treatment BMP for the expected life of the structure;
   f. A copy of the WQMP shall be filed against the property to provide constructive notice to future property owners of their obligation to maintain the water quality measures installed during construction prior to the issuance of grading or building permits;
   g. The WQMP shall be submitted to the Public Works Department and the fee applicable at time of submittal for the review of the WQMP shall be paid prior to the start of the technical review. The WQMP shall be approved prior to the Public Works Department’s approval of the grading and drainage plan and or building plans. The Public Works Department will tentatively approve the plan and will keep a copy until the completion of the project. Once the project is completed, the applicant shall verify the installation of the BMP’s, make any revisions to the WQMP, and resubmit to the Public Works Department for approval. The original signed and notarized document shall be recorded with the County Recorder. A certified copy of the WQMP shall be submitted to the Public Works Department prior to the certificate of occupancy.

67. The consulting engineer shall sign the final plans prior to the issuance of permits.

Geology

68. All recommendations of the consulting certified engineering geologist or geotechnical engineer and/or the City geotechnical staff shall be incorporated into all final design and construction including foundations, grading, sewage disposal, and drainage. Final plans shall be reviewed and approved by the City geotechnical staff prior to the issuance of permits.

69. Final plans approved by the City geotechnical staff shall be in substantial conformance with the approved CDP relative to construction, grading, sewage disposal and drainage. Any substantial changes may require a CDP amendment or a new CDP.
Environmental Health

70. Prior to final Environmental Health approval, a final OWTS plot plan shall be submitted showing an OWTS design meeting the minimum requirements of the MMC and the LCP, including necessary construction details, the proposed drainage plan for the developed property and the proposed landscape plan for the developed property. The OWTS plot plan shall show essential features of the OWTS and must fit onto an 11 inch by 17 inch sheet leaving a five inch margin clear to provide space for a City applied legend. If the scale of the plans is such that more space is needed to clearly show construction details and/or all necessary setbacks, larger sheets may also be provided (up to a maximum size of 18 inches by 22 inches).

71. A final design and system specifications shall be submitted as to all components (i.e., alarm system, pumps, timers, flow equalization devices, backflow devices, etc.) proposed for use in the construction of the proposed OWTS. For all OWTS, final design drawings and calculations must be signed by a California registered civil engineer, a registered environmental health specialist or a professional geologist who is responsible for the design. The final OWTS design drawings shall be submitted to the City Environmental Health Administrator with the designer’s wet signature, professional registration number and stamp (if applicable).

72. The final design report shall contain the following information (in addition to the items listed above).
   a. Required treatment capacity for wastewater treatment and disinfection systems. The treatment capacity shall be specified in terms of flow rate, gallons per day, and shall be supported by calculations relating the treatment capacity to the number of bedroom equivalents, plumbing drainage fixture equivalents, and the subsurface effluent dispersal system acceptance rate. The drainage fixture unit count must be clearly identified in association with the design treatment capacity, even if the design is based on the number of bedrooms. Average and peak rates of hydraulic loading to the treatment system shall be specified in the final design;
   b. Sewage and effluent pump design calculations (as applicable).
   c. Description of proposed wastewater treatment and/or disinfection system equipment. State the proposed type of treatment system(s) (e.g., aerobic treatment, textile filter ultraviolet disinfection, etc.); major components, manufacturers, and model numbers for "package" systems; and conceptual design for custom engineered systems;
   d. Specifications, supporting geology information, and percolation test results for the subsurface effluent dispersal portion of the onsite wastewater disposal system. This must include the proposed type of effluent dispersal system (drainfield, trench, seepage pit subsurface drip, etc.) as well as the system’s geometric dimensions and basic construction features. Supporting calculations shall be presented that relate the results of soils analysis or percolation/infiltration tests to the projected subsurface effluent acceptance rate, including any unit conversions or safety factors. Average and peak rates of hydraulic loading to the effluent dispersal system shall be specified in the final design. The projected subsurface effluent acceptance rate shall be reported in units of total gallons per day and gallons per square foot per day. Specifications for the subsurface effluent dispersal system shall be shown to accommodate the design hydraulic loading rate (i.e., average and peak OWTS effluent flow, reported in units of gallons per day). The subsurface effluent
dispersal system design must take into account the number of bedrooms, fixture units and building occupancy characteristics; and

e. All final design drawings shall be submitted with the wet signature and typed name of the OWTS designer. If the scale of the plan is such that more space is needed to clearly show construction details, larger sheets may also be provided (up to a maximum size of 18 inch by 22 inch, for review by Environmental Health). Note: For OWTS final designs, full-size plans are required for review by the Building Safety Division and/or the Planning Department.
f. Pool water is prohibited from being discharged to an OWTS.

73. Final plans shall clearly show the locations of all existing OWTS components (serving pre-existing development) to be abandoned and provide procedures for the OWTS’ proper abandonment in conformance with the MMC.

74. The following note shall be added to the plan drawings included with the OWTS final design: “Prior to commencing work to abandon, remove, or replace the existing Onsite Wastewater Treatment System (OWTS) components, an ‘OWTS Abandonment Permit’ shall be obtained from the City of Malibu. All work performed in the OWTS abandonment, removal or replacement area shall be performed in strict accordance with all applicable federal, state, and local environmental and occupational safety and health regulatory requirements. The obtainment of any such required permits or approvals for this scope of work shall be the responsibility of the applicant and their agents.”

75. All project architectural plans and grading/drainage plans shall be submitted for Environmental Health review and approval. These plans must be approved by the Building Safety Division prior to receiving Environmental Health final approval.

76. Proof of ownership of subject property shall be submitted to the City Environmental Health Administrator.

77. An operations and maintenance manual specified by the OWTS designer shall be submitted to the property owner and maintenance provider of the proposed advanced OWTS.

78. Prior to final Environmental Health approval, a maintenance contract executed between the owner of the subject property and an entity qualified in the opinion of the City of Malibu to maintain the proposed OWTS after construction shall be submitted. Only original wet signature documents are acceptable and shall be submitted to the City Environmental Health Administrator.

79. Prior to final Environmental Health approval, a covenant running with the land shall be executed between the City of Malibu and the holder of the fee simple absolute as to subject real property and recorded with the City of Malibu Recorder’s Office. Said covenant shall serve as constructive notice to any future purchaser for value that the onsite wastewater treatment system serving subject property is an advanced method of sewage disposal pursuant to the City of MMC. Said covenant shall be provided by the City of Malibu Environmental Health Administrator.

80. Project Geologist/Geotechnical staff final approval of the Onsite Wastewater Treatment System plan shall be submitted to the Environmental Health Administrator.
81. The City geotechnical staff final approval shall be submitted to the City Environmental Health Administrator.

82. The Planning Department final approval of the OWTS plans shall be obtained.

83. In accordance with MMC Chapter 15.44, prior to Environmental Health approval, an application shall be made to the Environmental Sustainability Department for an OWTS operating permit.

Prior to Occupancy

84. Prior to, or at the time of a Planning final inspection, the property owner / applicant shall submit to the Planning Department the plumbing permit for the irrigation system installation signed off by the Building Safety Division.

85. Prior to final Planning inspection or other final project sign off (as applicable), the applicant shall submit to the Planning Director for review and approval a certificate of completion in accordance with the Landscape Water Conservation Ordinance (MMC Chapter 9.22). The certificate shall include the property owner’s signed acceptance of responsibility for maintaining the landscaping and irrigation in accordance with the approved plans and MMC Chapter 9.22.

86. Prior to the issuance of a Certificate of Occupancy, the City Biologist shall inspect the project site and determine that all Planning Department conditions to protect natural resources are in compliance with the approved plans.

87. The applicant shall request a final Planning Department inspection prior to final inspection by the City of Malibu Building Safety Division. The final inspection shall include photographs to document the condition of the site. A Certificate of Occupancy shall not be issued until the Planning Department has determined that the project complies with this coastal development permit. A temporary Certificate of Occupancy may be granted at the discretion of the Planning Director, provided adequate security has been deposited with the City to ensure compliance should the final work not be completed in accordance with this permit.

88. Any construction trailer, storage equipment or similar temporary equipment not permitted as part of the approved scope of work shall be removed prior to final inspection and approval, and if applicable, the issuance of the certificate of occupancy.

Fixed Conditions

89. This coastal development permit shall run with the land and bind all future owners of the property.

90. Violation of any of the conditions of this approval may be cause for revocation of this permit and termination of all rights granted there under.

Deed Restrictions
91. The property owner is required to execute and record a deed restriction which shall indemnify and hold harmless the City, its officers, agents, and employees against any and all claims, demands, damages, costs and expenses of liability arising out of the acquisition, design, construction, operation, maintenance, existence or failure of the permitted project in an area where an extraordinary potential for damage or destruction from wildfire exists as an inherent risk to life and property. The property owner shall provide a copy of the recorded document to Planning department staff prior to final planning approval.

92. Prior to final Planning Department approval, the applicant shall be required to execute and record a deed restriction reflecting lighting requirements set forth in Condition Nos. 15-21. The property owner shall provide a copy of the recorded document to the Planning Department prior to final Planning Department approval.

SECTION 6. The Planning Commission shall certify the adoption of this Resolution.

PASSED, APPROVED AND ADOPTED this 4th day of January 2021.

JOHN MAZZA, Planning Commission Chair

ATTEST:

KATHLEEN STECKO, Recording Secretary

LOCAL APPEAL - Pursuant to Local Coastal Program Local Implementation Plan (LIP) Section 13.20.1 (Local Appeals) a decision made by the Planning Commission may be appealed to the City Council by an aggrieved person by written statement setting forth the grounds for appeal. An appeal shall be filed with the City Clerk within 10 days and shall be accompanied by an appeal form and filing fee, as specified by the City Council. Appeals shall be emailed to psalazar@malibucity.org and the filing fee shall be mailed to Malibu Planning Department, attention: Patricia Salazar, 23825 Stuart Ranch Road, Malibu, CA 90265. Appeal forms may be found online at www.malibucity.org/planningforms. If you are unable to submit your appeal online, please contact Patricia Salazar by calling (310) 456-2489, extension 245, at least two business days before your appeal deadline to arrange alternative delivery of the appeal.

I CERTIFY THAT THE FOREGOING RESOLUTION NO. 21-02 was passed and adopted by the Planning Commission of the City of Malibu at the regular meeting held on the 4th day of January 2021 by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

KATHLEEN STECKO, Recording Secretary
**RESIDENTIAL CONSTRUCTION MINIMUM REQUIREMENTS**

**ELECTRICAL INSTALLATION**

- Service entrance is underground for new construction or additions.
- Service disconnect is required for meter location prior to installation.
- Grounding is required and approved ground wire required per installation requirements.
- Service equipment and substations to have no more than 500 feet deep.

**CONSTRUCTION**

- Minimum pressure drop is 20 feet of water column for the building.
- Maximum pressure drop is 50 feet of water column for the building.

**CONCEPT DRAWING**

- All structure and equipment shall be considered as per local codes.
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### Window Schedule

<table>
<thead>
<tr>
<th>No.</th>
<th>Type</th>
<th>Description</th>
<th>Material</th>
<th>Width (in)</th>
<th>Height (in)</th>
<th>Notes</th>
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<tbody>
<tr>
<td>1</td>
<td>Type A</td>
<td>Casement Window</td>
<td>Aluminum</td>
<td>36</td>
<td>48</td>
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<tr>
<td>2</td>
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<td>Fixed Window</td>
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<td>24</td>
<td>36</td>
<td>-</td>
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<tr>
<td>3</td>
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<td>Transom Window</td>
<td>Wood</td>
<td>12</td>
<td>24</td>
<td>-</td>
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<tr>
<td>4</td>
<td>Type D</td>
<td>Skylight</td>
<td>Plastic</td>
<td>18</td>
<td>30</td>
<td>-</td>
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</table>

### Door Schedule

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<th>No.</th>
<th>Type</th>
<th>Description</th>
<th>Material</th>
<th>Width (in)</th>
<th>Height (in)</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Type A</td>
<td>Aluminum Door</td>
<td>Aluminum</td>
<td>36</td>
<td>80</td>
<td>-</td>
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<tr>
<td>2</td>
<td>Type B</td>
<td>Pocket Door</td>
<td>Wood</td>
<td>30</td>
<td>96</td>
<td>-</td>
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<tr>
<td>3</td>
<td>Type C</td>
<td>Pivot Door</td>
<td>Metal Bifold</td>
<td>30</td>
<td>96</td>
<td>-</td>
</tr>
<tr>
<td>4</td>
<td>Type D</td>
<td>Roll-Up Door</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
</tbody>
</table>

### Window Notes

- Glass and glazing shall be in accordance with the recommendations of the Architect
- All windows shall be properly sealed and all joints shall be caulked
- All glazing shall be fully tempered and all joints shall be properly sealed

### Door Notes

- All doors shall be reinforced with an appropriate grade of fire-resistant material
- All doors shall be designed to meet local building codes

---

### Window Types

- **Type A**: Casement Window
- **Type B**: Fixed Window
- **Type C**: Transom Window
- **Type D**: Skylight

### Door Types

- **Type A**: Aluminum Door
- **Type B**: Pocket Door
- **Type C**: Pivot Door (Metal Bifold)
- **Type D**: Roll-Up Door
GENERAL PLANTING NOTES
1. MAINTAIN A QUALIFIED SUPERVISOR ON THE SITE AT ALL TIMES DURING CONSTRUCTION THROUGH COMPLETION OF PICK-UP WORK.
2. VERIFY ALL PLANT MATERIAL QUANTITIES PRIOR TO INSTALLATION. PLANT MATERIAL QUANTITIES LISTED FOR CONVENIENCE OF CONTRACTOR. ACTUAL NUMBERS SHALL HAVE PRIORITY OVER QUANTITY DESIGNATED.
3. CONTRACTOR SHALL FURNISH AND PAY FOR ALL CONTAINER GROWN TREES, SHRUBS AND GROUND COVERS. BE RESPONSIBLE AND PAY FOR PLANTING AND WATERING OF ALL PLANT MATERIALS; THE SPECIFIED QUANTITIES OF ALL PLANT MATERIALS; THE STAKING AND GUARDING OF TREES AND THE CONTINUOUS PROTECTION OF ALL PLANT MATERIALS UPON THEIR ARRIVAL AT THE SITE.
4. CONTRACTOR SHALL FURNISH AND PLACE A 2" (TWO) INCH THICK COVER OF FOREST FLOOR BARK MULCH IN ALL PLANTINGS AREAS.
5. GROUND COVER PLANTING SHALL BE CONTINUOUS UNDER TREES AND SHRUB MASSES. (NO GROUND COVER SHALL BE PLANTED UNDER NEW OR EXISTING OAK TREES)
6. ALL PLANT MATERIAL SHALL BE SUBJECT TO APPROVAL BY THE LANDSCAPE ARCHITECT AND/OR OWNER PRIOR TO INSTALLATION.
7. ALL BOXED TREES SHALL BE SELECTED AND SPOTTED BY THE LANDSCAPE ARCHITECT OR OWNER'S REPRESENTATIVE. FOR THE CONSIDERATION TO THE CONTRACTOR TREES HAVE BEEN SOURCED BY TREE NURSERIES SHOWN ON PLANTING PLANS.
8. ALL SOIL PREPARATION FOR THE CALIFORNIA NATIVES LANDSCAPE PLANTING AREAS SHALL BE INSTALLED AS PER DETAIL "B" ON THIS SHEET 14.
9. REFER TO PLANTING DETAILS FOR ADDITIONAL INFORMATION.
10. THIRTY (30) DAYS AFTER INSTALLATION ALL LANDSCAPE SHALL BE FERTILIZED WITH BEST FERTILIZER COMPANY 16-16-16 OR APPROVED EQUAL. APPLIED AT THE RATE OF SIX POUNDS (6) LBS. PER 1,000 SQUARE FEET. FERTILIZER APPLICATION SHALL BE CONTINUED THEREAFTER AT MONTHLY INTERVALS.
11. ALL SODandel TABLETS SHALL BE AGRA FORM; 21 GALLON TABLETS (21-10-10) IN QUANTITIES AS FOLLOWS.
   1 GALLON SHRUBS 15
   9 GALLON SHRUBS 5
   15 GALLON SHRUBS 4
   BOXED TREES 1 PER 4' OF BOX SIZE
   PLACE TABLETS AT HALF THE DEPTH OF THE ROOT BALL.
12. ALL STANDARD TRUNK TREES SHALL RECEIVE (2) TWO 12" LONG X ¼" (2) TREE STAKES PER AND ALL MULTI TRUNK TREES SHALL BE SECURED BY MEANS OF GUARDING AS PER DETAILS "C" ON THIS SHEET.

TREES HAVE BEEN SOURCED AT THE FOLLOWING LOCATIONS

MOON NURSERY
RYAN Q (949) 236-6989
BERLYWOOD TREE FARM
CHARLES Q (949) 467-7001
B&B TREES
MARY Q (949) 487-5663

DIG ALERT
3710 Dakota Sapon Road
Maittis, CA 92656

WANG RESIDENCE
316.940 STREET BUYER
HUNTER PT, 95052-5061
SMALL, mlandscaping@gmail.com

PLANTING DETAILS GENERAL & NOTES
APR 15-11 SHEET 14
FIRE FLOW REQUIREMENT:
Type of construction per the Building Code
Type: CB
NOTES:
Size of fire area (acres) 11.67
Flow based on fire flow calculation area
2000 gpm
Fire flow for sprinklers (maximum 50%) 1000 gpm
Total fire flow required 1000 gpm

FIRE SPRINKLER NOTE:
A. All fire sprinkler heads shall be protected by non-combustible materials and be located at least 2 feet above the finished surface. Sprinkler heads shall be provided with an adequate supply of water and shall be arranged to provide adequate coverage. All sprinkler heads shall be connected to an approved source of water supply.
B. All sprinkler heads shall be protected from physical damage and shall be arranged to provide adequate coverage. All sprinkler heads shall be connected to an approved source of water supply.

NOTES:
FIRE ACCESS PLAN

LEGEND:

CONSTRUCTION NOTES:
The City of Malibu Geotechnical Recommendations

950 N. Tustin Avenue
Suite 100
Anaheim, California 92807
Toll Free (800) 275-5098 Ext 200
Phone (714) 886-9332 Ext 200
Fax (855) 886-9332
Cell (714) 747-5598
WWW.GEOQUAKE.NET

1.1 SHALLOW FOUNDATION
Shallow foundations and slab on grades should be embedded or cast in accordance with the following minimum requirements to be determined by the project engineer in consultation with the City Engineer.

1.2 Lateral Resistance
Lateral resistances to be determined for buildings and structures on or adjacent to easements shall be determined by the project engineer in consultation with the City Engineer.

2.0 PARK AND ROADWAY FOUNDATION
The proposed project (parking and road improvements) is subject to the provisions of the California Coastal Act and the City of Malibu Building Code. The project engineer shall be responsible for reviewing and approving all plans and specifications submitted for the project.

3.0 CONCRETE SLAB-ON-GRADE
Concrete slabs-on-grade shall be designed and constructed in accordance with ACI 318-19, the American Concrete Institute, and the City of Malibu Building Code. The project engineer shall be responsible for reviewing and approving all plans and specifications submitted for the project.

4.0 SITE SEISMICITY
The project site is located in a seismic zone classified by the California Building Code as Zone 1. The project engineer shall be responsible for reviewing and approving all plans and specifications submitted for the project.

5.0 PRELIMINARY PAVEMENT DESIGN
The California method of design was utilized to develop the following asphalts pavement sections:

- 10% AC-18
- 12% AC-20
- 15% AC-20

The project engineer shall be responsible for reviewing and approving all plans and specifications submitted for the project.

6.0 SUBGRADE PREPARATION
All subsurface exploration and subsurface investigations shall be performed in accordance with the provisions of the City of Malibu Building Code and the California Building Code. The project engineer shall be responsible for reviewing and approving all plans and specifications submitted for the project.

7.0 PRELIMINARY PAVEMENT DESIGN
The California method of design was utilized to develop the following asphalts pavement sections:

- 10% AC-18
- 12% AC-20
- 15% AC-20

The project engineer shall be responsible for reviewing and approving all plans and specifications submitted for the project.

8.0 SITE SEISMICITY
The project site is located in a seismic zone classified by the California Building Code as Zone 1. The project engineer shall be responsible for reviewing and approving all plans and specifications submitted for the project.

9.0 CONCRETE SLAB-ON-GRADE
Concrete slabs-on-grade shall be designed and constructed in accordance with ACI 318-19, the American Concrete Institute, and the City of Malibu Building Code. The project engineer shall be responsible for reviewing and approving all plans and specifications submitted for the project.
GRADE BEAM W/ 1" MAX. CURB

TYPICAL REINFORCEMENT DETAILS

EXT. CONT. FIG.

TYP. SECTION @ SLAB ON GRADE

GRADE BEAM W/ 1" MAX. CURB

GRADE BEAM

TYP. REINFORCING BOUNDS

INT. CONT. FIG.

FOOTING CONNECTION

WOOD POST ON SILL PLATE

GARAGE / HOUSE SLAB

EXT. CONT. FIG. WITH CURB

DETAIL

SLAB TIE CONNECTION

GRADE BEAM

TYP. R.D. INSTALLATION AT WALLS

S4.1
LANDING

TOP PLATE

1/4" 'U' PLATE

DETAIL

BEAM HOLDOWN

WOOD STAIR FRAMING DETAIL

S5.2

STEEL PLATE - TYP.

MST72  USE (56) 16d NAILS OR (10) 1/2" BOLTS

MST60  USE (56) 16d NAILS OR (10) 1/2" BOLTS

MST48  USE (46) 16d NAILS OR (8) 1/2" BOLTS

(A) 2x KING STUD

(N) 4x4 POST @ 16" o/c

WHERE OCCURS BEAM PER PLAN

1 1/2" MST72

2x STRINGERS

2X OR 4X FILLER

DETAILS

POST

8" MIN. @ 48" O.C.

DECK JOIST

OF TOP PLATE

2X BLK'G HDR. AT BOTT.

(E) 2x KING STUD

WALL FRAMING

2x STRINGERS

2X OR 4X BLOCKING

FLOOR SHEETING

PLYWD.

PLYWOOD TYP.

THA HNGR.

ST6224

BEAM - SEE ARCH.

HANGER

3X MIN. BEAM, DBL. JOIST OR I-JOIST PER PLAN

2 1/2" LSL RIM BOARD

2-5/8"Ø R.H.

2-10" FLOOR JOIST

PER ARCH. PLAN

2-A34 EA.

SHEAR WALL SCHED.

MASTERSIN ARCHITECTURE

WANG RESIDENCE

2X STUDS

2X STUDS

PLYWOOD TYP.

FLOOR SHEATHING w/ E.N.

COSTA MESA, CA. 92627

P.O. BOX 10455

WALL FRAMING

WALL ABOVE JOIST (PERPEND.)

WALL ABOVE JOIST (PARALLEL)

STA2215, AT EA. SIDE

SIMPSON STRAP

SIMPSON CMST14

SIMPSON A35 TYP.

SIMPSON 'ECC'

POST AND RAIL STYLE

RAILING OPTIONS:

A.) CLAD STEEL POST W/ PLYWOOD

B.) WROUGHT IRON RAIL

TO POST PER ARCH.

PROJECT NAME:

3710 DECKER-EDISON

MALIBU, CA 90265

STUDIO M OF A INC.

DRAWING TITLE

DETAILS

RECORD FOR APPROVAL

FOR 20 plf APPLY AT TOP

THE CONTRACTOR SHALL PROVIDE CONNECTION DETAIL

RAILING SHALL BE DESIGNED IN ANY DIRECTION

THE TOP PLATES INSTALLED ON THE FACE OF EACH SIDE OF THE THE TOP PLATES

AT NON-SHEAR WALL

SHEAR WALL SCHED.

STRINGER 2X

SIDE TYP.

FINISH

PER PLAN

INTERIOR FINISH

1" 2"" OR DBL. 2X

2X BLKG. w/ 2-16d NAILS EA. END

NOTE:

NOTE:

NOTES

SEE DETAIL

SEE DETAIL

SEE DETAIL

DETAIL

DETAIL

DETAIL

DETAIL

DETAIL

DETAIL

DETAIL

DETAIL

DETAIL

DETAIL

DETAIL

DETAIL

DETAIL
13. Seismic force is increased 25% for connections of diaphragm to shear wall.
12. Floor joist full penetration into main member is required for Simpson "SDS" wood screws.
11. Splitting is observed, using a drill size 3/4 of the sill nailing.
10. Wall construction: 3X sill, 3X studs @ boundaries, & 3X top plate, offset where plywood shear panels occur on both sides of wall:
   a) 3X studs @ adjoining panels, & 2-2X top plates. Use 3X end post (min) or as req'd by holdown.
   b) Offset adjoining panels on opposing sides.
   c) Nail double top plates together w/ 16d sinker nails @ 4" o/c.
9. See schedule plan.
8. Plywood per plan.
7. See schedule plan.
6. Splitting is observed, using a drill size 3/4 of the sill nailing.
5. Floor joists all plywood edges to be blocked—use 3X blocking at 2" o/c. Nailing.
4. See schedule plan.
3. Wall construction: 3X sill @ foundation, 2X sill @ raised floor or second story, 3X studs @ boundaries, & 3X top plate, offset where panel nailing is spaced @ 2" o/c or calculated shear load exceeds 350 plf, use:
   a) 3X studs @ adjoining panels w/ staggered nails
   b) Offset adjoining panels on opposing sides.
   c) Nail double top plates together w/ 16d sinker nails @ 4" o/c.
NOT USED

Shear Panel Between Trusses

DRAG DETAIL

SHEAR TRANSFER

TYPICAL CEILING JOIST DETAILS

NOTE: SIMPSON 'WB' STRAP MAY REPLACE THE SIMPSON HANGER 1- ROOF SHT'G
2- 2X BLK'G
3- 2X BLK'G (TYP.)
4- 8d's @ 6" O.C.
5- SHIM
6- EDGE NAILING
7- PLYWOOD W/ 10d BN @ 6" O.C.
8- B.N.
9- ALT: A35 @2X FLAT TO TRUSS & PLATE SEE BELOW

BEAM PER PLAN

B.N. B.N.

NOTE: SIMPSON H2.5
6- 2X BLOCKING
5- 16d @ 6" O.C.
2- ROOF SHT'G.
7- SIMPSON HANGER

DETAIL

Holdown Detail at Stud Wall

Detail

TYPICAL TRUSS TO INT. WALL

SHEAR TRANSFER

WANG RESIDENCE

AQP}

13- SPACING OF ROOF BOUND. NAILING
12- SPACING OF 16d's COMMON NAIL

CMST14

STUDIO M OF A INC.

56-16d

BRETT L. R. DETMERS
dudiomofainc@gmail.com
34-16d

SHEET NO:
3- 2X BLK'G
2- TRUSS BY MFR.
1- PLYWOOD SHT'G

SHEAR PANEL INSIDE

ST22 @ 48" O.C.

PLAN VIEW COND. II

ST22 @ 48" O.C.

PLAN VIEW COND. I

SHEAR PANEL BETWEEN TRUSSES

NOT USED

AT EACH TRUSS OF:

13- 2X LEDGER W/ (3)-16d

SHEET NO:
3- 2X BLK'G
2- TRUSS BY MFR.
1- PLYWOOD SHT'G

SHEAR PANEL INSIDE

ST22 @ 48" O.C.

PLAN VIEW COND. II

ST22 @ 48" O.C.

PLAN VIEW COND. I

SHEAR PANEL BETWEEN TRUSSES

NOT USED

AT EACH TRUSS OF:

13- 2X LEDGER W/ (3)-16d

SHEET NO:
3- 2X BLK'G
2- TRUSS BY MFR.
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SHEAR PANEL INSIDE

ST22 @ 48" O.C.

PLAN VIEW COND. II

ST22 @ 48" O.C.

PLAN VIEW COND. I

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3- 2X BLK'G
2- TRUSS BY MFR.
1- PLYWOOD SHT'G

SHEAR PANEL INSIDE

ST22 @ 48" O.C.

PLAN VIEW COND. II

ST22 @ 48" O.C.

PLAN VIEW COND. I

SHEAR PANEL BETWEEN TRUSSES

NOT USED

AT EACH TRUSS OF:

13- 2X LEDGER W/ (3)-16d

SHEET NO:
3- 2X BLK'G
2- TRUSS BY MFR.
1- PLYWOOD SHT'G

SHEAR PANEL INSIDE

ST22 @ 48" O.C.
# General Structural Notes

## General

- Foundation
- Concrete
- Wood
- Reinforcing Steel

## General Notes

- Manufactured Wood Members

## Structural Observation

- Epoxy Anchors

## Special Inspection Program and Structural Test

### Fastening Schedule

<table>
<thead>
<tr>
<th>Sheet Index</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sheet 1</td>
<td></td>
</tr>
<tr>
<td>Sheet 2</td>
<td></td>
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</tbody>
</table>

## Pool House

- All details shown.
TO: City of Malibu Biologist
FROM: City of Malibu Planning Department
DATE: 12/20/2016

PROJECT NUMBER: CDP 17-085
JOB ADDRESS: 3710 DECKER EDISON RD
APPLICANT / CONTACT: Brett Detmers
APPLICANT ADDRESS: P.O. Box 10455
Costa Mesa, CA 92627
APPLICANT PHONE #: (213)999-2608
APPLICANT FAX #: studiomofainc@gmail.com
APPLICANT EMAIL: Jessica Colvard
PROJECT DESCRIPTION: Addition and patio cover to existing SFR, and guest house

TO: Malibu Planning Department and/or Applicant
FROM: City Biologist, Dave Crawford

The project review package is INCOMPLETE and CANNOT proceed through Final Planning Review until corrections and conditions from Biological Review are incorporated into the proposed project design (See Attached).

X The project is APPROVED, consistent with City Goals & Policies associated with the protection of biological resources and CAN proceed through the Planning process.

X The project may have the potential to significantly impact the following resources, either individually or cumulatively: Sensitive Species or Habitat, Watersheds, and/or Shoreline Resources and therefore Requires Review by the Environmental Review Board (ERB).

Signature  8/13/19

Additional requirements/conditions may be imposed upon review of plan revision

Contact Information:
Dave Crawford, City Biologist, dcrawford@malibucity.org, (310) 456-2489, extension 277
# Biology Review Sheet

## Project Information

<table>
<thead>
<tr>
<th>Applicant: (name and email address)</th>
<th>Brett Detmers <a href="mailto:studiomofalinc@gmail.com">studiomofalinc@gmail.com</a></th>
</tr>
</thead>
<tbody>
<tr>
<td>Project Address:</td>
<td>3710 Decker Edison Road Malibu, CA 90265</td>
</tr>
<tr>
<td>Planning Case No.:</td>
<td>CDP 17-085</td>
</tr>
<tr>
<td>Project Description:</td>
<td>Addition and patio cover to existing SFR, and guest house</td>
</tr>
<tr>
<td>Date of Review:</td>
<td>August 13, 2019</td>
</tr>
<tr>
<td>Reviewer:</td>
<td>Dave Crawford</td>
</tr>
<tr>
<td>Contact Information:</td>
<td>Phone: (310) 456-2489 ext. 307 Email: <a href="mailto:dcrawford@malibucity.org">dcrawford@malibucity.org</a></td>
</tr>
</tbody>
</table>

## Submittal Information

| Site Plans:                          | 9/5/17 |
| Site Survey:                         | 9/5/17 |
| Planting Plan:                       | 1/29/19 |
| Irrigation/Hydrozone/ water budget Plan: | 1/29/19 |
| Grading Plans:                       | 12/14/16 |
| OWTS Plan:                           | |
| Bio Assessment:                      | 10/9/18 |
| Bio Inventory:                       | |
| Native Tree Survey:                  | |
| Native Tree Protection Plan:         | 10/9/18 |
| Other:                               | Habitat Mitigation and Monitoring Plan (10/9/18) |
| Previous Reviews:                    | Incomplete 10/30/18, Incomplete 1/2/19, Incomplete 2/5/19 |

## Review Findings

- **Review Status:**
  - [ ] INCOMPLETE Please respond to the listed review comments and provide any additional information requested.
  - [x] APPROVED The proposed project

- **Environmental Review Board:**
  - This project has the potential to impact ESHA and may require review by the Environmental Review Board
DISCUSSION:

1. The Maximum Applied Water Allowance (MAWA) for this project totals 43,905 gallons per year. The Estimated Applied Water Use (EAWU) totals 37,993 gpy, thus meeting the Landscape Water Conservation Ordinance Requirements.

2. The City Biologist has evaluated the protected tree that was previously an issue for this project. The tree was severely burned during the Woolsey Fire and died and is, therefore, no longer a protected tree. As such, the native tree is no longer an issue.

RECOMMENDATIONS:

1. The project is recommended for APPROVAL with the following conditions:

   A. Pursuant to LIP Section 4.7.1 the allowable development area is limited to 10,000 square feet as all feasible building areas will result in impacts to Environmentally Sensitive Habitat Area (ESHA).

   B. Pursuant to LIP Section 4.8.1, all new development shall include mitigation for unavoidable impacts to ESHA from the removal, conversion, or modification of natural habitat for new and previously unauthorized development, including required fuel modification and brush clearance.

   Without the benefit of permits, the property’s previous owner cleared land on the subject and adjacent parcel for a horse corral. Chaparral impacts on the subject parcel included 0.302 acre and an additional 0.102 acre on the adjacent parcel.

   Since the current owner was not responsible for the unauthorized clearing of native vegetation, there is no punitive restoration requirement. However, their responsibility will include removing all fencing, structures, and accessories of the corral in the western portion of the site, and restoring that area at a 1:1 ratio pursuant to Section 4.1 of the UltraSystems Habitat Mitigation and Monitoring Plan. The monitoring shall occur for a minimum of five years. If at the end of five years the restoration plan is not successful, the property owner and City Biologist will communicate and investigate other potential remedies at that time.

   Impacts to ESHA resulting from additional required fuel modification associated with the proposed development total 0.78 acre. Mitigation for these impacts will be accomplished through and in lieu fee paid to the Santa Monica Mountains Conservancy. Prior to Final Plan Check the applicant shall provide of payment of in lieu fees to the Santa Monica Mountains Conservancy.

   C. Prior to installation of any landscaping, the applicant shall obtain plumbing permit for the proposed irrigation system from the Building Safety Division.

   D. Prior to or at the time of a Planning final inspection, the property owner/applicant shall submit to the case planner a copy of the plumbing permit for the irrigation system installation that has been signed off by the Building Safety Division.
E. Prior to final Planning inspection or other final project sign off (as applicable), the applicant shall submit to the Planning Director for review and approval a certificate of completion in accordance with the Landscape Water Conservation Ordinance (MMC Chapter 9.22). The certificate shall include the property owner’s signed acceptance of responsibility for maintaining the landscaping and irrigation in accordance with the approved plans and MMC Chapter 9.22. (form attached)

F. Prior to Final Plan Check Approval, if your property is serviced by the Los Angeles County Waterworks District No. 29, please provide landscape water use approval from that department. For approval contact:

Nima Parsa  
Address: 23533 West Civic Center Way, Malibu, CA 90265-4804  
Email: Nparsa@DPW.LACOUNTY.GOV (preferred)  
Phone: (310) 317-1389

Please note this action may require several weeks. As such, the applicant should submit their approved landscape plans to DPW as soon as feasible in order to avoid a delay at plan check.

G. Vegetation forming a view impermeable condition (hedge), serving the same function as a fence or wall, occurring within the side or rear yard setback shall be maintained at or below six (6) feet in height. View impermeable hedges occurring within the front yard setback serving the same function as a fence or wall shall be maintained at or below 42 inches in height.

H. Invasive plant species, as determined by the City of Malibu, are prohibited.

I. Vegetation shall be situated on the property so as not to obstruct the primary view from private property at any given time (given consideration of its future growth).

J. No non-native plant species shall be approved greater than 50 feet from the residential structure.

K. The landscape plan shall prohibit the use of building materials treated with toxic compounds such as creosote and copper arsenate.

L. Grading/excavation/vegetation removal scheduled between February 1 and September 15 will require nesting bird surveys by a qualified biologist prior to initiation of such activities. Surveys shall be completed no more than 5 days from proposed initiation of site preparation activities. Should active nests be identified, a buffer area no less than 150 feet (300 feet for raptors) shall be fenced off until it is determined by a qualified biologist that the nest is no longer active. A report discussing the results of the surveys shall be turned in to the City within 2 business days of completion of surveys.
M. The restoration and landscape plans have been conditioned to protect natural resources in accordance with the Malibu General Plan. All areas shall be planted and maintained as described in the approved plans. Failure to comply with the landscape conditions is a violation of the conditions of approval for this project.

N. Night lighting from exterior and interior sources shall be minimized. All exterior lighting shall be low intensity and shielded so it is directed downward and inward so that there is no offsite glare or lighting of natural habitat areas.

O. Necessary boundary fencing of any single area exceeding $\frac{1}{2}$ acre shall be of an open rail-type design with a wooden rail at the top (instead of wire), be less than 40 inches high, and have a space greater than 14 inches between the ground and the bottom post or wire. A split rail design that blends with the natural environment is preferred.

2. The proposed project will REQUIRE REVIEW by the Environmental Review Board because the project has the potential to impact special-status biological resources.

3. PRIOR TO ISSUING A CERTIFICATE OF OCCUPANCY, the City Biologist shall inspect the project site and determine that all planning conditions to protect natural resources are in compliance with the approved plans.

If you have any questions regarding the above requirements, please contact the City Biologist office at your earliest convenience.

cc: Planning Project file
    Planning Department
# City of Malibu Planning Department

## CERTIFICATE OF COMPLETION

### PART 1. PROJECT INFORMATION

<table>
<thead>
<tr>
<th>Applicant Information:</th>
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<tr>
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**Property Owner Certification**

I certify that I/we have received copies of all the documents listed within the final approved Landscape Plan and Parts 4 through 8 listed at the end of this Certificate of Completion. I/we further acknowledge that it is my/our responsibility to see that the project is maintained in accordance with these plans and documents and the Landscape Water Conservation Ordinance (Malibu Municipal Code (MMC) Chapter 9.22).

| Property Owner Signature | Print Name | Date |

---

2019-01-19
PART 2. CERTIFICATION OF INSTALLATION

I certify that the landscaping and irrigation system have been installed in substantial conformance with the approved planting and irrigation plans and that appropriate soil amendments have been made in accordance with soil tests.

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<td>State</td>
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*Signer of the landscape design plan, signer of the irrigation plan, or a licensed landscape contractor.

PART 3. CERTIFICATION OF IRRIGATION EFFICIENCY

I certify that the irrigation system and controller have been adjusted to maximize irrigation efficiency and eliminate overspray and runoff in accordance with the Landscape Water Conservation Ordinance (MMC Chapter 9.22).

| Irrigation Auditor Signature | Print Name | Date |

PART 4. AS-BUILT APPROVED LANDSCAPE AND IRRIGATION DESIGN PLANS – Substantial changes must receive city review and approval prior to installation.

PART 5. FINAL WATER BUDGET CALCULATION WORKSHEET - Water budget calculation worksheet updated to reflect as-built landscape and irrigation design plans.

PART 6. IRRIGATION SCHEDULING PARAMETERS - per MMC Section 9.22.080(B)(1).

PART 7. LANDSCAPE AND IRRIGATION MAINTENANCE SCHEDULE - per MMC Section 9.22.080(B)(1).

PART 8. SOILS TEST REPORT AND RECOMMENDATIONS - per MMC Section 9.22.090(A)(9).

Planning Department Approval Stamp
TO: City of Malibu Environmental Health Administrator  DATE: 12/20/2018
FROM: City of Malibu Planning Department

PROJECT NUMBER: CDP 17-085
JOB ADDRESS: 3710 DECKER EDISON RD
APPLICANT / CONTACT: Brett Detmers
APPLICANT ADDRESS: P.O. Box 10455
Costa Mesa, CA 92627
APPLICANT PHONE #: (213) 999-2608
APPLICANT FAX #: studiomofainc@gmail.com
APPLICANT EMAIL:

PROJECT DESCRIPTION: Addition and patio cover to existing SFR, and guest house

TO: Malibu Planning Department and/or Applicant
FROM: City of Malibu Environmental Health Reviewer

Conformance Review Complete for project submittals reviewed with respect to the City of Malibu Local Coastal Plan/Local Implementation Plan (LCP/LIP) and Malibu Municipal Code (MMC). The Conditions of Planning conformance review and plan check review comments listed on the attached review sheet(s) (or else handwritten below) shall be addressed prior to plan check approval.

Conformance Review Incomplete for the City of Malibu LCP/LIP and MMC. The Planning stage review comments listed on the City of Malibu Environmental Health review sheet(s) shall be addressed prior to conformance review completion.

OWTS Plot Plan: □ NOT REQUIRED
□ REQUIRED (attached hereto)  ● REQUIRED (not attached)

Signature  □  Date  8-5-19

Rev 141008
ENVIRONMENTAL HEALTH REVIEW SHEET

PROJECT INFORMATION

Applicant: Brett Detmers
(name and email address)
studionofainc@gmail.com

Project Address: 3710 Decker Edison Road
Malibu, California 90265

Planning Case No.: CDP 17-085

Project Description: Addition and patio cover to existing SFR, new guest house, new pool and pool house,
new OWTS

Date of Review: August 5, 2019

Reviewer: Melinda Talent
Signature: Melinda Talent

Contact Information: Phone: (310) 456-2489 ext. 364 Email: mtalent@malibucity.org

SUBMITTAL INFORMATION

Architectural Plans: Studio M of A: 9-5-17, revised plan received by Planning on 3-26-19

Grading Plans: Geoquake: Plans dated 12-14-16; Revised plans dated 2-7-18 (received by Planning
3-29-18)

OWTS Plan: Absolute Consulting Engineers dated 5-20-19, revised plan dated 7-8-19, revised plan
(undated and unsigned) received by Planning on 7-22-19.

OWTS Report: OWTS Design Report by Absolute Consulting Engineers (undated and unsigned)

Geology Report: Geoquake: Percolation Test report dated 5-26-17 (received by Planning 9-5-17);
Response letter dated 2-28-18 (received 3-29-18), Addendum report dated 10-5-18 (received by Planning 11-27-18), Addendum report dated 10-5-18? (received by Planning 1-29-19), Response to Comments dated 6-24-19

Miscellaneous: Absolute Consulting Engineers: Planning Stage review Comments letter (undated)
received 3-29-18. Fixture unit worksheet: Unsigned and undated (received 9-5-17)
Fixture unit worksheet by Khosrow Nourmohammadi dated 3-17-19.
Counter meeting with OWTS designer on 6-4-19. Counter meeting with project
applicant on 6-25-19 and city email to applicant sent on 6-25-19. Orenco specification
sheets received by Planning on 7-9-19. Orenco brochures received by Planning on 7-

Previous Reviews: 9-18-17, 4-10-18, 12-10-18, 2-8-19, 4-5-19, 7-10-19

REVIEW FINDINGS

Planning Stage: ☑ CONFORMANCE REVIEW COMPLETE for the City of Malibu Local Coastal
Program/Local Implementation Plan (LIP) and Malibu Municipal Code (MMC). The listed
conditions of Planning stage conformance review and plan check review comments shall
be addressed prior to plan check approval.

☐ CONFORMANCE REVIEW INCOMPLETE for the City of Malibu LIP and MMC.
The listed Planning stage review comments shall be addressed prior to conformance
review completion.

OWTS Plot Plan: ☐ NOT REQUIRED
☑ REQUIRED (attached hereto) ☑ REQUIRED (not attached)
Based upon the project description and submittal information noted above, a conformance review was completed for a new advanced onsite wastewater treatment system (OWTS) proposed to serve the onsite wastewater treatment and disposal needs of the subject property. The proposed advanced OWTS is feasible in concept; however, additional design revisions will be required during building plan check and final approval of the new OWTS. Please distribute this review sheet to all of the project consultants and, prior to final approval, provide a coordinated submittal addressing all conditions for final approval and plan check items.

The conditional conformance findings hereby transmitted complete the Planning stage Environmental Health review of the subject development project. In order to obtain Environmental Health final approval of the project OWTS Plot Plan and associated construction drawings (during Building Safety plan check), all conditions and plan check items listed below must be addressed through submittals to the Environmental Health office.

Conditions of Planning Conformance Review for Building Plan Check Approval:

1) Final Onsite Wastewater Treatment System (OWTS) Plot Plan: A final plot plan prepared, dated and signed by a City Registered OWTS Designer must be submitted showing an OWTS design meeting the minimum requirements of the Malibu Municipal Code (MMC) and the Local Coastal Program (LCP)/Local Implementation Plan (LIP). The plans must include all necessary construction details, the proposed drainage plan for the developed property, and the proposed landscape plan for the developed property. The OWTS Plot Plan shall show essential features of the OWTS (all components), existing improvements, and proposed/new improvements, including driveways, site walls and water well. The plot must fit on an 11” x 17” sheet leaving a 5” left margin clear to provide space for a City-applied legend.

2) Final OWTS Design Report, Plans, and System Specifications: A final OWTS design report and large set of construction drawings with system specifications (four sets) shall be submitted to describe the OWTS design basis and all components proposed for use in the construction of the OWTS. All plans and reports must be signed by a City Registered OWTS Designer and the plans stamped by the project Geologist, Coastal Engineer, and Structural Engineer as applicable. The final OWTS design report and construction drawings shall be submitted with the designer’s signature, professional registration number, and stamp (if applicable).

The final OWTS design submittal shall contain the following information (in addition to the items listed above).

   a. Required treatment capacity for wastewater treatment and disinfection systems. The treatment capacity shall be specified in terms of flow rate, gallons per day (gpd), and shall be supported by calculations relating the treatment capacity to the number of bedroom equivalents, plumbing drainage fixture units, and the subsurface effluent dispersal system acceptance rate. The drainage fixture unit count must be clearly identified in association with the design treatment capacity, even if the design is based on the number of bedrooms. Average and peak rates of hydraulic loading to the treatment system shall be specified in the final design.

   b. Sewage and effluent pump design calculations (as applicable).

   c. Description of proposed wastewater treatment and/or disinfection system equipment. State the proposed type of treatment system(s) (e.g., aerobic treatment, textile filter, ultraviolet...
disinfection, etc.); major components, manufacturers, and model numbers for "package" systems; and the design basis for engineered systems.

d. Specifications, supporting geology information, and percolation test results for the subsurface effluent dispersal portion of the onsite wastewater disposal system. This must include the proposed type of effluent dispersal system (drainfield, trench, seepage pit, subsurface drip, etc.) as well as the system’s geometric dimensions and basic construction features. Supporting calculations shall be presented that relate the results of soils analysis or percolation/infiltration tests to the projected subsurface effluent acceptance rate, including any unit conversions or safety factors. Average and peak rates of hydraulic loading to the effluent dispersal system shall be specified in the final design. The projected subsurface effluent acceptance rate shall be reported in units of total gallons per day (gpd) and gallons per square foot per day (gpsf). Specifications for the subsurface effluent dispersal system shall be shown to accommodate the design hydraulic loading rate (i.e., average and peak OWTS effluent flow, reported in units of gpd). The subsurface effluent dispersal system design must take into account the number of bedrooms, fixture units, and building occupancy characteristics.

e. All OWTS design drawings shall be submitted with the wet signature and typed name of the OWTS designer. If the plan scale is such that more space than is available on the 11” x 17” plot plan is needed to clearly show construction details, larger sheets may also be provided (up to a maximum size of 18” x 22” for review by Environmental Health). [Note: For OWTS final designs, full-size plans for are also required for review by Building & Safety and Planning.]

f. Pool water is prohibited from being discharged to an OWTS.

3) Existing OWTS to be Abandoned: Final plans shall clearly show the locations of all existing OWTS components (serving pre-existing development) to be abandoned and provide procedures for the OWTS’ proper abandonment in conformance with the Malibu Municipal Code.

4) Worker Safety Note and Abandonment of Existing OWTS: The following note shall be added to the plan drawings included with the OWTS final design. “Prior to commencing work to abandon, remove, or replace existing Onsite Wastewater Treatment System (OWTS) components an “OWTS Abandonment Permit” shall be obtained from the City of Malibu. All work performed in the OWTS abandonment, removal, or replacement area shall be performed in strict accordance with all applicable federal, state, and local environmental and occupational safety and health regulatory requirements. The obtainment of any such required permits or approvals for this scope of work shall be the responsibility of the applicant and their agents.”

5) Building Plans: All project architectural plans and grading/drainage plans shall be submitted for Environmental Health review and approval. These plans must be approved by the Building Safety Division prior to receiving Environmental Health final approval.

6) Notice of Decision: The final onsite wastewater treatment system plans shall include the Conditions of Approval sections of the Notice of Decision (NOD) from the Planning Department.

7) Proof of Ownership: Proof of ownership of subject property shall be submitted.

8) Operations & Maintenance Manual: An operations and maintenance manual specified by the OWTS designer shall be submitted to the property owner and maintenance provider of the proposed advanced OWTS.
9) **Maintenance Contract**: A maintenance contract executed between the owner of subject property and an entity qualified in the opinion of the City of Malibu to maintain the proposed advanced onsite wastewater treatment system shall be submitted prior to Environmental Health approval. *Please note only original “wet signature” documents are acceptable.*

10) **Advanced Onsite Wastewater Treatment System (OWTS) Covenant**: A covenant running with the land shall be executed between the City of Malibu and the holder of the fee simple absolute as to subject real property and recorded with the City of Malibu Recorder's Office. Said covenant shall serve as constructive notice to any future purchaser for value that the onsite wastewater treatment system serving subject property is an advanced method of sewage disposal pursuant to the City of Malibu Municipal Code. Said covenant shall be provided by the City of Malibu Environmental Health Administrator. *Please submit a certified copy issued by the City of Malibu Recorder.*

11) **Project Geologist/Geotechnical Consultant Approval**: Project Geologist/Geotechnical Consultant final approval of the Onsite Wastewater Treatment System plan shall be submitted to the Environmental Health Administrator.

12) **City of Malibu Geologist/Geotechnical Approval**: City of Malibu geotechnical staff final approval of the Onsite Wastewater Treatment System plan shall be submitted to the Environmental Health Administrator.

13) **City of Malibu Planning Approval**: City of Malibu Planning Department final approval of the OWTS plan shall be obtained.

14) **Environmental Health Final Review Fee**: A final fee in accordance with the adopted fee schedule at the time of final approval shall be paid to the City of Malibu for Environmental Health review of the OWTS design and system specifications.

15) **Operating Permit Application and Fee**: In accordance with Malibu Municipal Code, an application shall be made to the Environmental Health office for an Onsite Wastewater Treatment System operating permit. An operating permit fee in accordance with the adopted fee schedule at the time of final approval shall be submitted with the application.

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If you have any questions regarding the above requirements, please contact the Environmental Health office at your earliest convenience.

cc: Environmental Health file
Planning Department
City Geologist
GEOTECHNICAL REVIEW SHEET

**Project Information**

- **Date:** July 29, 2019
- **Review Log #:** 3970
- **Site Address:** 3710 Decker Edison Road
- **Lot/Tract/PM #:** n/a
- **Planning #:** CDP 17-085
- **Applicant/Contact:** Brett Detmers, studiomofainc@gmail.com
- **Contact Phone #:** 213-999-2608
- **Fax #:** 626-2489
- **BPC/GPC #:** 16-087
- **Planner:** Jessica Colvard
- **Project Type:** Remodel, Additions to a single-family residence, new guest house, pool/spa, pool house, grading

**Submittal Information**

- **Consultant(s) / Report Date(s):** GeoQuake, Inc. (Yazeji, RCE 70387, Aflakian, CEG 2051): 6-24-19, 3-15-19, 1-3-19, 10-20-18, 10-5-18, 3-17-18, 6-27-17, 12-12-16
- **GeoQuake, Inc. (Yazeji, RCE 70387):** 2-28-18, 5-26-17
- **Absolute Consulting Engineers (Nour, RCE 71141):** 5-20-19, Undated, Received 1-22-19
- **Building plans prepared by Studio M of A, Inc. dated November 1, 2016.**
- **Grading and Drainage Plan prepared by GeoQuake, Inc. dated February 7, 2018.**
- **Swimming pool and spa plans prepared by Universal Engineering, Inc. dated August 14, 2017.**

**Previous Reviews:**

- 6-21-19, 4-15-19, 2-19-19, 11-30-18, 7-6-18, 9-28-17, Environmental Health Review Sheets dated 4-5-19, 2-8-19, 4-10-18 and 9-18-17, 2-14-17; Ref: Environmental Health Review Sheet dated 12-29-16

**Review Findings**

**Coastal Development Permit Review**

- The residential development project is **APPROVED** from a geotechnical perspective.
- The residential development project is **NOT APPROVED** from a geotechnical perspective. The listed ‘Review Comments’ shall be addressed prior to approval.

**Building Plan-Check Stage Review**

- **Awaiting Building plan check submittal.** Please respond to the listed ‘Building Plan-Check Stage Review Comments’ AND review and incorporate the attached ‘Geotechnical Notes for Building Plan Check’ into the plans.
- **APPROVED** from a geotechnical perspective. Please review the attached ‘Geotechnical Notes for Building Plan Check’ and incorporate into Building Plan-Check submittals.
- **NOT APPROVED** from a geotechnical perspective. The listed ‘Building Plan-Check Stage Review Comments’ shall be addressed prior to Building Plan-Check Stage approval.
Remarks

The referenced response geotechnical report was reviewed by the City from a geotechnical perspective. The project comprises remodeling the existing 4,129 square foot two-level single-family residence and attached garage with 751 square foot first-and second-story additions, a new 1,790 square foot detached two-story garage/guest house, a new detached 400 square foot pool house, a new infinity-edge swimming pool and spa, a 150 square foot covered patio, grading (18 yards of fill under structure; 86 yards of fill for safety; 456 yards of fill non-exempt; and 560 yards of import), flatwork, landscaping, and hardscape. The existing OWTS on the property will be properly abandoned and a new OWTS installed that consists of a treatment tank system and leach lines/trenches.

Building Plan-Check Stage Review Comments:

1. Please submit a fee of $1,016.00 to City geotechnical staff for building plan check review.

2. Please incorporate the Project Geotechnical Consultant’s recommendations for R & R grading below proposed structures and flatwork on the plans (limits and depths of removals). Include the R & R grading yardages on the on a rough grading certification form.

3. As per the Consultant’s recommendations, the consultant needs to evaluate the potential for lateral surcharge on the swimming pool sidewalks due to the adjacent pool house foundation loads, using recommendations provided in addendum 1 report dated June 27, 2017.

4. The Consultant should perform expansion tests on finish grade material within foundation and slabs-on-grade areas. Based on the test results, the Consultant should review and adjust, as necessary, the recommended depth of footings below existing grade.

5. Include a note on the OWTS plans stating, “The Project Engineering Geologist shall observe and approve the installation of the leach lines and provide the City inspector with a field memorandum(s) documenting and verifying that the leach lines were installed per the approved OWTS plans, and that they maintain the Code-required setback from descending slopes.”

6. Two sets of final grading, swimming pool, guest house, pool house, and residence addition and remodel plans (APPROVED BY BUILDING AND SAFETY) incorporating the Project Geotechnical Consultant’s recommendations and items in this review sheet must be reviewed and wet stamped and manually signed by the Project Engineering Geologist and Project Geotechnical Engineer. City geotechnical staff will review the plans for conformance with the Project Geotechnical Consultants’ recommendations and items in this review sheet over the counter at City Hall. Appointments for final review and approval of the plans may be made by calling or emailing City Geotechnical staff.

Please direct questions regarding this review sheet to City Geotechnical staff listed below.

Engineering Geology Review by: Christopher Dean, C.E.G. #1751, Exp. 9-30-20 7/29/2019
Email: cdean@malibucity.org

This review sheet was prepared by representatives of Cotton, Shires and Associates, Inc. and GeoDynamics, Inc., contracted through Cotton, Shires and Associates, Inc., as an agent of the City of Malibu.
NOTES FOR BUILDING PLAN-CHECK

The following standard items should be incorporated into Building Plan-Check submittals, as appropriate:

1. One set of grading, swimming pool, guest house, pool house, and residence addition and remodel plans, incorporating the Project Geotechnical Consultant's recommendations and items in this review sheet, must be submitted to City geotechnical staff for review. **Additional review comments may be raised at that time that may require a response.**

2. Show the name, address, and phone number of the Project Geotechnical Consultant(s) on the cover sheet of the Building and Grading Plans.

3. Include the following note on Grading and Foundation Plans: "Subgrade soils shall be tested for Expansion Index prior to pouring footings or slabs; Foundation Plans shall be reviewed and revised by the Project Geotechnical Consultant, as appropriate."

4. Include the following note on the Foundation Plans: "All foundation excavations must be observed and approved by the Project Geotechnical Consultant prior to placement of reinforcing steel."

5. The Foundation Plans for the proposed project shall clearly depict the embedment material and minimum depth of embedment for the foundations in accordance with the Project Geotechnical Consultant's recommendations.

6. Show the onsite wastewater treatment system on the Site Plan.

7. Please contact the Building and Safety Department regarding the submittal requirements for a grading and drainage plan review.

8. A comprehensive Site Drainage Plan, incorporating the Project Geotechnical Consultant's recommendations, shall be included in the Plans. Show all area drains, outlets, and non-erosive drainage devices on the Plans. Water shall not be allowed to flow uncontrolled over descending slopes.

Grading Plans (as Applicable)

1. Grading Plans shall clearly depict the limits and depths of overexcavation, as applicable.

2. Prior to final approval of the project, an as-built compaction report prepared by the Project Geotechnical Consultant must be submitted to the City for review. The report must include the results of all density tests as well as a map depicting the limits of fill, locations of all density tests, locations and elevations of all removal bottoms, locations and elevations of all keyways and back drains, and locations and elevations of all retaining wall backdrains and outlets. Geologic conditions exposed during grading must be depicted on an as-built geologic map. This comment must be included as a note on the grading plans.

Retaining Walls (As Applicable)

1. Show retaining wall backdrain and backfill design, as recommended by the Geotechnical Consultant, on the Plans.

2. Retaining walls separate from a residence require separate permits. Contact the Building and Safety Department for permit information. One set of retaining wall plans shall be submitted to the City for review by City geotechnical staff. Additional concerns may be raised at that time which may require a response by the Project Geotechnical Consultant and applicant.
## GEOTECHNICAL REVIEW FIXED FEE FORM

**PROJECT OWNER/APPLICANT:** Brett Detmers  
**PROJECT ADDRESS:** 3710 Decker Edison Road  
**GEOTECHNICAL LOG NO:** 3970  
**PLANNING NO:** CDP 17-085 APR 16-087  
**PLAN CHECK NO:**  

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**NOTE:**  
The Fixed Fee incorporates the initial and one subsequent geotechnical review. Subsequent reviews will be performed in accordance with the City's time and materials rate of $226.00 per hour.
TO: Public Works Department  
FROM: City of Malibu Planning Department  
DATE: 12/20/2016

PROJECT NUMBER: CDP 17-085  
JOB ADDRESS: 3710 DECKER EDISON RD  
APPLICANT / CONTACT: Brett Detmers  
APPLICANT ADDRESS: P.O. Box 10455  
Costa Mesa, CA 92627  
APPLICANT PHONE #: (213)999-2608  
APPLICANT FAX #:  
APPLICANT EMAIL: studiomofainc@gmail.com  
PROJECT DESCRIPTION: Addition and patio cover to existing SFR, and guest house

TO: Malibu Planning Department and/or Applicant
FROM: Public Works Department

The following items described on the attached memorandum shall be addressed and resubmitted.

☑ The project was reviewed and found to be in conformance with the City’s Public Works and LCP policies and CAN proceed through the Planning process.

Jonathan Richardson  
SIGNATURE  
4.3.18  
DATE
The Public Works Department has reviewed the plans submitted for the above referenced project. Based on this review sufficient information has been submitted to confirm that conformance with the Malibu Local Coastal Plan (LCP) and the Malibu Municipal Code (MMC) can be attained. Prior to the issuance of building and grading permits, the applicant shall comply with the following conditions.

**GRADING AND DRAINAGE**

1. Clearing and grading during the rainy season (extending from November 1 to March 31) shall be prohibited for development LIP Section 17.3.1 that:
   - Is located within or adjacent to ESHA, or
   - Includes grading on slopes greater than 4:1
   - Approved grading for development that is located within or adjacent to ESHA or on slopes greater than 4:1 shall not be undertaken unless there is sufficient time to complete grading operations before the rainy season. If grading operations are not completed before the rainy season begins, grading shall be halted and temporary erosion control measures shall be put into place to minimize erosion until grading resumes after March 31, unless the City determines that completion of grading would be more protective of resources

2. Exported soil from a site shall be taken to the County Landfill or to a site with an active grading permit and the ability to accept the material in compliance with the City’s LIP Section 8.3. **A note shall be placed on the project that addresses this condition.**
3. A grading and drainage plan shall be approved containing the following information prior to the issuance of grading permits for the project.
   - Public Works Department General Notes
   - The existing and proposed square footage of impervious coverage on the property shall be shown on the grading plan (including separate areas for buildings, driveways, walkways, parking, tennis courts and pool decks).
   - The limits of land to be disturbed during project development shall be delineated on the grading plan and a total area shall be shown on the plan. Areas disturbed by grading equipment beyond the limits of grading, areas disturbed for the installation of the septic system, and areas disturbed for the installation of the detention system shall be included within the area delineated.
   - The grading limits shall include the temporary cuts made for retaining walls, buttresses, and over excavations for fill slopes and shall be shown on the grading plan.
   - If the property contains trees that are to be protected they shall be highlighted on the grading plan.
   - If the property contains rare and endangered species as identified in the resources study the grading plan shall contain a prominent note identifying the areas to be protected (to be left undisturbed). Fencing of these areas shall be delineated on the grading plan if required by the City Biologist.
   - Private storm drain systems shall be shown on the grading plan. Systems greater than 12-inch diameter shall also have a plan and profile for the system included with the grading plan.
   - Public storm drain modifications shown on the grading plan shall be approved by the Public Works Department prior to the issuance of the grading permit.

STORMWATER

4. The ocean between Latigo Point and the West City limits has been established by the State Water Resources Control Board as an Area of Special Biological Significance (ASBS) as part of the California Ocean Plan. This designation allows discharge of storm water only where it is essential for flood control or slope stability, including roof, landscape, road and parking lot drainage, to prevent soil erosion, only occurs during wet weather, and is composed of only storm water runoff. The applicant shall provide a drainage system that accomplishes the following:
   - Installation of BMPs that are designed to treat the potential pollutants in the storm water runoff so that it does not alter the natural ocean water quality. These pollutants include trash, oil and grease, metals, bacteria, nutrients, pesticides, herbicides and sediment.
   - Prohibits the discharge of trash.
   - Only discharges from existing storm drain outfalls are allowed. No new outfalls will be allowed. Any proposed or new storm water discharged shall be routed to existing storm drain outfalls and shall not result in any new contribution of waste to the ASBS (i.e. no additional pollutant loading).
• Elimination of non-storm water discharges.

5. A Local Storm Water Pollution Prevention Plan shall be provided prior to the issuance of the Grading/Building permits for the project. This plan shall include an Erosion and Sediment Control Plan (ESCP) that includes, but not limited to:

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All Best Management Practices (BMP) shall be in accordance to the latest version of the California Stormwater Quality Association (CASQA) BMP Handbook. Designated areas for the storage of construction materials, solid waste management, and portable toilets must not disrupt drainage patterns or subject the material to erosion by site runoff.

6. A Storm Water Management Plan (SWMP) is required for this project. Storm drainage improvements are required to mitigate increased runoff generated by property development. The applicant shall have the choice of one method specified within the City’s Local Implementation Plan Section 17.3.2.B.2. The SWMP shall be supported by a hydrology and hydraulic study that identifies all areas contributory to the property and an analysis of the predevelopment and post development drainage of the site. The SWMP shall identify the Site design and Source control Best Management Practices (BMP’s) that have been implemented in the design of the project (See LIP Chapter 17 Appendix A). The SWMP shall be reviewed and approved by the Public Works Department prior to the issuance of the grading/building permits for this project.

7. A Water Quality Mitigation Plan (WQMP) is required for this project. The WQMP shall be supported by a hydrology and hydraulic study that identifies all areas contributory to the property and an analysis of the predevelopment and post development drainage of the site. The WQMP shall meet all the requirements of the City’s current Municipal Separate
Stormwater Sewer System (MS4) permit. The following elements shall be included within the WQMP:

- Site Design Best Management Practices (BMP’s)
- Source Control BMP’s
- Treatment Control BMP’s that retains on-site the Stormwater Quality Design Volume (SWQDV). Or where it is technical infeasible to retain on-site, the project must biofiltrate 1.5 times the SWQDV that is not retained on-site.
- Drainage Improvements
- A plan for the maintenance and monitoring of the proposed treatment BMP’s for the expected life of the structure.
- A copy of the WQMP shall be filed against the property to provide constructive notice to future property owners of their obligation to maintain the water quality measures installed during construction prior to the issuance of grading or building permits.
- The WQMP shall be submitted to Public Works and the fee applicable at time of submittal for the review of the WQMP shall be paid prior to the start of the technical review. The WQMP shall be approved prior to the Public Works Department’s approval of the grading and drainage plan and or building plans. The Public Works Department will tentatively approve the plan and will keep a copy until the completion of the project. Once the project is completed, the applicant shall verify the installation of the BMP’s, make any revisions to the WQMP, and resubmit to the Public Works Department for approval. The original signed and notarized document shall be recorded with the County Recorder. A certified copy of the WQMP shall be submitted to the Public Works Department prior to the certificate of occupancy.

MISCELLANEOUS

8. The developer’s consulting engineer shall sign the final plans prior to the issuance of permits.

9. The discharge of swimming pool, spa and decorative fountain water and filter backwash, including water containing bacteria, detergents, wastes, alagecides or other chemicals is prohibited. Swimming pool, spa, and decorative fountain water may be used as landscape irrigation only if the following items are met:

- The discharge water is dechlorinated, debrominated or if the water is disinfected using ozonation;
- There are sufficient BMPs in place to prevent soil erosion; and
- The discharge does not reach into the MS4 or to the ASBS (including tributaries)

Discharges not meeting the above-mentioned methods must be trucked to a Publicly Owned Wastewater Treatment Works.

The applicant shall also provide a construction note on the plans that directs the contractor to install a new sign stating “It is illegal to discharge pool, spa or water feature waters to a street, drainage course or storm drain per MMC 13.04.060(D)(5).” The new sign shall be posted in the filtration and/or pumping equipment area for the property. Prior to the
issuance of any permits, the applicant shall indicate the method of disinfection and the method of discharging.
BIOLOGICAL RESOURCES EVALUATION
REPORT FOR THE
WANG RESIDENCE
3710 DECKER EDISON ROAD
CITY OF MALIBU, CALIFORNIA

PREPARED FOR:

City of Malibu
City of Malibu: Planning Division
23815 Stuart Ranch Road
Malibu, CA 90265-4816
Phone: (310) 456-2489
Fax: (310) 456-7650

PREPARED BY:

UltraSystems
16431 Scientific Way
Irvine, CA 92618
Phone: (949) 788-4900, Fax: (949) 788-4901
UEI Project No. 6039

OCTOBER 2018
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</tr>
<tr>
<td>°F</td>
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</tr>
<tr>
<td>FAC</td>
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</tr>
<tr>
<td>FACW</td>
<td>facultative wetland</td>
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<td>GIS</td>
<td>Geographic Information System</td>
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<td>HCP</td>
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<td>HUC</td>
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<td>IPaC</td>
<td>Information, Planning, and Conservation System</td>
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<td>LCP LIP</td>
<td>Local Coastal Program, Local Implementation Plan</td>
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<td>National Hydrography Dataset</td>
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<td>----------------------</td>
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<td>NPDES</td>
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<td>Report of Waste Discharge</td>
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<td>Regional Supplement to the Corps of Engineers Wetland Delineation</td>
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<td>Manual: Arid West Region (Version 2.0)</td>
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<td>SWANCC</td>
<td>Solid Waste Agency of Northern Cook County v. United States Army Corps</td>
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<td></td>
<td>of Engineers</td>
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<td>SWMP</td>
<td>Storm Water Management Plan</td>
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<td>UltraSystems</td>
<td>UltraSystems Environmental Inc.</td>
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<td>Waste Discharge Requirements</td>
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<td>Worker Environmental Awareness Program</td>
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<td>Water Quality Mitigation Plan</td>
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<td>§</td>
<td>Section</td>
</tr>
<tr>
<td>§§</td>
<td>Sections</td>
</tr>
</tbody>
</table>
UltraSystems Environmental Inc. (UltraSystems) prepared this biological resources evaluation report for the residential property located at 3710 Decker Edison Road, Malibu, CA Project (project). It is located north of Pacific Coast Highway, south of Mulholland Highway, on the east and upslope side of Decker Edison Road, in a partially developed neighborhood. (Figure 1, Regional Overview and Figure 2, Project Vicinity, Figure 3, Project Location). The figures for this report can be found in Appendix A, Figures.

UltraSystems conducted a literature review and general survey of the biological resources potentially associated with the project site and within a zone 500 feet out from the project parcel; these define the Biological Study Area (BSA) in this report. Biologists visited the BSA to conduct the following biological surveys:

- habitat assessment and plant community mapping,
- general plant survey,
- focused plant surveys,
- tree survey,
- general wildlife survey,
- jurisdictional assessment, and
- wildlife movement assessment.

**Soils**

The BSA is located within the Santa Monica Mountains Recreation Area Soil Survey, and contains three soil map units:

- Chumash-Boades-Malibu association, 30 to 75 percent slopes,
- Mipolomol-Topanga association, 30 to 75 percent slopes, and
- Cumulic Haploxerolls, zero to nine percent slopes.

Only Cumulic Haploxerolls, zero to nine percent slopes, was listed on the National Hydric Soils List as hydric.

**Land Cover Types**

Nine land cover types were observed and mapped within the BSA during the field surveys:

- mixed chaparral,
- disturbed habitat,
- developed lands,
- disturbed mixed chaparral,
- upland mustards,
- California brittle bush scrub,
- deer weed scrub,
- coast live oak woodland, and
- isolated non-riparian western sycamore stand.
A majority of the plant communities identified and mapped within the BSA during the literature review and field surveys are not considered sensitive natural communities; however, one plant community is considered sensitive by CDFW:

- California brittle bush scrub (Venturan coastal sage scrub).

**Listed Endangered, Threatened, Candidate and State Rare Plants**

No plant species listed as endangered, threatened, rare, or that is proposed for such listing under the federal Endangered Species Act (ESA) or the California Endangered Species Act (CESA) was observed within the BSA during the focused rare plant surveys so they are determined to be absent.

**Sensitive Plants**

No sensitive plant species were observed during the focused plant survey, therefore, they are determined to be absent.

**Protected Native Trees**

A total of four protected (as defined in Chapter 5, Native Tree Protection Ordinance of the City of Malibu LCP LIP) trees were observed in the project: one toyon (Heteromeles arbutifolia), two coast live oak (Quercus agrifolia), and one western sycamore (Platanus racemosa).

**Listed Endangered, Threatened, and Candidate Wildlife**

No listed wildlife species was observed within the BSA during the field surveys. In addition, the literature review and field surveys concluded that a majority of the listed species in the wildlife inventory do not have more than a low potential to exist within the BSA due to a lack of some suitable biological and physical features that are needed to support them adequately; however, habitat conditions create a moderate potential for one listed wildlife species to occur within the BSA due to the presence of potential suitable breeding and/or foraging habitat:

**Moderate Potential to Occur within the BSA**

- bank swallow (Riparia riparia) (ST, Season of Concern: nesting).

**Sensitive Wildlife**

One sensitive wildlife species, coastal whiptail (Aspidoscelis tigris stejnegeri) (SSC), was observed within the BSA during the field survey. In addition, the literature review and field surveys concluded that a majority of the sensitive species in the wildlife inventory do not have more than a low potential to exist within the BSA due to a lack of some suitable biological and physical features that are needed to support them adequately; however, habitat conditions create a moderate to high potential for 11 sensitive wildlife species to occur within the BSA due to the presence of potential suitable breeding and/or foraging habitat:

**High Potential to Occur within the BSA**

- silvery legless lizard (Anniella pulchra pulchra) (SSC),
- Blainville’s horned lizard (Phrynosoma blainvillii) (SSC),
- Cooper’s hawk (Accipiter cooperii) (WL, Season of Concern: nesting), and

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3 For status code explanations please see Appendix E, Wildlife Special-Status Inventory and Potential Occurrence Determination.

4 For status code explanations please see Appendix E, Wildlife Special-Status Inventory and Potential Occurrence Determination.
• American badger (*Taxidea taxus*) (SSC).

**Moderate Potential to Occur within the BSA**
- Santa Monica grasshopper (*Trimerotropis occidentiloides*) (IUCN:EN),
- golden eagle (*Aquila chrysaetos*) (fully protected, WL, BCC, Season of Concern: nesting and wintering),
- American peregrine falcon (*Falco peregrinus anatum*) (fully protected, BCC),
- western mastiff bat (*Eumops perotis californicus*) (SSC),
- western red bat (*Lasiurus blossevillii*) (SSC),
- western small-footed myotis (*Myotis ciliolabrum*) (IUCN:LC), and
- Yuma myotis (*Myotis yumanensis*) (IUCN:LC).

**Jurisdictional Areas**
The BSA crosses the heads of several ephemeral drainages that are tributaries to waters of the United States and of the State of California; however, the project is not anticipated to impact water resources within or immediately adjacent to the construction work area. Therefore, a formal jurisdictional delineation was not conducted as part of this study.

**Critical Habitats**
The BSA is not located within a designated or proposed critical habitat for listed plant or wildlife species. The nearest critical habitat (western snowy plover) is located approximately five miles from the project site.\(^5\)

**Wildlife Corridors**
The BSA is not located within a CDFW Designated Essential Connectivity Area but a portion of it is in a Natural Landscape Block\(^6\); Decker Canyon Road runs between the project parcel and the Natural Landscape Block.\(^7\) Also, a local corridor (linear strip of vegetation that was cleared) is located within the east side of the BSA, outside the project limits.

**Nursery Sites**
No native wildlife nursery sites or rookeries were observed within the BSA during the field surveys.

**Impacts**
The project will result in direct and indirect impacts on biological resources including special-status wildlife, breeding birds, and wildlife movement.

**Conclusion**
Best management practices (BMPs) and conservation measures are recommended to avoid, eliminate and/or reduce impacts on resources that may be impacted by the project. In addition, compliance with the terms and conditions of the permits and regulatory programs would ensure that the potential impacts on sensitive biological resources are less than significant.

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\(^6\) [https://www.wildlife.ca.gov/Data/BIOS](https://www.wildlife.ca.gov/Data/BIOS).

\(^7\) It is approximately 0.3 mile west from the project boundary and 185 feet from the project parcel.
1.0 INTRODUCTION

UltraSystems prepared this biological resources evaluation report for the proposed Wang Residence, 3710 Decker Edison Road, Malibu, CA Project (project). The subject property is located north of Pacific Coast Highway, south of Mulholland Highway, on the east and upslope side of Decker Edison Road, in a partially developed neighborhood. The home is owned by Amber Wang.

The project comprises remodeling the existing 3,128-square-foot, two-level, single-family residence. The existing residence includes a three-bedroom home, a 4,000-gallon septic tank, and an attached garage. The proposed work activities include building a second level to the existing home, a covered outdoor patio (California Room), a two-story stand-alone guest house, a new staircase, native plant landscaping, expand mechanical, electrical, and plumbing, hardscape (paved paths, gazebo, benches, gravel), fifteen light fixtures, new septic tank, six leach lines, expansion of fire access turnaround, a pool and a pool house.

The project includes expansion of the existing 200-foot fuel modification zone that provides defensible space by serving as a setback from the urban wildland interface. The project will retain some of the original fuel modification plan (approved on July 5, 2005) but will be expanded around proposed pool house. The defensible space is made of three fuel modification zones: (1) Zone A (setback zone), extends 20 feet beyond the edge of any combustible structure, accessory structure, appendage or projection. Overhangs or other parts of the structure not accurately reflected on the plans may negate the approval of plant location on the approved plan; (2) Zone B (Irrigation Zone), extends from the outermost edge of Zone A to 100 feet from structure. (3) Zone C (Thinning Zone), extends from the outermost edge of Zone B up to 200 feet from structure or to property line. (Appendix C, Fuel Modification Zone and Landscape Map)

UltraSystems conducted a literature review and general surveys of the biological resources potentially associated with the project site and within a zone 500-feet out from the project site; these define the BSA in this report. Biologists visited the BSA to conduct the following biological surveys:

- habitat assessment and plant community mapping,
- general plant survey,
- focused plant survey,
- tree survey,
- general wildlife survey,
- jurisdictional assessment, and
- wildlife movement assessment.

1.1 Report Purpose

This report documents the methods and results of the literature review and the field surveys and provides a summary of existing conditions, an assessment of the potential presence of sensitive biological resources, and an analysis of the potential impacts on those resources from project construction and development. It summarizes the biological resources present within the BSA at the time of the field surveys including plant communities, plants, and wildlife; and the potential

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8 The fuel modification area expansion will go beyond the project parcel and into the neighboring parcel (APN 447-300-5015) to the south, thus permission from that property owner will be required before any portion of the fuel modification plan is carried out.
occurrence of special-status plant and wildlife species, jurisdictional waters, critical habitat, and potential wildlife corridors within the BSA. Plant and wildlife species protected by federal agencies, state agencies, and local conservation agencies and organizations, such as the California Native Plant Society (CNPS), are collectively referred to as "special-status species" in this report. Some of these plant and wildlife species are afforded special legal or management protection because they are limited in population size, and typically have a limited geographic range and/or limited habitat. The report also identifies and analyzes the potential biological significance of site construction and development in view of federal, state, and local laws, regulations, policies, orders, ordinances and/or management plans. Finally, it recommends, as appropriate, conservation measures (BMPs, avoidance and protection measures, and mitigation measures) to avoid, eliminate or reduce impacts on resources that may be significantly impacted by the project to below a level of significance.

The study of biological resources associated with the BSA was conducted to comply with the California Environmental Quality Act (CEQA) requirements for a biological evaluation of projects that would potentially impact natural resources. CEQA is a statute that requires state and local agencies to identify the significant environmental impacts of their actions and to avoid or mitigate those impacts, if feasible. This report is intended to satisfy the biological resource needs of the CEQA process and it will also help to assist federal and state resource agencies in their review of the project. In addition, this report will support permits required for the project from federal and state resource agencies.

Since common names of plants and wildlife vary between references, scientific names are included upon initial mention of each species, and then the common names are used after that. Plant nomenclature within this report is based on CNPS' Online Inventory of Rare, Threatened, and Endangered Plants of California and The Jepson Manual: Vascular Plants of California, second edition (Baldwin et al., 2012). For this report, wildlife nomenclature and taxonomic sequence are based on the following:

- Fish: Inland Fishes of California (Moyle, 2002);
- Amphibians and reptiles: Center for North American Herpetology (CNAH);\(^\text{10}\)
- Birds: American Ornithologists' Union (AOU) check-list of North American Birds, 7th edition (AOU, 1998 and supplements);

### 1.2 Project Location

The subject property is a single-family residence located at 3710 Decker Edison Road in Malibu, CA. It is located north of Pacific Coast Highway, south of Mulholland Highway, on the east and upslope side of Decker Edison Road, in a partially developed neighborhood. (Figure 1, Regional Overview and Figure 2, Project Vicinity, Figure 3, Project Location).

The project site is located on the United States Geological Survey (USGS) 7.5-Minute Topographic Map Triunfo Pass Quadrangle, within Township 01S; Range 19W; and Section 29 (San Bernardino Meridian) (Figure 4, USGS Topographic Map). The approximate center of the project site is located at (34.057976, -118.891834) (WGS 1984 datum). Topography in the BSA varies from rugged (many slopes in excess of 25%) to relatively even (where home is located) with approximate elevations of

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9 Avian species protected by the Migratory Bird Treaty Act (MBTA) are not considered "special-status species."
10 CNAH: http://www.cnah.org/
695 to 1260 feet above mean sea level (amsl). Access to the project parcel is only through Decker Edison Road.

The project site is located in Assessor's Parcel Number (APN)

- 447-300-5014.

The APNs for the parcels surrounding the project site include:

- 447-300-5015,
- 447-300-4900,
- 447-300-5013, and
- 447-300-6900.

1.3 Coordination and Consultation

The project site is located in the City of Malibu which is under the jurisdiction of the following resource agencies' field offices:

- City of Malibu: Planning Division
  23815 Stuart Ranch Road
  Malibu, CA 90265-4816
  Phone: (310) 456—2489
  Fax: (310) 456—7650

- California Department of Fish and Wildlife (CDFW): South Coast Region 6
  3883 Ruffin Road
  San Diego, CA 92123
  Phone: (858) 467—4201
  Fax: (858) 467—4299

- California Coastal Commission (CCC): South Coast District Office
  200 Oceangate, 10th Floor
  Long Beach, CA 90802
  Phone: (562) 590-5071
  Fax: (562) 590-5084

Consultation with these resource agencies is expected for the project.

This project is located in the coastal zone (Figure 5, Management Plan, Figure 6, Parks and Recreation) and it is anticipated that the project will affect coastal zone resources; therefore, consultation with the CCC is expected.

The project is not located on designated or proposed United States Fish and Wildlife Service (USFWS) Critical Habitat lands and is not expected to affect federally listed plant or wildlife species. Therefore, consultation with the USFWS (Carlsbad Fish and Wildlife Office) is not expected.

The project is not located on federal lands; therefore, consultation with the United States Bureau of Land Management or the United States Forest Service is not expected.
The project is not located on USACE's property or easement and it would not affect a USACE structure.

The project is not located on tribal lands; therefore, the project will not impair any tribal rights as none are known to exist at the site.

The project is not located within steelhead—southern California critical habitat or designated Essential Fish Habitat or critical habitat; therefore, consultation with the National Marine Fisheries Service (NMFS) is not required.
2.0 PROJECT DESCRIPTION

The subject property is located north of Pacific Coast Highway, south of Mulholland Highway, on the east and upslope side of Decker Edison Road, in a partially developed neighborhood within the City of Malibu. The site is designated as Environmentally Sensitive Habitat Area (ESHA) in the City’s Local Coastal Program (LCP).

The project comprises remodeling the existing 3,128-square-foot, two-level, single-family residence. The existing residence includes a three-bedroom home, existing landscaping, a 4,000-gallon septic tank, and an attached garage.

The proposed work activities include:

1. Partially demolish existing roof structure at first level for an addition above;
2. Build a second level (two bedrooms, two bathrooms and a den) to existing house;
3. Build a new covered outdoor patio (California Room);
4. Build a new two-story stand-alone guest house (three bedrooms, two bathrooms, kitchen, living room, deck, and garage);
5. Demolish existing outdoor staircase and build new staircase immediately to the southwest;
6. Expand mechanical, electrical, and plumbing;
7. Install landscaping\(^\text{11}\) using native plants from the pre-approved fuel modification plant list provided by the County of Los Angeles Fire Department;
8. Install hardscape (gazebo, benches);
9. Install 15 outdoor light fixtures;
10. Remove the existing septic tank on the property;
11. Excavate (9 feet) to install new Onsite Wastewater Treatment System (OWTS), septic tank (4,000 gallons);
12. Excavate (5 feet) for six leach lines (each is approximately 95 feet by 5 feet wide);
13. Expand existing driveway to include a Fire Access Turnaround (70 feet long by 20 feet wide);
14. Build a pool house;
15. Excavate (up to 7 feet) and build a pool;
16. New fuel modification areas.

\(^{11}\) Landscaping will follow Section 3.10, Landscaping and Fuel Modification of the City of Malibu LCP LIP.
The following project features were not calculated as part of the total area allowed because they are exempt under the definition of "Development Area" in Section 2.1, General Definitions of the City of Malibu LCP LIP:

- Fire access turnaround;
- Driveway or Roadway (not to exceed twenty feet wide).

In addition, underground features (i.e. septic tank, leach lines) were excluded from the development area calculation because either the surface will be restored or native vegetation will be planted on them. Second stories were excluded unless they overhung from the main building.

In Table 2.0-1, Total Area for Existing and Proposed Development summarizes square footage allowance for the project as required under Section 4.7.1, Development Area of the City of Malibu LCP LIP for projects located in an ESFA. Specific details about the development can be found on the Architecture and Engineering Plans (Appendix B, Site Plan & Grading and Drainage Plan).

### Table 2.0-1
TOTAL AREA FOR EXISTING AND PROPOSED DEVELOPMENT

<table>
<thead>
<tr>
<th>Project Feature</th>
<th>Square Footage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Existing House Footprint*</td>
<td>3,455</td>
</tr>
<tr>
<td>Proposed Grading</td>
<td>2,205</td>
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<tr>
<td>Proposed Second Level - two bedrooms, two bathrooms,</td>
<td>560</td>
</tr>
<tr>
<td>and a den (area overhanging main building)</td>
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<tr>
<td>Proposed Upper Level Covered Patio (California Room)</td>
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<tr>
<td>Overhang</td>
<td>262</td>
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<tr>
<td>Proposed Stairs</td>
<td>177</td>
</tr>
<tr>
<td>Proposed Guest House Footprint</td>
<td>1,022</td>
</tr>
<tr>
<td>Proposed Gazebo Footprint</td>
<td>135</td>
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<tr>
<td>Existing Concrete Patio and Stairs</td>
<td>1,125</td>
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<tr>
<td>Proposed Pool House Footprint</td>
<td>560</td>
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<td>Proposed Pool Footprint</td>
<td>495</td>
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<tr>
<td>Fire Access Turnaround - EXCLUDED</td>
<td>929</td>
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<tr>
<td>Landscape (Native Plants) - EXCLUDED</td>
<td>7,630</td>
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<tr>
<td>Permeable Decomposed Granite - EXCLUDED</td>
<td>1,230</td>
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<td>Permeable Stone Paver - EXCLUDED</td>
<td>825</td>
</tr>
<tr>
<td>Proposed Grading Turnaround - EXCLUDED</td>
<td>473</td>
</tr>
</tbody>
</table>

12 The Grading and Drainage Plan is currently dated February 7, 2018.
<table>
<thead>
<tr>
<th>Project Feature</th>
<th>Square Footage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Area Excluded (square feet)</td>
<td>11,087</td>
</tr>
<tr>
<td>Total Development Area (square feet)</td>
<td>9,996</td>
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</tbody>
</table>

*Note: Administrative Coastal Permit No. 04-043 shows the existing footprint of the house to be 4,129 square feet, however as built conditions show the actual house footprint to be 3,141 square feet.

### 2.1 Environmental Setting

The project parcel is in the western Santa Monica Mountains and is mostly undeveloped but does contain developed features (residential home, driveway, etc.). The project parcel is located in the California Coastal Zone in the City of Malibu’s ESHA; The surrounding areas are also mostly undeveloped with some homes in the immediately vicinity of the project parcel. Charmlee Wilderness Park is located to the east of the project parcel. Topography varies from rugged (many slopes in excess of 25%) to relatively even (where home is located).

The site is located within the coastal resource area (Incorporated City/Ocean) which is considered a Significant Ecological Area (SEA) by LA County; it is also directly adjacent to H2 Habitat which is considered a Sensitive Environmental Resource Area under the Santa Monica Mountains LCP in LA County.

### 2.2 Fuel Modification Zone and Landscaping

#### 2.2.1 Fuel Modification Zone

The project includes expanding the existing 200-foot fuel modification zone that provides defensible space by serving as a setback from the urban wildland interface. The project will retain some of the original fuel modification plan (approved on July 5, 2005) but will be expanded around proposed pool house. The defensible space is made of three fuel modification zones: (1) Zone A (setback zone), extends 20 feet beyond the edge of any combustible structure, accessory structure, appendage or projection. Overhangs or other parts of the structure not accurately reflected on the plans may negate the approval of plant location on the approved plan; (2) Zone B (Irrigation Zone), extends from the outermost edge of Zone A to 100 feet from structure. (3) Zone C (Thinning Zone), extends from the outermost edge of Zone B up to 200 feet from structure or to property line. (Appendix C, Fuel Modification Zone and Landscape Map).

#### 2.2.2 Landscaping

Landscaping has been planned pursuant to Section 3.10, Landscaping and Fuel Modification, of the City of Malibu LCP LIP. All proposed plants will be natives (Appendix C, Fuel Modification Zone and Landscape Map). Plants installed more than 50-feet from the primary residence will be from a CNPS (Santa Monica Mountains Chapter) document titled “Recommended List of Plants for Landscaping in the Santa Monica Mountains” dated February 5, 1996. As stated in Section 3.10.1, Landscaping of the City of Malibu LCP LIP, the project shall do the following:
Landscape Coverage Standards:

- "Landscape Coverage Standards shall provide 90 percent coverage within five years, or that percentage of ground cover demonstrated locally appropriate for a healthy stand of the particular native vegetation type chosen for revegetation."

Landscape Monitoring:

- "Any landscaping, or revegetation shall be monitored for a period of at least five years following the completion of planting. Performance criteria shall be designed to measure the success of the plantings. Mid-course corrections shall be implemented if necessary."

- "Five years from the date of the receipt of the Certificate of Occupancy for the residence the applicant shall submit a landscape monitoring report, prepared by a licensed Landscape Architect or qualified Resource Specialist, that certifies that the onsite landscaping is in conformance with the approved landscape plan. The monitoring report shall include photographic documentation of plant species and plant coverage."

- "If the landscape monitoring report indicates the landscaping is not in conformance with or has failed to meet the performance standards specified in the landscaping plan approved pursuant to this permit, the applicant, or successors in interest, shall submit a revised or supplemental landscape plan. The revised landscaping plan must be prepared by a licensed Landscape Architect or a qualified Resource Specialist and shall specify measures to remediate those portions of the original plan that have failed or are not in conformance with the original approved plan. If performance standards are not met by the end of five years, the monitoring period shall be extended until the standards are met."

2.3 Staging and Stockpiling Areas

Daily staging and stockpiling may occur within any of the areas inside the project boundary labeled as temporary impact.

2.4 Project Equipment

The equipment anticipated to be used during construction includes but is not limited to: water trucks, skip loaders, graders, angledozers, a bobcat, concrete saws, a large excavator, dump trucks, a concrete pump, a crane, a D6 caterpillar (bulldozer), a sump pump, generators, tractors, a mini-excavator, jackhammers, a chipper, and various work trucks.

2.5 Schedule

The project work is expected to begin upon permit issuance and will last up to nine months.

2.6 No Project Alternative

The No Project Alternative would leave 3710 Decker Edison Road as is and no direct or indirect impacts would occur. The No Action alternative would not achieve the project purpose and need. The stables area will also remain as is and no further restoration would occur.
3.0 REGULATORY CONTEXT

Each project must comply with applicable federal, state and local environmental laws, regulations, ordinances, policies, programs, and environmental management plans. The following is a summary of the key federal and state laws and regulations that apply to protecting plants, wildlife, jurisdictional wetlands, and water quality.

3.1 Federal Endangered Species Act (ESA)

The federal ESA of 1973 (Title 16, United States Code [U.S.C.] §§ 1531-1543), as amended, designates and provides for protection of listed threatened and endangered plant and animal species, and their critical habitat. The USFWS, in the Department of the Interior, and the National Oceanic and Atmospheric Administration’s NMFS, in the Department of Commerce, share responsibility for administration of the ESA. These responsibilities include listing and delisting species, designating critical habitat, and formulating recovery plans. The USFWS has primary responsibility for terrestrial and freshwater organisms, while the responsibilities of NMFS are mainly marine wildlife.

The ESA is divided into 18 Sections that are intended to work together to prevent species from going extinct by helping to stabilize populations, reduce the threats to their survival, and helping species recover to the point that they no longer require federal protection.

3.1.1 Section 4 (Determination of Endangered Species and Threatened Species)

Section 4 of the ESA addresses listing of species in need of the ESA’s protection. Species are listed as either endangered or threatened under Section 4 of the ESA. A federally-endangered species is one that is facing extinction throughout all or a significant portion of its range. A federally-threatened species is one likely to become endangered within the foreseeable future throughout all or a significant portion of its range. Under Section 4, actions needed to recover those species and conserve their habitats are also identified, along with a process for reaching recovery goals that allow for a species’ removal from federal protection. The presence on a project site of any fish or wildlife species that is federally listed as endangered or threatened generally imposes constraints on development to the extent that development is likely to result in a prohibited “take” of the species or substantial adverse modification of its habitat as described below.

3.1.2 Section 7 (Interagency Cooperation)

Section 7 of the ESA regulates “take” associated with federal projects or projects that require a federal permit. It also requires federal agencies to use their authority to carry out conservation programs to benefit endangered and threatened species. Under Section 7, federal agencies are required to consult with the USFWS or the NMFS to ensure that any action they carry out, including those they fund or authorize (such as through a permit), will not be likely to jeopardize the continued existence of listed species, or result in the destruction or adverse modification of proposed or designated critical habitat of such species. Under Section 7, consultations can either be informal or formal.

3.1.3 Section 9 (Prohibited Acts)

Once a species is listed, Section 9 of the ESA makes it unlawful for any person, including private and public entities, to "take species listed as endangered or without a permit issued pursuant to Section 10 or an incidental take statement issued pursuant to Section 7. Section 9 defines "take" as "to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, collect, or attempt to engage in any such conduct." The term "harm" is defined as "an act which actually kills or injures wildlife. Such an act may include substantial habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding, or sheltering."

ESA Section 9's take prohibitions apply to listed wildlife and fish species, but not to plants. Endangered plants are not protected from take, although it is unlawful to remove, possess, or maliciously damage or destroy them on federal lands. Removing or damaging listed plants on state and private lands in knowing violation of state law, or in the course of violating a state criminal trespass law, also is illegal under the ESA.

3.2 Migratory Bird Treaty Act (MBTA)

The Migratory Bird Treaty Act (MBTA) of 1918 (Title 16, U.S.C. §§ 703-712), as amended, implements various treaties and conventions between the United States (U.S.) and Canada, Japan, Mexico and the former Soviet Union for the protection of migratory birds. The MBTA makes it unlawful to pursue, hunt, take, capture, kill, possess, sell, purchase, barter, import, export, or transport any migratory bird, or any part, nest, or egg or any such bird, unless authorized under a permit issued by the Secretary of the Interior. Some regulatory exceptions apply. Take is defined in regulations implementing the MBTA as "to pursue, hunt, shoot, wound, kill, trap, capture, collect, or attempt to carry out these activities." The MBTA prohibits the collection and destruction of a migratory bird, its nest, and birds or eggs contained in the nest. The USFWS Migratory Bird Permit Memorandum (MBPM-2) dated April 15, 2003, clarifies that destruction of most unoccupied bird nests is permissible under the MBTA; exceptions include nests of federally listed threatened or endangered migratory birds, bald eagles, and golden eagles. Take under the MBTA does not include habitat destruction or alteration, as long as there is not a direct taking of birds, nests, eggs, or parts thereof. The USFWS has statutory authority and responsibility for enforcing the MBTA.

3.3 Bald and Golden Eagle Protection Act (BGEPA)

Bald eagles were removed from the federal list of threatened and endangered species in 2007, and are no longer protected under the ESA. However, bald eagles remain protected under the Bald and Golden Eagle Protection Act (BGEPA) (Title 16, U.S.C. §§ 668-668c). The BGEPA was enacted in 1940 to protect bald eagles, and revised in 1962 to include golden eagles due to their declining populations. The agency administering this act is the USFWS. The BGEPA prohibits anyone, without a permit issued by USFWS, from "taking" bald eagles or golden, including their parts, nests, or eggs. The BGEPA defines take as "pursue, shoot, shoot at, poison, wound, kill, capture, trap, collect, molest or disturb." "Disturb" means to "agitate or bother a bald or golden eagle to a degree that causes, or is likely to cause, (1) injury to an eagle, (2) decrease in its productivity, or (3) nest abandonment, by substantially interfering with normal breeding, feeding, or sheltering behavior." (72 FR 31132; 50 Code of Federal Regulations [CFR] 22.3.) The prohibition applies to inactive as well as active nests.

14 BGEPA: http://www.fws.gov/migratorybirds/mbpermits/ActSummaries.html
An active nest is a nest that is attended, built, maintained or used by a pair of eagles during a given breeding season, whether or not eggs are laid. An inactive nest is an eagle nest that is not currently being used by eagles, as determined by the continuing absence of any adult, egg, or dependent young at the nest for at least 10 consecutive days immediately prior to, and including, at present. An inactive nest may become active again and remains protected under the BGEPA.

### 3.4 California Environmental Quality Act (CEQA)

The CEQA of 1970 (CEQA; Public Resources Code, §§ 21000-21178), applies to discretionary projects proposed to be carried out by public agencies. CEQA defines projects broadly to include an activity which may cause either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment, and is an activity directly undertaken by a public agency, an activity undertaken by a person that is supported by a public agency, or an activity that involves the issuance to a person of a lease, permit, license, certificate, or other entitlement.

If the lead agency, as defined in § 21067, determines that a project not otherwise exempt from CEQA would not have a significant effect on the environment, the lead agency shall adopt a negative declaration prior to approving the project. If, however, there is substantial evidence before the lead agency presenting a fair argument that the project may have a significant effect on the environment, CEQA requires the lead agency to prepare an environmental impact report (EIR). Public Resources Code § 21083.4 further requires counties to determine whether a project within their jurisdiction may result in a conversion of oak woodlands that will have a significant effect on the environment and to implement mitigation measures consistent with § 21083.4 if a project may result in a significant impact on oak woodlands.

CEQA further prohibits public agencies from approving a project for which an EIR has been prepared without first finding, for each of the significant effects identified in the EIR, that: (1) changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment; (2) those changes or alterations are within the responsibility and jurisdiction of another public agency and have been, or can and should be, adopted by that other agency; or (3) specific economic, legal, social, technological, or other considerations make infeasible additional mitigation measures or implementation of the other alternatives identified in the EIR.

CEQA is implemented through regulations adopted by the California Resources Agency and commonly referred to as the “State CEQA Guidelines,” California Code of Regulations, Title 14, § 15000 et seq. Appendix G to the State CEQA Guidelines sets forth suggested thresholds of significance for impacts on biological resources. Appendix G thresholds may be, but are not required to be relied on by lead agencies in determining whether a project may result in a potentially significant impact on biological resources, including endangered, rare or threatened species.

### 3.5 California Endangered Species Act (CESA)

The CESA (California Fish and Game Code § 2050 et seq.) was enacted in 1984 to parallel the federal ESA and allows the Fish and Game Commission to designate species, including plants, as "threatened" or "endangered." The CESA states that all native species of fishes, amphibians, reptiles, birds,
mammals, and plants, and their habitats, threatened with extinction and those experiencing a significant decline which, if not halted, would lead to a threatened or endangered designation, will be protected or preserved. Unlike the ESA, the CESA does not include listing provisions for invertebrate species.

CESA makes it illegal to import, export, take, possess, purchase, sell, or attempt to do any of those actions to species that are designated as threatened, endangered, or candidates for listing, unless permitted by CDFW. § 2080 of the California Fish and Game Code prohibits take of any species that the Commission determines to be an endangered species or a threatened species. "Take" is defined in § 86 of the California Fish and Game Code as "hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill."

Under § 2081 of CESA, CDFW may permit take or possession of threatened, endangered, or candidate species for scientific, educational, or management purposes, and may also permit take of these species that is incidental to otherwise lawful activities if certain conditions are met. Some of the conditions for issuance of permits allowing incidental take are that the adverse effects of the take must be minimized and fully mitigated, adequate funding must be ensured for implementation of identified mitigation, and that the activity shall not jeopardize the continued existence of the listed species. CESA emphasizes early consultation to avoid potential impacts on candidate and listed endangered and threatened species, and to develop appropriate mitigation to offset project caused losses of listed species populations and their essential habitats.

### 3.6 Fully Protected Species - California Fish and Game Code § 3511, § 4700, § 5050 and § 5515

The classification of fully protected was the State of California's initial effort in the 1960s to identify and provide additional protection to those animals that were rare or faced possible extinction. Lists were created for birds (§ 3511), mammals (§ 4700), amphibians and reptiles (§ 5050), and fish (§ 5515). Fully protected animal species may not be taken or possessed at any time and no licenses or permits may be issued for their take, except for collecting these species for scientific research and relocation of the species for certain purposes. "Take" is defined in Section 86 of the California Fish and Game Code as "hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill." Under § 2835 of the Fish and Game Code, CDFW may only issue permits allowing incidental take of fully protected species if a Natural Communities Conservation Plan (NCCP) is prepared that provides for the protection of that species in accordance with the requirements and standards applicable to NCCPs (Fish and Game Code §§ 2800-2835). Alternatively, avoidance measures sufficient to prevent incidental take of fully protected species must be incorporated into project design, and construction plans and operations.

### 3.7 Bird Nests and Eggs - California Fish and Game Code § 3503

California Fish and Game Code § 3503 states that it is unlawful to take, possess, or needlessly destroy the nest or eggs of any bird, except as otherwise provided by this code or any regulation made pursuant thereto. Disturbance that causes nest abandonment and/or loss of reproductive effort (e.g., killing or abandonment of eggs or young) may be considered take. Avoidance measures

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17 Fish and Game Code §§ 3503, 3503.5, 3505, and 3513: http://www.leginfo.ca.gov/cgi-bin/displaycode?section=fgc&group=03001-04000&file=3500-3516.
sufficient to prevent incidental take of bird nests and eggs protected by this statute must be incorporated into project design, and construction plans and operations.

3.8 **Birds of Prey and their Eggs – California Fish and Game Code § 3503.5**

The word "raptor" is the term used for a group of birds consisting of hawks, falcons, kites, eagles, vultures and owls. Raptors, also referred to as "birds of prey," are a valuable resource to the State of California. More than 30 species of raptors inhabit California at some point in their life cycle. California Fish and Game Code § 3503.5 makes it unlawful to take, possess, or destroy any birds in the orders Falconiformes or Strigiformes (raptors) or to take, posses, or destroy the nest or eggs of any such birds except as otherwise provided by this code or any regulation adopted pursuant thereto. The order Falconiformes is comprised of four families with around 311 species. These are the birds of prey (falcon, hawks, eagles, vultures, and ospreys). The order Strigiformes, comprised solely of owls, contains two families and over 130 species. All raptors and their nests are protected under § 3503.5. Avoidance measures sufficient to prevent incidental take of these species, their eggs and their nests protected by this statute must be incorporated into project design, and construction plans and operations.

3.9 **Migratory Birds – California Fish and Game Code § 3513**

California Fish and Game Code § 3513 protects California's migratory birds by making it unlawful to take or possess any migratory non-game bird as designated by the MBTA, except as authorized in regulations adopted by the federal government under provisions of the MBTA. Except as permitted by USFWS under an HCP, avoidance measures sufficient to prevent incidental take of these species, their eggs and their nests protected by this statute must be incorporated into project design, and construction plans and operations.

3.10 **Native Plant Protection Act (NPPA) – California Fish and Game Code §§ 1900-1913**

The Native Plant Protection Act (NPPA), enacted in 1977, allows the Fish and Game Commission to designate native plants as state "endangered" or "rare," mirroring the designations created for animal species by the CESA of 1970. The NPPA, administered by CDFW, requires all state agencies to utilize their authority to preserve, protect and enhance endangered or rare native plants of California. § 1908 of the Act prohibits the take of any native plant that the Fish and Game Commission determines to be an endangered or rare native plant, except when the take is incidental to agricultural and nursery operations, emergencies, or the possession or sale of real property on which the plant is growing. § 1913(c) further provides that where the owner of land has been notified by CDFW that native plant listed as rare or endangered is growing on such land, the owner shall notify CDFW at least 10 days in advance of changing the land use to allow for salvage of the listed plant(s) subject to the notification. The failure by CDFW to salvage such plant within 10 days of notification of change in land use shall entitle the owner of the land to proceed with the change.

3.11 Jurisdictional Waters Regulatory Context

This section summarizes the major applicable federal and state laws that apply to protecting jurisdictional wetlands, waters, and water quality from impacts from projects and which may be relevant and applicable to the project.

In California, the USACE, RWQCBs, and CDFW regulate activities within inland streams, coastal streams, wetlands, and other waters. These agencies enforce the many federal and state laws, regulations, and policies that prevent further impacts on jurisdictional wetlands and waters. The USACE regulates the discharge of dredged or fill material into Waters of the United States (Waters of the U.S.) pursuant to Section 404 of the federal Clean Water Act (CWA). The RWQCBs regulate activities pursuant to § 401(a)(1) of the CWA. The RWQCBs also have jurisdiction over Waters of the State under the Porter-Cologne Water Quality Control Act (Porter-Cologne). CDFW regulates water resources under §§ 1600-1616 of the California Fish and Game Code. Some regulations affecting wetlands focus on protecting water quality and preventing activities that would introduce or discharge harmful substances into waters. Others focus primarily on protection of fish and wildlife habitats, especially for endangered species.

3.11.1 Clean Water Act (CWA)

The CWA (33 U.S.C. §§ 1251-1376) is the principal federal law governing pollution control and water quality of the nation’s waterways. It establishes the basic structure for regulating discharges of pollutants into Waters of the U.S. and for regulating water quality and establishing water quality standards for surface waters. §§ 401, 402, and 404 of the CWA are pertinent to surface and coastal Waters of the U.S. These Sections are described further in the Subsections below.

For purposes of Section 404 permitting under the CWA, “Waters of the U.S.,” are comprised of those wetland and non-wetland bodies of water that meet the criteria set forth in 33 CFR § 328.3, as interpreted by a number of court opinions and guidance, including Solid Waste Agency of Northern Cook County v. U.S. Army Corps of Engineers, 531 U.S. 159 (2001) (SWANCC), consolidated cases Rapanos v. United States (Rapanos), and Carabell v. United States (Carabell), 547 U.S. 715 (2006), and joint guidance issued by the USACE and the United States Environmental Protection Agency (EPA) in light of judicial decisions, including the joint guidance memorandum regarding Clean Water Act Jurisdiction Following the U.S. Supreme Court’s Decision in Rapanos v. United States and Carabell v. United States (December 12, 2008)(2008 Regulatory Guidance).

On June 29, 2015, the USACE and EPA and published an amendment to 33 CFR § 328.3 revising the definition of Waters of the U.S. in a manner intended to take into account, but supersede prior judicial decisions, regulations and guidance. The revised regulation, named the Clean Water Rule, was published in the Federal Register (80 FR 124: 37054-37127) and became effective on August 28, 2015. The Clean Water Rule has been challenged in court by more than 30 different organizations and entities, and on October 9, 2015, the U.S. Court of Appeals, Sixth Circuit enjoined the implementation of the new Clean Water Rule on a nationwide basis, pending further judicial action.

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In general, under either currently effective law and guidance or under the now-enjoined Clean Water Rule, wetland and non-wetland water bodies are Waters of the U.S. subject to jurisdiction of USACE and EPA for purposes of Section 404 permitting when the water bodies are an:

- interstate water, a territorial sea, or a water which is currently used, was used in the past, or may be susceptible to use in the future in interstate or foreign commerce,

- impoundment of such waters, or

- a water with either a presumed or demonstrated “significant nexus” with such waters.

The primary effect of the Clean Water Rule is to modify the types of water bodies that will be presumed to have a significant nexus to interstate waters, territorial sea, and waters used in interstate commerce as opposed to those types of water bodies that must be demonstrated on a case-by-case basis to have such a connection pursuant to CWA regulations.

Further, under either current law and guidance or the now-enjoined Clean Water Rule, USACE jurisdiction over non-tidal Waters of the U.S. extends laterally to the Ordinary High Water Mark (OHWM) or beyond the OHWM to the limit of any adjacent wetlands, if present (33 CFR 328.3(c)(6)). The OHWM is defined as:

"... that line on the shore established by the fluctuations of water and indicated by physical characteristics such as a clear natural line impressed on the bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding area" (33 CFR 328.3(c)(6)).

In addition, pursuant to either the currently effective law and guidance or the now-enjoined Clean Water Rule, water bodies that constitute wetlands are determined in accordance with the Corps of Engineers Wetlands Delineation Manual (Environmental Laboratory, 1987) and the Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Arid West Region (Version 2.0) (USACE, 2008). Pursuant to these technical manuals, in general three criteria must be satisfied to classify an area as a jurisdictional wetland:

- A predominance of plant life that is adapted to life in wet conditions hydrophytic vegetation must be present;

- Soils must saturate, flood or pond long enough during the growing season to develop anaerobic conditions in the upper part hydric soils;

- Permanent or periodic inundation or soils saturation must occur at least seasonally establishing wetland hydrology.

Biologists for the project classified waters as jurisdictional or non-jurisdictional based on the 2008 Regulatory Guidance. Nevertheless, the biologists have concluded that the classification of water as jurisdictional or non-jurisdictional is substantially the same whether performed pursuant to the Clean Water Rule, which is now enjoined, or under the prior regulation, 33 CFR § 328.3 including the Preamble to the regulation, and the 2008 Regulatory Guidance, which are now currently effective.
3.11.1.1 Section 404 – Discharge of Dredge and Fill Requirements

Section 404 of the CWA establishes a program to regulate the discharge of dredged or fill material into Waters of the U.S. The USACE implementing regulations define “dredged material” as material that is excavated or dredged from Waters of the U.S. The CWA implementing regulations define “Fill material” as material placed in Waters of the U.S. where the material has the impact of either replacing any portion of Waters of the U.S. with dry land or changing the bottom elevation of any portion of a Waters of the U.S. Examples include discharges of rock, sand, soil, clay, plastics, construction debris, wood chips, overburden from mining or other excavation activities, and materials used to create any structure or infrastructure for development projects in Waters of the U.S.

No discharge of dredged or fill material may be permitted if there is a practicable alternative that would be less damaging to aquatic resources, so long as that alternative does not have other significant adverse environmental consequences. 40 CFR § 230.10(a). Under 40 CFR § 230.10(a), a potential project alternative is “practicable” if it “is available and capable of being done after taking into consideration cost, existing technology and logistics in light of overall project purpose.” These regulations are jointly administered and enforced by the USACE and the EPA.

Permit review and issuance follows a process that prioritizes avoidance of impacts, followed by minimization of impacts (both as determined pursuant to the 404(b)(1) guidelines) and, finally, requiring compensatory mitigation assuring “no net loss of wetlands” for unavoidable impacts on the aquatic environment.

Under the law, any project that discharges dredged or fill material (temporarily or permanently) into Waters of the U.S., including wetlands, may require a Section 404 permit. The Section 404 permit may be a nationwide permit or an individual permit from the USACE pursuant to Section 404 of the CWA. The USACE has established a series of nationwide permits that authorize certain activities in Waters of the U.S. provided that a proposed activity can demonstrate compliance with standard terms and conditions. No activity is authorized under any nationwide permit that is likely to jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the ESA, or that will destroy or adversely modify the critical habitat of such species. If the conditions cannot be met, a regional or individual permit will be required.

3.11.1.2 Section 401 – Water Quality Certification

Although the CWA is a federal law, Section 401 of that law recognizes that states have the primary authority and responsibility for setting surface water quality standards, and requires the USACE to obtain a state certification that their permits for discharge or dredge and fill material do not violate state water quality standards. Section 401 of the CWA requires every applicant for a Section 404 permit resulting in any discharge of dredge or fill material into Waters of the U.S. to provide a certification that any discharges will comply with the applicable state water quality standards set pursuant to the CWA and applicable state law.

Section 401 is implemented through a water quality certification process. In the State of California, the State Water Resources Control Board (SWRCB) has given the responsibility for issuing Section 401 Water Quality Certifications (WQCs) to the RWQCBs, unless a discharge of dredged or fill material is proposed within more than one region. In the event that a project proposes discharges of dredged or fill material in more than one region, responsibility for issuance of a Section 401 Water
Quality Certification (WQC) will lie either with the SWRCB, or, upon agreement of the RWQCBs for the affected regions, with the RWQCB chosen in the discretion of the RWQCBs. Cal. Water Code, § 13160; Cal. Code Regs., tit. 23, § 3838. Certification must be based on a finding that the proposed discharge will comply with water quality standards, which include numeric and narrative water quality objectives applicable to identified surface waters in the Water Quality Control Plan for the region (Basin Plan) in which a discharge of fill is proposed.

### 3.11.2 Porter-Cologne Water Quality Control Act

In 1969, the California State Legislature enacted the Porter-Cologne Water Quality Control Act (Porter-Cologne) to revise the existing water quality laws in California. Through the act, the SWRCB and nine RWQCBs were entrusted with duties and powers to preserve, restore, and enhance the quality of California’s water resources. The SWRCB has the ultimate authority over state water rights and water quality policy. The SWRCB adopts statewide water quality control plans, policies and guidance that direct RWQCBs in designating beneficial uses, setting water quality control standards, and administering programs to protect and preserve the “Waters of the State.” Pursuant to these statewide plans, policies and guidance, each of the nine RWQCBs within California is required to adopt a Basin Plan that sets water quality standards, including narrative and numeric water quality objectives for various constituents of concern, recognizing and reflecting the regional differences in existing water quality, the beneficial uses of the region’s ground and surface waters, and local water quality conditions.

Pursuant to Porter-Cologne, the SWRCB and RWQCBs, on a statewide and regional basis, respectively, have authority to regulate the “discharge of waste” to “Waters of the State” independently of the CWA and as a matter of state law. Discharges of waste are defined to “include sewage and any and all other waste substances, liquid, solid, gaseous, or radioactive, associated with human habitation or of human or animal origin, or from any producing, manufacturing or processing operations, include waste placed in containers of whatever nature prior to and for purposes of, disposal.” Cal. Water Code § 13050(d). Discharges of fill are included in the Porter-Cologne definition of discharge of “waste.” “Waters of the State” are defined to mean “any surface water or groundwater, including saline waters, within the boundaries of the state.” Cal. Water Code § 13050(e). Under Porter-Cologne, “Waters of the State” include, but are not limited to, Waters of the U.S. As a matter of state law, any party proposing a discharge of waste, including fill or other pollutants, that threatens to affect any Water of the State that is not also a water of the United States must file a Report of Waste Discharge (ROWD) with the SWRCB or appropriate RWQCB, as applicable. Cal. Water Code §§ 13260; 13264. The water board, after a public hearing, will then respond to the ROWD by imposing appropriate Waste Discharge Requirements (WDRs) (Cal. Water Code §§ 13263; 13264), or by issuing a Waiver of WDRs with appropriate conditions (Cal. Water Code § 13269) to control discharges for the protection of Waters of the State.

The SWRCB and RWQCBs, on a statewide and regional basis, respectively, also have authority to issue, deny, condition, enforce and otherwise administer all CWA Section 402 National Pollutant Discharge Elimination System (NPDES) Permits for discharges of pollutants into Waters of the U.S., and Section 401 WQCs for Section 404 permits. 33 U.S.C. § 1311; Cal. Water Code § 13160; Memorandum of Understanding Regarding Permit and Enforcement Programs Between the State Water Resources Control Board and the Regional Administrator, Region IX, Environmental Protection Agency (effective March 26, 1973) as supplemented by the NPDES Memorandum of Agreement between the U.S. Environmental Protection Agency and the California State Water Resources Control Board.
Board (effective June 8, 1989). USACE retains and has not delegated jurisdiction to issue Section 404 permits for discharges of fill to Waters of the U.S.

Accordingly, the SWRCB and RWQCBs have, respectively, issued the statewide Construction General NPDES Permit and the MS4 NPDES Permits which constitute both federal CWA Section 402 permits and state Porter-Cologne WDRs. Under guidance issued by the SWRCB, discharges of fill subject to USACE CWA Section 404 permitting are reviewed and protected by the SWRCB by issuance of Section 401 water quality certifications, and no additional state law WDRs are required to authorize discharges of fill. Discharges of fill to Waters of the State that are not also Waters of the U.S. are subject to regulation by the SWRCB or appropriate RWQCBs, as applicable. Any project proponent proposing such discharges of fill must submit a report of waste discharges along with USACE jurisdictional disclaimers, and prior to placing such fill, must either obtain coverage for such discharges under:

(i) the SWRCB’s Statewide General Waste Discharge Requirements for Dredged or Fill Discharges to Waters Deemed by the U.S. Army Corps of Engineers to be Outside of Federal Jurisdiction, Order No. 2004-004-DWQ,

(ii) individual WDRs, or

(iii) a conditional waiver of WDRs. Guidance for Regulation of Discharges to “Isolated” Waters (Celeste Cantu, Executive Director June 25, 2004).

### California Fish and Game Code §§ 1600-1616

Pursuant to §§ 1600—1616 of the California Fish and Game Code, the CDFW regulates all substantial diversions, obstructions, or changes to the natural flow or the bed, channel, or bank of any river, stream, or lake, which provides habitat and supports fish or wildlife. CDFW defines a “stream” (including creeks and rivers) as “a body of water that flows at least periodically or intermittently through a bed or channel having banks and supports fish or other aquatic life. This includes watercourses having surface or subsurface flow that supports or has supported riparian vegetation” (California Code of Regulations, Title 14, Division 1, Subdivision 1, Chapter 1, § 1.72). “Bank” means the slope or elevation of land that bounds the bed of the stream in a permanent or longstanding way, and that confines the stream water up to its highest level. “Lake” includes “natural lakes or man-made reservoirs.”

Rivers, streams, lakes, and riparian vegetation that provide habitat for fish and wildlife species are subject to jurisdiction by the CDFW under §§ 1600-1616 of the California Fish and Game Code. Riparian areas are lands adjacent to streams, lakes, and estuarine-marine shorelines. § 2785(e) defines “riparian habitat” as lands which contain habitat which grows close to and which depends upon soil moisture from a nearby freshwater source. CDFW regulates the bed, bank to bank, as well as associated riparian vegetation, and fish and wildlife resources. CDFW has interpreted jurisdictional boundaries to be defined by the tops of stream banks (i.e., the limit of stream influence) and/or the limit of the canopy of riparian vegetation (outer drip line) that is hydrologically connected to river, stream, or lake, whichever is greatest. As a result, the area of CDFW jurisdiction is usually greater than the active channel and overlaps and extends beyond the USACE jurisdiction. Isolated wetlands not associated with a river, stream or lake are not protected under §§ 1600 et seq. of the California Fish and Game Code. In addition, CDFW does not have regulatory authority on Tribal Lands.
CDFW jurisdiction may also extend to altered or artificial waterways based upon the value of those waterways to fish and wildlife (CDFG ESD, 1994), particularly to the extent that such constructed waterways were originally natural waterways.

The Lake and Streambed Alteration Program require execution of an agreement with CDFW before any activity substantially modifies a river, stream or lake. It is not legal to alter the bed or bank of a stream or lake or their natural water flow without a CDFW Streambed Alteration Agreement (SAA). The California Fish and Game Code § 1602 requires an entity to notify CDFW of any proposed activity that may substantially modify a perennial, intermittent, and ephemeral river, stream, or lake in the state.

Notification is required by any person, business, state or local government agency, or public utility that proposes an activity that will:

- Substantially divert or obstruct the natural flow of any river, stream or lake;
- Substantially change or use any material from the bed, channel, or bank of, any river, stream, or lake;
- Deposit or dispose of debris, waste, or other material containing crumbled, flaked, or ground pavement where it may pass into any river, stream, or lake.

The notification requirement applies to any work undertaken in or near a river, stream, or lake that flows at least intermittently through a bed or channel. This includes intermittent and ephemeral streams and washes, and other watercourses with subsurface flows, or drainages with beds and banks that support aquatic life, riparian vegetation, or stream-dependent terrestrial wildlife.

### 3.12 Malibu General Plan - Conservation & Land Use Element

#### 3.12.1 Conservation Element

The Conservation Element of the Malibu General Plan is concerned with the following environmental resources within the Malibu Coastal Zone: Natural Resources, Cultural Resources, Energy Conservation, Water Conservation, and Reduction and Recycling of Solid Waste (City of Malibu, 1995). The element identifies goals and policies to insure the managed use of environmental resources. The purpose of the Conservation Element is to serve as guide to conservation, protection, restoration and management, development and utilization of the City's natural resources. Substantial areas in the City of Malibu or within the Malibu Coastal Zone are undeveloped or contain an abundance of natural resources.

The objectives of CON GOAL 1, "Natural resources preserved and protected" are:

- CON Objective 1.1: Natural resources managed in accordance with this comprehensive natural resources protection and management plan;
- CON Objective 1.2: Wildlife and biota resources preserved, protected and reclaimed;
- CON Objective 1.3: Marine and beach resources preserved, protected, enhanced and reclaimed;
3.12.2 Land Use Element

The Malibu Land Use Element is designed to provide maximum social, economic, and environmental benefits for city residents through planned distribution, intensity of land use and location. The element provides a balanced and functional mix of land uses, guide public and private investment opportunities and constraints identified in other general plan elements and reduce hazards. The objectives of LU GOAL 1: "The natural and environmental resources of Malibu are protected and enhanced" are:

- LU Objective 1.1: Development that does not degrade the environment;
- LU Objective 1.2: Preserve and protect resource area protection areas;
- LU Objective 1.3: Land uses consistent with flood, geologic and fire safety requirements;
- LU Objective 1.4: Development consistent with the preservation of the natural topography and viewshed protection;
- LU Objective 1.5: Integrated environmental review.

3.13 City of Malibu - Local Coastal Program - Local Implementation Plan

The purpose of the Local Implementation Plan (LIP) is to implement policies of the California Coastal Act of 1976, to carry out the policies of the City of Malibu Land Use Plan, and to:

- Assure orderly, balanced utilization and conservation of coastal zone resources, taking into account the social and economic needs of the people of this City and of the State;
- Protect, maintain, and where feasible, enhance and restore the overall quality of the coastal zone environment and its natural and manmade resources;
- Maximize public access to and along the coast and maximize public recreational opportunities in the coastal zone consistent with sound resource conservation principles and constitutionally protected rights of private property owners;
- Provide a definite plan for development so as to guide the future growth of the City;
- To protect and enhance the quality of the natural environment;
- To promote the public health, safety and general welfare;
- To ensure that any development in the coastal zone preserves and enhances coastal resources; and protects coastal views and access; and guides growth, development, and environmental management in a manner consistent with the provisions of the Land Use Plan of the LCP;
- To lessen congestion on the streets and provide for adequate off-street parking;
• To prevent damage and injury from disasters such as fire, flood, tsunamis, tidal action ocean
storms, geologic and seismic hazards and other dangers;
• To provide adequate light and air, clean ground water, and non-polluting waste disposal;
• To assure adequate public transportation, utilities, schools, parks, open space, roads and
other public facilities and improvements;
• To protect and preserve the areas, sites and structures of historic, cultural, archaeological
and paleontological significance.

3.13.1 Landscaping and Fuel Modification

Landscaping shall follow Section 3.10.1, Landscaping of the Malibu LCP LIP regarding which species
to use, timing of landscaping, landscaping coverage standards, landscape monitoring and landscape
plans.

Fuel Modification and brush clearance shall follow Section 3.10.2 (A) and (B) of the Malibu LCP LIP:

Section 3.10.2 (A)
“All new development will 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.”

Section 3.10.2 (B)
“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 are modified.”

3.13.2 Environmentally Sensitive Habitat Area Overlay

The purpose of the Environmentally Sensitive Habitat Area Overlay or “ESHA” overlay zone is to
protect areas where plant or animal life or their habitats are either rare or especially valuable
because of the role or special nature in the ecosystem and which could be easily disturbed or
degraded because of human activities or development.

3.13.2.1 ESHA Determinant

Pursuant to Section 4.3 (C) of the Malibu LCP LIP, mapped areas within the city are subject to ESHA
provisions as follows:

“The ESHA overlay provisions shall apply to those areas designated environmentally sensitive
habitat area on the Malibu LIP ESHA overlay map and those areas within 200 feet of designated
ESHA. Additionally, those areas not mapped as ESHA, but found to be ESHA under the provisions
of Section 4.3 of the Malibu LIP shall also be subject to these provisions.”
3.13.2.2 Development Standards

Section 4.6.1, Buffers of the Malibu LCP LIP gives buffers to native vegetation to serve as transitional habitat and to provide distance and physical barriers to human intrusion:

C. Woodlands

"New development shall provide a buffer of no less than 100 feet in width from the outer edge of tree canopy of oak or other native woodland."

F. Coastal Sage Scrub

"New development shall provide a buffer of sufficient width to ensure that no required fuel modification area (Zone A, Zone B, and Zone C, if required) will extend into the ESHA and that no structures will be within 100 feet of the outer edge of the plants that comprise the coastal sage scrub plant community."

G. Chaparral

"New development shall provide a buffer of sufficient width to ensure that no required fuel modification area (Zone A, Zone B, and Zone C, if required) will extend into the ESHA and that no structures will be within 100 feet of the outer edge of the plants that comprise the chaparral plant community."

3.13.3 Native Tree Protection Ordinance

This ordinance shall apply to areas containing one or more of the following native trees with at least one trunk measuring six inches or more in diameter or a combination of two trunks that measure a total of six inches or more in diameter, measured at 4.5 above natural grade:

- native oak (Quercus sp.),
- California walnut (Juglans californica),
- western sycamore (Platanus racemosa),
- alder (Alnus rhombifolia), and
- toyon (Heteromeles arbutifolia).

As described in Chapter 5, Native Tree Protection Ordinance of the Malibu LCP LIP, The Coastal Development Permit applications will require development sites subject to this ordinance to prepare a tree protection plan by a qualified biologist or resource expert that provides the following (City of Malibu, 2002):

"A. An inventory and assessment of the health of native trees on the site by type, size (both trunk circumference and extent of canopy).

B. Photographs of the site showing location of all native trees.

C. A site map depicting the location of all such trees, including a scale drawing of trunk, canopy location and extent."
D. An analysis of all potential construction and post-construction impacts on the identified native trees.

E. Project alternatives designed to avoid removal of trees and to avoid and minimize impacts to protected trees.

F. Identification of trees proposed to be removed by the project.

G. Onsite mitigation measures necessary to minimize or mitigate residual impacts that cannot be avoided through project alternatives, including the provision of replacement trees.

H. A long-term maintenance and monitoring program designed to assure long-term protection and health for all native trees."

Development standards, mitigation, and monitoring and supplemental findings pursuant to Chapter 5 of the Malibu LCP LIP will also be followed.

Supplemental Findings
Regarding removal of one or more native trees and/or encroachment of development into the protected zone21 of one or more native tree(s), the following22 will be needed to attain a CDP permit.

"A coastal development permit that includes the removal of one or more native tree(s) and/or the encroachment of development within the protected zone of one or more native tree(s) may be approved or conditionally approved only if the planning commission makes the following supplemental findings in addition to the findings required in Section 14.9 of the Malibu LIP:

A. The proposed project is sited and designed to minimize removal of or encroachment in the protected zone of native trees to the maximum extent feasible.

B. The adverse impact of tree removal and/or encroachment cannot be avoided because there is no other feasible alternative.

C. All feasible mitigation measures that would substantially lessen any significant impact on native trees have been incorporated into the approved project through design or conditions of approval."

3.14 California Coastal Commission

The CCC was established in 1972 and made permanent through adoption of the California Coastal Act of 1976.

In partnership with counties and cities, the CCC plans and regulates land and water along the coastal zone. Developments, which are broadly defined in the Coastal Act to include (among others) construction of buildings, division of lands, and activities that change the intensity of use of land or public access to coastal waters, generally require a coastal development permit by the Coastal Commission or local government.

21 The protection zone, per Section 5.2 of the City of Malibu LCP LIP, shall mean the area inside the dripline of the tree plus five feet beyond the dripline, or 15 feet from the trunk of the tree, whichever is greater.

22 Found in Section 2.7 of the Malibu LCP LIP
3.15 **Natural Community Conservation Plan and Habitat Conservation Plan**

The BSA is not within a Natural Community Conservation Plan (NCCP) or Habitat Conservation Plan (HCP).
4.0 STUDY METHODS

This section describes the study methods used by biologists for evaluating the biological resources associated within the BSA (Figure 7, Project Boundary and BSA) and project vicinity.

4.1 Literature Review

Prior to their field surveys, biologists conducted a literature review to identify habitats, special-status plant and wildlife species, jurisdictional waters, critical habitats, and wildlife movement corridors potentially associated with the project site. Biologists reviewed relevant literature, databases, agency web sites, reports and management plans, Geographic Information System (GIS) data, maps, and aerial imagery obtained from public domain sources. The review also helped to determine which biological surveys may be required prior to site construction and development.

4.1.1 Topography and Physical Features

To gain a perspective of the topographic and physical features associated with the BSA and project vicinity, biologists reviewed maps such as the USGS 7.5-Minute Topographic Map Triunfo Pass Quadrangle and current aerial imagery (Google Earth©). Information obtained from this review included onsite and offsite locations of city and county boundaries and jurisdictions; valleys, hills, and mountain ranges; park boundaries; natural and man-made drainages, blue-line streams, and open waters (rivers, lakes, ponds, streams, creeks, etc.); plant community boundaries; land use such as developed land, agriculture, and natural open space; important landmarks; roads, highways, paths, and trails; and potential wildlife movement corridors.

4.1.2 Soils

The Web Soil Survey, operated by the United States Department of Agriculture's (USDA) Natural Resources Conservation Service (NRCS), was used to create a custom soil resource report for a description of the soils associated with the BSA. The Web Soil Survey provides soil data and information produced by the National Cooperative Soil Survey.

4.1.3 Sensitive Plant Communities

Sensitive plant communities (sensitive habitats) are communities that are of limited distribution statewide or within a county or region and are often vulnerable to environmental impacts of projects (CDFG, 2009). Sensitive habitats are often threatened with local extirpation and are therefore, considered as valuable biological resources. The most current version of CDFW’s List of California Terrestrial Natural Communities indicates which natural communities are sensitive given the current state of the California classification (CDFG, 2010). The List of California Terrestrial Natural Communities is considered an authority for ranking the conservation status of vegetation communities in California. The list includes alliance rankings according to their degree of imperilment. Based on the literature review and CNDDB search, four sensitive habitats have potential to occur within the BSA. (Table 4.1-1, CNDDB Sensitive Habitats).

Table 4.1-1

23 Google Earth© website.


### CNDDB SENSITIVE HABITATS

<table>
<thead>
<tr>
<th>Sensitive Plant Habitats</th>
<th>Holland Element Code</th>
</tr>
</thead>
<tbody>
<tr>
<td>valley needlegrass grassland</td>
<td>42110</td>
</tr>
<tr>
<td>southern coast live oak riparian forest</td>
<td>61310</td>
</tr>
<tr>
<td>southern sycamore alder riparian woodland</td>
<td>62400</td>
</tr>
<tr>
<td>valley oak woodland</td>
<td>71130</td>
</tr>
</tbody>
</table>

**Notes:** The Holland Element Code number is from Robert F. Holland’s Preliminary Descriptions of the Terrestrial Communities of California (Holland, 1986).

### 4.1.4 Special-Status Plant and Wildlife Species

The methods described below were used to research and derive a comprehensive project-specific list of special-status plants and wildlife to target during the field surveys. The literature review and query of the databases for reported locations of special-status species and habitats helped to identify the known locations of these resources in the project region and assisted in identifying the potential for onsite occurrence of such species.

- CDFW’s CNDDB was used to identify special-status species that may exist within the project site and within a ten-mile radius of the site;\(^\text{25}\)
- The USFWS’ Information, Planning, and Conservation (IPaC) system was used to identify federal threatened and endangered plant and wildlife species and other natural resources of concern that may exist within the BSA;\(^\text{26}\)
- The online CNPS Inventory of Rare and Endangered Plants of California, 8th Edition was used to identify the distribution and habitats of special-status vascular plants that may exist within the USGS Triunfo Pass Quadrangle;\(^\text{27}\)
- The USFWS’ Ventura field office website was reviewed to obtain the list of endangered and threatened species for Imperial County;\(^\text{28}\)
- Previous consultant studies and reports on the project site and project vicinity were reviewed to gain a sense of the existing conditions at the time the studies were conducted.

Although the inventory list of special-status plant and wildlife species were not exhaustive of all species that might be of concern for the property, it provided a wide range of species that are representative of the habitats in the area.

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4.1.4.1 Special-Status Plants

The literature review found that 30 special-status plant species (plant inventory) may be present within the BSA. Fifteen plants are designated federally or state listed endangered, threatened, candidate, or state rare under the federal ESA, the CESA, and/or the NPPA. These types of plants are referred to as "listed species." Fifteen of the special-status plant species have no designated status under the ESA, the CESA, and/or the NPPA, but are designated as sensitive or locally important by federal agencies, state agencies, and nonprofit resource organizations, such as the CNPS. These plant species are referred to as "sensitive" in this report. The plant inventory is provided in Appendix D, Plant Special-Status Species Inventory and Potential Occurrence Determination.

Each special-status plant species was assessed for its potential to occur within the BSA by comparing its habitat elevation range and distribution obtained from the literature, CNPS website and other databases with the location and elevation range of the BSA. A species was determined as having "no potential to occur" within the BSA if the BSA is outside the species' known distribution and/or the species' known elevation range. Through this analysis, 15 of the 30 special-status plant species were determined to have no potential to occur within the BSA and were eliminated from further evaluation. It is anticipated that the project will have no impacts on these species and they are not discussed further in this report. The potential to occur analysis can be found in Appendix D, Plant Special-Status Species Inventory and Potential Occurrence Determination.

4.1.4.2 Special-Status Wildlife

The literature review found that 22 special-status wildlife species (wildlife inventory) may be present within the BSA. Four of these animals are federal or state listed endangered, threatened, or candidate species under the ESA and/or the CESA, and are referred to as "listed species." Seventeen of the special-status wildlife species have no designated status under the ESA and/or the CESA, but are designated as sensitive or locally important by federal agencies, state agencies, and nonprofit resource organizations. These wildlife species are referred to as "sensitive" in this report. The wildlife inventory is provided in Appendix E, Wildlife Special-Status Species Inventory and Potential Occurrence Determination.

Each special-status wildlife species was assessed for its potential to occur within the BSA by comparing its habitat elevation range and distribution (if known) with the location and elevation range of the BSA. A species was determined as having "no potential to occur" within the BSA if the BSA is outside the species' known distribution and/or the species' known elevation range. Through this analysis, five of the 22 special-status wildlife species were determined to have no potential to occur within the BSA and were eliminated from further evaluation. It is anticipated that the project will have no impacts on these species and they are not discussed further in this report. The potential to occur analysis can be found in Appendix E, Wildlife Special-Status Species Inventory and Potential Occurrence Determination.

4.1.5 Hydrology and Jurisdictional Areas

In order to identify known locations of hydrologic features within the BSA, biologists queried the following databases.
The National Wetlands Inventory (NWI)\textsuperscript{29} database and maps developed by the USFWS were used as preliminary indicators of potential wetland areas based on changes in vegetation patterns as observed from satellite imagery;

- The USFWS Wetlands Mapper was used to review and download the digital wetland data for the project vicinity;
- The USGS National Hydrography Dataset (NHD)\textsuperscript{30} was used to identify hydrologic features such as rivers, streams, canals, lakes, ponds, coastline, dams, and stream gages;
- The watershed boundary data set containing the most current 10-digit and 12-digit HUCs was obtained in geodatabase form from the USGS.

The following were also reviewed and consulted:

- \textit{Corps of Engineers Wetlands Delineation Manual} (Environmental Laboratory, 1987) (referred to as "1987 Manual" in this report);
- Regional Supplement to the Corpsof Engineers Wetland Delineation Manual: Arid West Region (Version 2.0) (USACE, 2008) (referred to as "Arid West Supplement" in this report);
- Arid West 2016 Regional Wetland Plant List (Lichvar et al., 2016);
- A Field Guide to the Identification of the Ordinary High Water Mark (OHWM) in the Arid West Region of the Western United States (Lichvar and McColley, 2008).

The USACE published the original 1987 Manual for the identification and delineation of wetlands. Recognizing that wetlands vary widely between regions of the United States, the USACE prepared a series of regional supplements to better identify wetlands across the country. In 2008, the USACE published a regional supplement to the 1987 Manual that describes wetland indicators, delineation guidance, and other information that are specific to the Arid West Region, in which the project is located. The USACE and CDFW's definitions of wetlands are described below.

\subsection*{4.1.5.1 USACE Definition of Wetlands}

The USACE technical guidelines for defining wetlands in the Arid West are provided in the Regional Supplement. The 1987 Manual was used as a secondary resource. According to the Supplemental Manual, "Indicators and procedures given in the supplement are designed to identify wetlands as defined jointly by the USACE (33 CFR 328.3) and the EPA (40 CFR 230.3)." Wetlands are a subset of the 'Waters of the U.S.' that may be subject to regulation under Section 404 of the CWA. One key feature of the definition of wetlands is that, under normal circumstances, they support 'a prevalence of vegetation typically adapted to life in saturated soil conditions.' Many Waters of the U.S. are unvegetated and thus are excluded from the USACE/EPA definition of wetlands, although may still

\textsuperscript{31} On October 9, 2015, the Sixth Circuit Court of Appeal issued a nationwide stay of the U.S. EPA's revised definition, promulgated on June 29, 2015, entitled the "Clean Water Rule." See 80 Fed. Reg. 37, 054 (June 29, 2015). The Clean Water Rule affected the regulatory interpretation of "Waters of the U.S." as used in the Clean Water Act, 33 U.S.C. section 1251 et seq.
be subject to CWA regulations.” Wetlands and other special aquatic sites are afforded additional protection in the USACE’s Section 404 permitting program.

The USACE Manual defines a “wetland” (a subset of Waters of the U.S.) as:

“Those areas that are inundated or saturated by surface or ground water (either fresh or salt) at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas.” (33 CFR 328).

According to the USACE Manual, identification of wetlands is based on a three-factor approach involving indicators of wetland hydrology, hydric soil, and hydrophytic vegetation. A feature must normally satisfy all three criteria to be classified as a wetland. These criteria are defined as follows:

1. **Wetland hydrology:** wetland hydrology is determined to exist if an area is flooded or ponded for 14 or more consecutive days, or has a water table 12 inches or less below the soil surface, during the growing season at a minimum frequency of 5 years in 10 (50% or higher probability). Water saturation largely determines how the soil develops and the types of plant and wildlife communities living in and on the soil. Wetlands may support both aquatic and terrestrial species. The prolonged presence of water creates conditions that favor the growth of specially adapted plants (hydrophytes) and promote the development of characteristic wetland (hydric) soils. Field indicators that are used to determine the presence of wetland hydrology are described in the USACE Manual and Supplemental Manual and include flow data; direct observation of surface water or groundwater; indirect evidence of flow or saturation, such as high water marks, drift lines, or sediment deposits; evidence that the soil is saturated currently or was saturated recently; and vegetation and soil features that indicate contemporary rather than historical wet conditions.

2. **Hydric soils:** water saturation (hydrology) largely determines how the soil develops in wetlands. The National Technical Committee for Hydric Soils (NTCHS) provides the continuing formulation, evaluation, and application of hydric soil definition, criteria, and indicators. The NTCHS also updates and distributes a national list of hydric soils annually. The definition of a hydric soil is a soil that formed under conditions of saturation, flooding or ponding long enough during the growing season to develop anaerobic conditions in the upper part (USDA Soil Conservation Service, 1994). Anaerobic means a situation in which molecular oxygen is virtually absent from the environment. The definition of hydric soils includes soils that developed under anaerobic conditions in the upper part, but no longer experience these conditions due to hydrologic alteration such as those hydric soils that have been artificially drained or protected (e.g., by ditches or levees). Most hydric soils exhibit characteristic morphologies that result from repeated periods of saturation or inundation for more than a few days. Saturation or inundation, when combined with microbial activity in the soil, causes the depletion of oxygen. This anaerobiosis promotes certain biogeochemical processes, such as the accumulation of organic matter and the reduction, translocation, or accumulation of iron and other reducible elements. These processes result in distinctive “characteristics” that persist in the soil during both wet and dry periods, making them particularly useful for identifying hydric soils in the field (USDA NRCS, 2006a).

Wetland soil conditions are considered to be present if the soils are hydric or have characteristics that are associated with reducing chemical processes. The USACE Manual also specifies that a hydric soil “may be either drained or undrained, and a drained hydric soil may
not continue to support hydrophytic vegetation. Therefore, not all areas having hydric soils will qualify as wetlands. Only when a hydric soil supports hydrophytic vegetation and the area has indicators of wetland hydrology may the soil be referred to as a wetland soil. Field indicators of wetland soil conditions are described in the USACE Manual and Supplemental Manual and include a range of criteria for color and mottling.

3. **Hydrophytic vegetation**: the USACE Manual defines hydrophytic vegetation as the community of macrophytes that occurs in areas where inundation or soil saturation is either permanent or of sufficient frequency and duration to exert a controlling influence on the plant species present. Hydrophytic vegetation is present when the plant community is dominated by species that can tolerate prolonged inundation or soil saturation during the growing season. The first procure used to determine whether a site contains hydrophytic vegetation is called the "Dominance Test" (Indicator 1). The Dominance Test looks at the wetland indicator status of species that make up the plant community. The wetland indicator status of a plant species is determined by reviewing the most current wetland plant list (Lichvar et al., 2016). When more than 50 percent of the dominant plant species across all strata in the plant community are rated obligate wetland (OBL), facultative wetland (FACW), or facultative (FAC), the site contains hydrophytic vegetation. Obligate vegetation occurs almost always under natural conditions in wetlands. FACW vegetation usually occurs in wetlands, but occasionally found in non-wetlands. FAC vegetation equally likely to occur in wetlands or non-wetlands. If plant community fails the Dominance Test then hydrophytic vegetation can also be identified by using the "Prevalence Index" (Indicator 2) which takes into consideration all plant species in the community, not just a few dominants. In addition, plant morphological adaptations (Indicator 3) can be used to distinguish certain wetland plant communities in the Arid West, when indicators of hydric soil and wetland hydrology are present.

A "parameter" is a characteristic component of a defined unit. The USACE wetland definition is often referred to as a "three parameter definition" because three key parameters (wetland hydrology, hydric soil, and hydrophytic vegetation) must all occur and meet the defined characteristics in order for a location to be classified as a wetland. Except in certain situations defined in the Supplemental Manual, evidence of a minimum of one positive wetland indicator from each parameter (hydrology, soil, and vegetation) must be found in order to make a positive wetland determination. Field "indicators" are physical, chemical, or biological features of an area that can be easily observed or assayed and that are usually correlated with the presence of a wetland parameter.

### 4.1.6 Critical Habitats

When a species is listed as federal endangered or threatened, areas of habitat considered essential to its conservation may be designated as critical habitat. Under the ESA, the Secretary of the Department of the Interior is required to designate "critical habitat" for each species it lists under the ESA. Federal agencies are prohibited from authorizing, funding or carrying out actions that "destroy or adversely modify" critical habitats. **Section 3** of the ESA defines critical habitat for a threatened or endangered species as [ESA § 3(5)(A)]:

- The specific areas within the geographical area occupied by the species, at the time it is listed in accordance with the provisions of **Section 4** of the ESA, on which are found those physical or biological features essential to the conservation of the species and which may require special management considerations or protection; and
• Specific areas outside the geographical area occupied by the species at the time it is listed in accordance with the provisions of **Section 4** of the ESA, upon a determination by the Secretary that such areas are essential for the conservation of the species.

Designated critical habitat is described in 50 CFR Parts 17 and 226. Critical habitat may include areas that are not currently occupied by the species, but that will be needed for its recovery. In addition, the USFWS normally excludes developed areas within mapped critical habitat boundaries as critical habitat. While development is not precluded from designated critical habitat, these areas have been afforded legal protection which requires developers to consult with the USFWS if a project would affect critical habitat or any listed species.

The USFWS’ Critical Habitat Portal was reviewed to identify federal threatened and endangered species designated final and proposed critical habitat designations within ten miles of the project site.32

### 4.1.7 Wildlife Corridors

A wildlife corridor is a connection of habitat, generally native vegetation, which joins two or more larger areas of similar habitat that are otherwise separated by natural barriers, changes in vegetation composition, or land permanently altered for human activities, such as farms; and infrastructure, such as roads, railroads, residential development, or fencing. When native vegetation is cleared, fragmented patches of open space or isolated “islands” of wildlife habitat are created. Fragmentation and habitat loss are the two main contributors to continuing biodiversity decline. The main goal of corridors is to facilitate movement of individuals, through dispersal, seasonal migration, and movement for foraging, breeding, cover, etc. Corridors allow for physical and genetic exchange between isolated wildlife populations and are critical for the maintenance of ecological processes, including allowing for the movement of animals and the continuation of viable populations and higher species diversity.

The habitat within the corridor generally contains biological and physical features that are needed to temporarily support wildlife and allow avian and ground-dwelling wildlife to safely move through it. Wildlife corridors may either be contiguous strips of vegetation and habitat, such as ridgelines or riverbeds, or intermittent patches of habitat or physical features spaced closely enough to allow safe travel. Corridors can be natural, such as a riparian corridor, or man-made, such as culverts, tunnels, drainage pipes, underpasses, or overpasses. Man-made corridors are often referred to as “wildlife crossings” and they allow wildlife to pass over, under, or through physical barriers that otherwise hinder movement, such as roads or highways. Wildlife corridors also vary greatly in size, shape, and composition. Generally, there are three types of wildlife corridors:

- **Regional corridor**: a primary landscape connection between larger important areas of habitat. They are generally substantial in width (more than 2,000 feet) and not only provide for dispersal of individual species, but also act as habitat in their own right for a range of species. These areas provide adequate food, water, cover, and shelter to support wildlife within the corridor.

- **Sub-regional corridor**: a landscape connection not as wide as a regional corridor, but wide enough (generally more than 1,000 feet) to provide species movement and dispersal.

Sub-regional corridors typically connect larger vegetated landscape features such as ridgelines and valley floors.

- **Local corridor**: smaller, shorter, less defined linkages that provide local connection of remnant patches of vegetation and landscape features such as creek lines, gullies, and wetlands. They may in some cases be less than 160 feet wide and thus may be influenced by edge effects. Many of wildlife crossings are considered local corridors.

In general, the wider and more safeguarded a wildlife corridor is from adjacent human activities, noise, traffic, and light, the better it functions for the movement of wildlife. To determine the potential for the BSA to contain wildlife corridors, biologists reviewed the USGS 7.5-Minute Topographic Map *Triunfo Pass* Quadrangle and viewed aerial imagery to search for physical features that might serve as wildlife corridors.

Biologists also used CDFW’s BIOS Habitat Connectivity Viewer to review the Essential Connectivity Map and to search for Essential Connectivity Areas and Natural Landscape Blocks within ten miles of the project site. The Essential Connectivity Map depicts large, relatively natural habitat blocks that support native biodiversity (Natural Landscape Blocks) and areas essential for ecological connectivity between them (Essential Connectivity Areas). The map shows a statewide network of 850 relatively intact Natural Landscape Blocks (ranging in size from 2,000 to about 3.7 million acres) connected by 192 Essential Connectivity Areas.

Finally, the literature review also included maps and reports on wildlife home ranges and migration and dispersal patterns (CDFG, 1988a and updates; CDFG, 1988b and updates; CDFG, 1988c and updates).

### 4.2 Field Survey Methods

This section describes the field survey methods used by UltraSystems’ biologists within the BSA during the 2017 field surveys. Biologists visited the BSA to conduct the following biological surveys:

- habitat assessment and plant community mapping,
- general plant survey,
- general wildlife survey,
- focused rare plant survey,
- tree survey,
- jurisdictional assessment, and
- wildlife movement assessment.

The purposes of the field work were to evaluate the initial results of the literature review and to collect additional data on existing site conditions. The general biological surveys covered accessible areas of the BSA, including areas that will be impacted by the project. The surveys were conducted during the daytime on foot by walking slowly across each habitat type.

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Biologists used pertinent regional flora and fauna field guides, topographic maps and aerial photography during the field surveys, to help direct them in the field, to assist in identifying habitats and physical features, and to identify and record special-status species. In addition, biologists used Global Positioning System (GPS) units and other GIS and survey-related techniques, hardware and software to collect locational data record relevant attributes of features or species encountered. Digital color photographs were taken during the field surveys to record site conditions at the time of the field surveys. The methods for each type of biological surveys are described in the following sections.

4.2.1 Habitat Assessment and Plant Community Mapping

Biologists characterized the existing habitat and searched for the presence of sensitive plant communities. The purpose of the habitat assessment was to ascertain existing site conditions and identify habitat areas that could be suitable for special-status plant and wildlife species.

The plant communities observed by the biologists were identified and mapped in the field by marking their limits on a color aerial map and/or with the use of a GPS unit. Topography, soil characteristics, substrates, rock formations, wetlands, and vernal pools were also components of the habitat assessment in order to search for special-status plants and wildlife.

4.2.2 General Plant Surveys

Prior to the start of field surveys, biologists researched information on the blooming periods and habitat preferences for the special-status plants determined to have some potential to occur within the BSA based on distribution and elevation range. Biologists then surveyed the BSA for existing habitat, vegetation, and for the presence of special-status plant species. They focused on those habitat areas that appeared to provide suitable habitat for special-status plant species. Plant species were identified in the field and also in the office, when necessary, using plant field guides and taxonomical guides, such as The Jepson Manual: Vascular Plants of California, second edition (Baldwin et al., 2012). Identifiable plant species encountered during the field surveys were recorded in field notes.

After the field surveys and mapping of the plant communities within the BSA was complete, an additional evaluation was conducted in the office for each special-status plant species in the plant inventory. The evaluation considered whether the BSA contained suitable habitats and soils to support those special-status plant species listed in the plant inventory. A species was determined to have “no potential to occur” within the BSA if the existing habitats and/or soils in the BSA were clearly absent or unsuitable to support the species. For example, plant species that are only found within desert sand dunes or coastal bluff scrub would be determined to have no potential to occur because those habitats are clearly absent from the BSA. Those special-status plant species determined to have no potential to occur within the BSA, and therefore, will not be affected by the project, were eliminated from further evaluation and are not discussed further in this report. The potential to occur analysis can be found in Appendix D, Plant Special-Status Species Inventory and Potential Occurrence Determination.

4.2.3 Focused Plant Surveys

The literature review, habitat assessment, and general plant surveys concluded that the BSA lacks suitable habitats, soils, and/or other factors to support a majority of the listed species in the plant inventory; however, habitat conditions within the BSA created a moderate to high potential for eight listed plants to occur:
**High Potential to Occur within the BSA**
- San Fernando Valley spineflower, (FPT, SE, CRPR: 1B.1)
- Santa Susana tarplant, (SR, CRPR: 1B.2)
- Lyon’s pentachaeta, (FE, SE, CRPR: 1B.1)
- Agoura Hills dudleya, (FT, CRPR: 1B.2)
- marcescent dudleya, (FT, SR, CRPR: 1B.2)
- Santa Monica dudleya, (FT, CRPR: 1B.1) and
- Conejo buckwheat, (SR, CRPR: 1B.1)

**Moderate Potential to Occur within the BSA**
- Braunton’s milk-vetch, (FE, CRPR: 1B.1)

No sensitive species were observed within the BSA during the field surveys. The literature search concluded that a majority of the sensitive species in the plant inventory do not have more than a low potential to exist within the BSA due to a lack of suitable habitats, soils, and/or other factors to support them; however, habitat conditions within the BSA created a high potential for six sensitive plants to occur:

**High Potential to Occur within the BSA**
- Malibu baccharis, (CRPR: 1B.1)
- white-veined monardella, (CRPR: 1B.3)
- Ojai navarretia, (CRPR: 1B.1)
- Parry’s spineflower, (CRPR: 1B.1)
- slender mariposa lily, (CRPR: 1B.2) and
- Plummer’s mariposa lily, (CRPR: 4.2)

Focused plant surveys were deemed necessary to determine whether these sensitive plant species exist on the BSA. Focused plant surveys were conducted May 2, 2017 and June 15, 2018 by UltraSystems’ biologists. All the focused plant surveys were conducted in accordance with the standardized guidelines issued by the regulatory agencies (USFWS, 2000; CDFG, 2009) and by CNPS (2001). The surveys were generally conducted in the field at appropriate times of the year to coincide with the growing season and different blooming periods when optimum conditions for identification (generally blooms, fruits, and leaves) were present (CDFG, 2009).

Meandering transects were walked across the entire BSA within accessible areas. Pedestrian surveys were planned to allow for increased line of sight and for ease of travel, by traversing the terrain from high to low elevations. In inaccessible areas, biologists deviated from transects as necessary to route around the dangerous features. In addition, transect spacing was adjusted to account for differences in terrain, vegetation density, and ground surface visibility. Each transect was walked at a pace that allowed careful observations along the transect route and the vicinity.

The biologists paid special attention to those habitat areas that appear to provide suitable habitat for special-status species. Roads, openings in vegetation, and rock outcrops were also surveyed. Plant species were identified using plant field and taxonomical guides, such as *The Jepson Manual: Vascular Plants of California*, second edition (Baldwin et al., 2012). If found, special-status plant species encountered during the field surveys were identified, recorded in field notes, counted (if population was small) or estimated (if population was large), and mapped on an aerial map and/or with a GPS unit. Diagnostic photographs were also taken of special-status plants if they occurred, as well as representative habitats.
Survey tasks included completion of a list of all taxa identifiable throughout the survey and subsequent addition of new taxa as they were discovered. Unknown species were identified at a later date using dichotomous keys, high quality photos, and other proprietary identification aids.

### 4.2.4 Tree Survey

Per Section 5.3 Supplemental Application Requirements of the City of Malibu LCP LIP, a tree inventory is a required component of the Coastal Development Permit application package for development on sites containing oak, walnut, sycamore, alder, or toyon trees subject to the native tree protection ordinance. A tree inventory and health assessment of native trees (measuring six inches or more in diameter or a combination of two trunks that measure a total of six inches or more in diameter, measured at 4.5 above natural grade) on the site by type, size (both trunk circumference and extent of canopy) was completed for trees with driplines intersecting the direct impact zone of proposed construction and fuel modification zone. Photographs of the site showing location of all native trees and a site map depicting the location of all such trees, including a scale drawing of trunk, canopy location and extent was also completed.

The pedestrian survey was conducted June 15, 2018 during daylight hours by UltraSystems' biologists. The tree survey covered all accessible areas of the BSA. Private properties were surveyed via binocular survey only.

### 4.2.5 General Wildlife Surveys

Prior to the start of field surveys, biologists researched information on the natural history and habitat preferences for the special-status wildlife determined to have some potential to occur within the BSA based on distribution and elevation range. The BSA is within the general distributional range of several special-status species; however, most of the special-status wildlife species that could occur within the BSA are not subject to specific published survey protocols or guidelines.

Biologists surveyed the BSA for common wildlife and the presence of special-status wildlife species. The purposes of the wildlife surveys were to note those species observed, ascertain general site conditions, and identify habitat areas that would be suitable for special-status wildlife species.

Wildlife species encountered visually or audibly during the field surveys were identified and recorded in field notes. Biologists also recorded signs of wildlife, including animal tracks, burrows, dens, nests, nest sites, scat, or remains. They surveyed areas that would potentially serve as roosting habitat and/or hibernacula for bat species. Binoculars and wildlife field guides were used to aid in identifying observed wildlife.

After the field surveys and mapping of the plant communities were complete, an additional evaluation was conducted in the office for each special-status wildlife species in the wildlife inventory. The evaluation considered whether the BSA contained suitable habitat to support those special-status wildlife species. A species was determined to have "no potential to occur" within the BSA if suitable and adequate biological and physical features that are needed to support the wildlife species are absent from the BSA. For example, animal species that are only found within desert sand dunes or coastal bluff scrub would be determined to have no potential to occur within the BSA because the habitat is absent from the BSA. Those special-status wildlife species determined to have no potential to occur within the BSA, and therefore, will not be affected by the project, were eliminated from further evaluation and are not discussed further in this report.
analysis can be found in Appendix E, *Wildlife Special-Status Species Inventory and Potential Occurrence Determination*.

### 4.2.6 Jurisdictional Delineation

The project is not anticipated to impact known water resources, including wetlands, within or immediately adjacent to the construction work area, as no water resources or wetlands were identified within the project boundary during the surveys. Therefore, a formal jurisdictional delineation was not conducted as part of this study.

### 4.2.7 Wildlife Movement Assessment

Biologists conducted an evaluation of potential wildlife movement within the BSA and immediate vicinity through a literature review, field surveys, and by examining aerial imagery and maps. While in the field, biologists searched for potential natural and man-made travel routes that wildlife could use to traverse the site. Biologists assumed wildlife species would use these linear features for travel if they occurred within the site. Biologists also searched for natural and man-made barriers to wildlife movement, such as permanent structures, sound walls, concrete walls, or fences that would interfere with the movement of wildlife.
5.0 RESULTS

This section describes the results of the literature review and the existing conditions within the BSA at the time the biological field surveys were conducted. Photographs that were taken during the field surveys can be found in Appendix F, Site Photographs. Field surveys were conducted as described in Table 5.0-1, Field Survey Information.

<table>
<thead>
<tr>
<th>Survey Date</th>
<th>Survey Time</th>
<th>Temperature Range</th>
<th>Weather Conditions</th>
<th>Surveyors</th>
<th>Survey Conducted</th>
</tr>
</thead>
<tbody>
<tr>
<td>May 1, 2017</td>
<td>0940 - 1830</td>
<td>71 – 81 °F</td>
<td>clear</td>
<td>Michelle Tollett and Hugo Flores</td>
<td>habitat assessment &amp; rare plant survey</td>
</tr>
<tr>
<td>June 15, 2018</td>
<td>1000 - 1630</td>
<td>70 – 77 °F</td>
<td>80% / 50% cloud cover</td>
<td>Michelle Tollett and Joyce Mak</td>
<td>rare plant survey &amp; tree survey</td>
</tr>
</tbody>
</table>

5.1 Climate

Malibu's climate is characterized by a subtropic or Mediterranean climate which consists of hot, dry summers and moist, cool winters. The unique characteristics of this climate has led to the evolution of distinctive associations of plant and animal species.

Skies are mostly clear from mid-summer through autumn. Heavy cloud cover and fog move in around spring to early summer. Compared to other regions with the same latitude and climate, Malibu is generally cooler with temperatures in the upper 60’s to low 70’s, and winters tend to be mild within the range of upper 50’s to low 60’s (City of Malibu General Plan, 1995).

The average annual precipitation in this area is 8 to 51 inches which increases with higher elevation. Most of the rainfall occurs as low to moderate Pacific frontal storms during winter. Rain can turn to snow in higher elevations but doesn’t last very long. (USDA NRCS, 2006b)

5.2 Fire History

The vegetation in and around the project parcel is mature with no recent sign of fires. The historical fire nearest to the project site was the Corral Fire, which burned in Malibu State Park (approximately 9 miles east of the project) in November, 2007.

5.3 Soils

Based on the USDA NRCS Soil Survey, the BSA contains three soil map units which are listed in Table 5.3-1, Summary of Soil Mapping Units and depicted on Figure 8, USDA Soils. Map unit delineations on soil maps represent an area dominated by one or more major kinds of soil areas. A map unit is identified and named according to the taxonomic classification of the dominant soils.

Of the three soil series mapped in the BSA, only one series, Cumulic Haploxerolls, 0 to 9 percent slopes, was identified as hydric on the California Soil Data Access Hydric Soils List (USDA 2016). This soil series meets Hydric Soil Criterion 4: Map unit components that are frequently flooded for long duration
or very long duration during the growing season that (a) Based on the range of characteristics for the soil series, will at least in part meet one or more Field Indicators of Hydric Soils in the United States, or (b) Show evidence that the soils meet the definition of a hydric soil.

Cumulic Haploxerolls, 0 to 9 percent slopes soil occurs near the southeast corner of the BSA and nearly 500 feet south of the southeastern corner of the project.

### Table 5.3-1
SUMMARY OF SOIL MAPPING UNITS

<table>
<thead>
<tr>
<th>Soil Map Unit Symbol</th>
<th>Soil Map Unit Name</th>
<th>Natural Drainage Class</th>
<th>Hydric Rating</th>
</tr>
</thead>
<tbody>
<tr>
<td>100</td>
<td>Chumash-Boades-Malibu association, 30 to 75 percent slopes</td>
<td>moderately well drained to well drained</td>
<td>no</td>
</tr>
<tr>
<td>120</td>
<td>Mipolomol-Topanga association, 30 to 75 percent slopes</td>
<td>well drained</td>
<td>no</td>
</tr>
<tr>
<td>200</td>
<td>Cumulic Haploxerolls, 0 to 9 percent slopes</td>
<td>well drained</td>
<td>yes</td>
</tr>
</tbody>
</table>

Note: The Hydric Rating was taken from the National Hydric Soils List (2015). The list is useful in identifying map units that may contain hydric soils. Map units with a “yes” rating contain either major or minor components that are at least in part hydric.

5.4 Previous Development

The previous owner, cleared approximately 0.302 acres of chaparral in the western half of the parcel (west of Decker Edison Road, within APN 447-300-5014) and 0.102 acres in the adjacent parcel to the north (APN 447-300-5013) to make space for a horse stable, associated structures, and the access road. These areas will require mitigation.

5.5 Land Cover Types

This section describes the land cover types determined to be present within the BSA as determined by the literature review and field surveys, and augmented by examining aerial imagery (Google Earth®). Nine different land cover types were observed and mapped within the BSA. Descriptions of vegetation types and habitats within the biological survey areas were based on the dominant perennial species. Generally, classifications of habitat types or vegetation communities were based on Holland’s Preliminary Descriptions of the Terrestrial Communities of California (Holland, 1986) and A Manual of California Vegetation Second Edition (Sawyer et al., 2009), with modifications to better represent existing site conditions. The classifications were then checked against CDFW’s List of Vegetation Alliances and Associations (or Natural Communities List) (CDFG, 2010).

Table 5.5-1, Acreage of Mapped Land Cover Types within the BSA, lists the land cover types with approximate acreages mapped as of 2017 and the corresponding name according to Preliminary Descriptions of the Terrestrial Communities of California (Holland, 1986) and A Manual of California Vegetation Second Edition (Sawyer et al., 2009), with modifications to better represent existing site conditions. The classifications were then checked against CDFW’s List of Vegetation Alliances and Associations (or Natural Communities List) (CDFG, 2010).

34 This area will require permission from the owner before any portion of the Habitat Mitigation and Monitoring Plan (HMMP) may be implemented.
Vegetation Second Edition (Sawyer et al., 2009). Figure 9, Land Cover Types, depicts the location and size of each land cover type.

A majority of the plant communities identified and mapped within the BSA during the literature review and field surveys are not considered sensitive natural communities in local or regional plans, policies, and regulations or by CDFW and USFWS. These plant communities are not considered rare by the CNDD; they are dominated by non-native species; they are widespread in the project vicinity; they generally are considered common enough not to be of concern; and/or they exhibit a moderate level of disturbance rendering them less valuable as habitat to support wildlife diversity or special-status species. However, one plant community is considered sensitive by CDFW:

- California brittle bush scrub (Venturan coastal sage scrub).

Characteristics of each land cover type feature are described in detail below in the following sections. Plant species associated with the onsite plant communities are also described.

5.5.1 Mixed Chaparral

Preliminary Descriptions of the Terrestrial Communities of California (Holland, 1986) classifies this species assemblage as northern mixed chaparral. A Manual of California Vegetation Second Edition (Sawyer et al., 2009) does not have a classification that fits this description. Mixed chaparral has been designated by NatureServe as an apparently secure (G4 and S4) natural community. Apparently secure communities are uncommon but not rare; some cause for long-term concern due to declines or other factors. This vegetation community is considered low priority for inventory by CDFW and is not considered sensitive.

Mixed Chaparral was the dominant vegetation within the BSA.

5.5.2 Disturbed Habitat

Disturbed habitat refers to areas that are heavily to sparsely vegetated by non-native ruderal weedy species. They provide little to no habitat value for wildlife. The disturbed habitats observed within the BSA do not fit any classification described in Preliminary Descriptions of the Terrestrial Communities of California (Holland, 1986) or A Manual of California Vegetation Second Edition (Sawyer et al., 2009). Disturbed habitat does not have a global or state rank and is not considered sensitive plant community.
### Table 5.5-1
ACREAGE OF MAPPED LAND COVER TYPES WITHIN THE BSA

<table>
<thead>
<tr>
<th>Mapped Land Cover Type</th>
<th>Holland Community Name and Element Code</th>
<th>Sawyer et al. Community Name</th>
<th>Global and State Rank</th>
<th>Total Mapped Acreage within the:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>BSA</td>
</tr>
<tr>
<td>Mixed Chaparral</td>
<td>northern mixed chaparral (37110)</td>
<td>N/A</td>
<td>G4, S4</td>
<td>63.10</td>
</tr>
<tr>
<td>Disturbed habitat</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td>10.82</td>
</tr>
<tr>
<td>Developed lands</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td>5.48</td>
</tr>
<tr>
<td>Disturbed Mixed Chaparral</td>
<td>northern mixed chaparral (37110)</td>
<td>N/A</td>
<td>G4, S4</td>
<td>4.18</td>
</tr>
<tr>
<td>California Brittle Bush Scrub</td>
<td>Venturan coastal sage scrub (32300)</td>
<td>Encelia californica Shrubland Alliance (California Brittle Bush Scrub)</td>
<td>G4, S3</td>
<td>0.43</td>
</tr>
<tr>
<td>Upland Mustards</td>
<td>non-native grassland (42200)</td>
<td>Brachyris nigra other mustards Herbaceous Semi-Natural Alliance (Upland mustards)</td>
<td>N/A</td>
<td>0.40</td>
</tr>
<tr>
<td>Deer Weed Scrub</td>
<td>coastal sage-chaparral scrub (37604)</td>
<td>Lotus scoparius Shrubland Alliance (Deer weed scrub)</td>
<td>G5, S5</td>
<td>0.20</td>
</tr>
<tr>
<td>Coast Live Oak Woodland</td>
<td>coast live oak forest (81310)</td>
<td>Quercus agrifolia Woodland Alliance (Coast Live Oak Woodland)</td>
<td>G5, S4</td>
<td>0.03</td>
</tr>
<tr>
<td>Isolated Non-riparian Western Sycamore Stand</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td>0.005</td>
</tr>
<tr>
<td><strong>Totals:</strong></td>
<td></td>
<td></td>
<td></td>
<td><strong>84.645</strong></td>
</tr>
</tbody>
</table>

**Legend and Notes**

**Notes**
- The project boundary acreage is included within the BSA acreage.

**Global Rank:** the global rank (G-rank) is a reflection of the overall status of an element throughout its global range.
- **G3 = Vulnerable:** At moderate risk of extinction due to a restricted range, relatively few populations (often 80 or fewer), recent and widespread declines, or other factors.
- **G4 = Apparently Secure:** Uncommon but not rare; some cause for long-term concern due to declines or other factors.
- **G5 = Secure:** Common; widespread and abundant.

**State Rank:** the state rank (S-rank) refer to the imperilment status only within California's state boundaries.
- **S3 = Vulnerable:** Vulnerable in the state due to a restricted range, relatively few populations, recent and widespread declines, or other factors making it vulnerable to extinction from the state.
- **S4 = Apparently Secure:** Uncommon but not rare in the state; some cause for long-term concern due to declines or other factors.
- **S5 = Secure:** Common, widespread, and abundant in the state.
5.5.3 Developed Lands

Developed lands are mostly non-vegetated features within the BSA that describe areas occupied by man-made structures other impermeable surfaces that cannot support vegetation. Agricultural and industrial structures with associated landscaping (ornamental trees and shrubs) are also included within this category. These developed areas provide virtually no habitat for wildlife species; however, birds could use the ornamental vegetation for foraging and nesting. Developed lands and ornamental vegetation does not have a global or state rank and is not considered a sensitive plant community.

5.5.4 Disturbed Mixed Chaparral

Preliminary Descriptions of the Terrestrial Communities of California (Holland, 1986) classifies this species assemblage as northern mixed chaparral37. A Manual of California Vegetation Second Edition (Sawyer et al., 2009) does not have a classification that fits this description. Mixed chaparral has been designated by NatureServe as an apparently secure (G4 and S4) natural community. Apparently secure communities are uncommon but not rare; some cause for long-term concern due to declines or other factors. This vegetation community is considered low priority for inventory by CDFW and is not considered sensitive.

Disturbed mixed chaparral was observed within the BSA as well as immediately east of the residence at 3710 Decker Edison Road, Malibu, CA.

5.5.5 California Brittle Bush Scrub

Preliminary Descriptions of the Terrestrial Communities of California (Holland, 1986) classifies this species assemblage as Venturan coastal sage scrub38 and A Manual of California Vegetation Second Edition (Sawyer et al., 2009) classifies this species assemblage among their Encelia californica Shrubland Alliance (California brittle bush scrub). California brittle bush scrub has been designated by NatureServe as an apparently secure (G4) and vulnerable (S3) natural community. Apparently secure (G4) communities are uncommon but not rare; some cause for long-term concern due to declines or other factors; vulnerable (S3) communities have restricted range, relatively few populations, recent and widespread declines, or other factors making it vulnerable to extirpation from the state. This community is considered high priority for inventory by CDFW and considered sensitive.

California brittle bush scrub was located along the south side of the driveway leading to the residence at 3710 Decker Edison Road, Malibu, CA. This vegetation community is a pioneer stage community, likely resulting from a seed mix application following development (roadway and private residence).

5.5.6 Upland Mustard

Preliminary Descriptions of the Terrestrial Communities of California (Holland, 1986) classifies this species assemblage as non-native grassland and A Manual of California Vegetation Second Edition (Sawyer et al., 2009) classifies this species assemblage among their Brassica nigra and other

37 Protected under the City of Malibu LCP LIP
38 Protected under the City of Malibu LCP LIP,
mustards Herbaceous Semi-natural Alliance (Upland mustards). Upland mustard does not have a global or state rank and is not a considered sensitive plant community.

Within the BSA, the upland mustards were dominated by black mustard (*Brassica nigra*) and were mainly observed within the unpermitted development located in the western half of the parcel.

### 5.5.7 Deer Weed Scrub

*Preliminary Descriptions of the Terrestrial Communities of California* (Holland, 1986) classifies this species assemblage as coastal sage-chaparral scrub\(^{39}\) and *A Manual of California Vegetation Second Edition* (Sawyer et al., 2009) classifies this species assemblage among their *Lotus scoparius* Shrubland Alliance (Deer weed scrub). Deer weed scrub has been designated by NatureServe as a secure (G5 and S5) natural community. Secure communities are common, widespread and abundant. This vegetation community is considered low priority for inventory by CDFW and is not considered sensitive.

Deer weed scrub was located on the north side of the driveway leading to the residence at 3710 Decker Edison Road, Malibu, CA. This vegetation community is a pioneer stage community, likely resulting from a seed mix application following development (roadway and private residence).

### 5.5.8 Coast Live Oak Woodland

*Preliminary Descriptions of the Terrestrial Communities of California* (Holland, 1986) classifies this species assemblage as coast live oak forest\(^{40}\) and *A Manual of California Vegetation Second Edition* (Sawyer et al., 2009) classifies this species assemblage among their *Quercus agrifolia* Woodland Alliance. Coast Live Oak Woodland has been designated by NatureServe as a secure and apparently secure (G5 and S4) natural community. This community is considered low priority for inventory by CDFW and is not considered sensitive.

Coast live oak woodland was located south of the residential property in 3710 Decker Edison Road, Malibu, CA.

### 5.5.9 Isolated Non-riparian Western Sycamore Stand\(^{41}\)

This isolated non-riparian western sycamore stand habitat does not fit any classification described in *Preliminary Descriptions of the Terrestrial Communities of California* (Holland, 1986) or *A Manual of California Vegetation Second Edition* (Sawyer et al., 2009). The isolated non-riparian western sycamore stand does not have a global or state rank and is not a considered sensitive plant community.

An isolated non-riparian western sycamore stand was located immediately north of the residential property at 3710 Decker Edison Road, Malibu, CA.

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39 Protected under the City of Malibu LCP LIP.
40 Protected under the City of Malibu LCP LIP.
41 Protected under the City of Malibu LCP LIP.
5.6 Plants

This section describes the plants detected during the field surveys and the special-status plants that have a potential to occur within the BSA as identified by the literature review and field surveys. (Figure 10, CNDDDB Species and Habitats)

5.6.1 Plant Species Recorded During the Field Surveys

Approximately 84 plant species from 32 plant families were observed within the BSA. A list of plant species recorded within the BSA during the field surveys is provided in Appendix G, Plant and Wildlife Species Recorded during the Field Surveys; however, most ornamental and landscaped vegetation is not included in the totals reported here.

5.6.2 Endangered, Threatened, Candidate, and State Rare Plants

No plant species listed as endangered, threatened, rare, or that is proposed for such listing under ESA or CESA was observed within the BSA during the focused plant surveys so they are determined to be absent.

5.6.3 Sensitive Plants

No sensitive plant species were observed within the BSA during the focused rare plant surveys; therefore are determined to be absent.

5.6.4 Non-Native Species

California Invasive Plant Council (Cal-IPC) is a nonprofit organization that is dedicated to protecting California’s lands and waters from ecologically-damaging invasive plants through science, education and policy. It maintains an inventory that categorizes non-native invasive plants that threaten the state’s wildlands. Twenty-six of the 83 plant species recorded are non-native. Thirteen of the 26 non-native plant species recorded have a Cal-IPC rating (Cal-IPC, 2006). They are considered highly invasive, competing successfully with – and displacing - native plants. They include the following listed below in Table 5.6-1, Recorded Exotic Plants with a Cal-IPC Rating

<table>
<thead>
<tr>
<th>Scientific Name (=Synonym)</th>
<th>Common Name (=Synonym)</th>
<th>Cal-IPC Rating</th>
</tr>
</thead>
<tbody>
<tr>
<td><em>Schinus molle</em></td>
<td>Peruvian pepper tree (=California pepper tree)</td>
<td>Limited</td>
</tr>
<tr>
<td><em>Foeniculum vulgare</em></td>
<td>sweet fennel (=anise)</td>
<td>High</td>
</tr>
<tr>
<td><em>Centaurea melitensis</em></td>
<td>tocalote (=Malta star thistle)</td>
<td>Moderate</td>
</tr>
<tr>
<td><em>Hypochaeris glabra</em></td>
<td>cat’s ear (=annual cat’s ear)</td>
<td>Limited</td>
</tr>
<tr>
<td><em>Brassica nigra</em></td>
<td>black mustard</td>
<td>Moderate</td>
</tr>
<tr>
<td><em>Salsola tragus</em></td>
<td>Russian thistle (=tumbleweed)</td>
<td>Limited</td>
</tr>
<tr>
<td><em>Erodium cicutarium</em></td>
<td>red-stemmed filaree</td>
<td>Limited</td>
</tr>
<tr>
<td><em>Olea europaea</em></td>
<td>common olive</td>
<td>Limited</td>
</tr>
</tbody>
</table>

(Table 5.6-1)

Recorded Exotic Plants with a Cal-IPC Rating
Exotic vegetation with a “Cal-IPC high rating” has severe ecological effects on physical processes, plant and animal communities, and vegetation structure (Cal-IPC, 2006). These exotic species’ reproductive biology and other attributes are conducive to moderate to high rates of dispersal and establishment. Most are widely distributed ecologically (Cal-IPC, 2006).

Exotic vegetation with a “Cal-IPC moderate” rating has substantial and apparent (but generally not severe) ecological effects on physical processes, plant and animal communities, and vegetation structure (Cal-IPC, 2006). Their reproductive biology and other attributes are conducive to moderate to high rates of dispersal, though establishment is generally dependent upon ecological disturbance (Cal-IPC, 2006). Ecological amplitude and distribution may range from limited to widespread (Cal-IPC, 2006).

Exotic vegetation species with a “Cal-IPC limited” rating is invasive, but their ecological effects are minor on a statewide level or there was not enough information to justify a higher score. Their reproductive biology and other attributes result in low to moderate rates of invasiveness (Cal-IPC, 2006). Ecological amplitude and distribution are generally limited, but these species may be locally persistent and problematic (Cal-IPC, 2006).

Ornamental and landscaped vegetation was observed within the BSA during the field surveys. This consisted of landscaped trees and shrubs, etc. There is little potential for this non-native vegetation to spread to open space and become a nuisance.

### 5.7 Protected Native Trees

During the tree survey conducted on June 15, 2018 by UltraSystems’ biologists identified a total of four protected native trees (see Table 5.7-1, Tree Inventory Results) inside the project’s fuel modification zone, with only one tree that would be encroached upon (see Figure 11, Tree Inventory Map); these trees had a single trunk with a DBH of six inches or more, or a combination of any two trunks with a total DBH of eight inches or more. These include one toyon (Tree 1), two coast live oaks (Trees 2 & 3) and one western sycamore tree (Tree 4).

During construction Tree 4 (western sycamore) may sustain minor impacts within the protected zone and potentially the root zone; it is unlikely that canopy trimming will occur. The toyon (Tree 1) is in Zone C of the new fuel modification zone and will follow the 2017 Brush Clearance Requirements put forth by the Los Angeles Fire Department which states that the lower 1/3rd of trees and shrubs will need to be maintained by removing all leafy foliage, twigs, and branches up to a maximum of six feet from the ground.
# Table 5.7-1
## TREE INVENTORY RESULTS

<table>
<thead>
<tr>
<th>Tree ID #</th>
<th>Species Name</th>
<th># of Trunks</th>
<th>Total DBH (Inches)</th>
<th>Circumference (inches) $C=2\pi r$</th>
<th>Height (Feet)</th>
<th>Canopy Dimensions (Feet)</th>
<th>Tree Health</th>
<th>Protected Under LCP LIP</th>
<th>Comments</th>
<th>Latitude Longitude (NAD83)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>HEAR</td>
<td>45</td>
<td>4(5 trunks) + 3(6 trunks) + 2(10 trunks) + 1(24 trunks) = 82</td>
<td>257</td>
<td>20</td>
<td>26.4 28.9</td>
<td>5</td>
<td>Yes</td>
<td>Trunks appear healthy.</td>
<td>34.057748944 -118.890933971</td>
</tr>
<tr>
<td>2</td>
<td>QUAG</td>
<td>3</td>
<td>12.2 + 9.9 + 9.3 = 31.5</td>
<td>99</td>
<td>15</td>
<td>28.6 36.9</td>
<td>4</td>
<td>Yes</td>
<td>Trunks have insect holes.</td>
<td>34.057641327 -118.891561552</td>
</tr>
<tr>
<td>3</td>
<td>QUAG</td>
<td>12</td>
<td>6.1 + 3.0 + 7.5 + 2.5 + 1.9 + 8.7 + 4.0 + 6.6 + 4.4 + 6.5 + 3.5 + 5.5 = 60.2</td>
<td>189</td>
<td>22</td>
<td>29.9 35.9</td>
<td>5</td>
<td>Yes</td>
<td>Trunks appear healthy.</td>
<td>34.057674323 -118.891618722</td>
</tr>
<tr>
<td>4</td>
<td>PLRA</td>
<td>2</td>
<td>3.6 + 5.1 = 8.7</td>
<td>27</td>
<td>18</td>
<td>27.6 33.9</td>
<td>5</td>
<td>Yes</td>
<td>Tree healthy. Likely water source is septic tank condensation.</td>
<td>34.058374889 -118.891575861</td>
</tr>
</tbody>
</table>

**Legend**

HEAR = *Heteromeles arbutifolia* (toyon), QUAG = *Quercus agrifolia* (coast live oak), PLRA = *Platanus racemosa* (California sycamore), QUBE = *Quercus berberidifolia* (inland scrub oak)
5.8 Wildlife

This section describes the wildlife observed and/or detected during the field surveys and the special-status wildlife that have a potential to occur within the BSA as determined by the literature review and field surveys.

5.8.1 Wildlife Species Recorded During the Field Surveys

The BSA supports a limited assortment of wildlife and provides foraging, nesting, breeding, and cover habitats to amphibians, reptiles, birds (year-round residents, seasonal residents, migrants), and mammals. The number of individual birds and the diversity of bird species observed/detected within the BSA during the field surveys were low. During the field surveys two invertebrates, two reptiles, 20 birds, and five mammal species were recorded within the BSA. A list of wildlife species recorded within the BSA during the field surveys is provided in Appendix G, Plant and Wildlife Species Recorded During the Field Surveys.

Wildlife survey limitations include:

- The biological field surveys were conducted during the daytime to maximize the detection of most wildlife. Birds represent the largest component of the fauna observed because most birds are active in the daytime. In contrast, daytime surveys usually result in few observations of mammals, many of which may only be active at night. Many mammal species may also have been unnoticed due to their subterranean habitats.

- Many species of amphibians, reptiles, mammals, and even some birds are secretive in their habits and are difficult for biologists to observe in a walking survey. For example, the California black rail (Laterallus jamaicensis coturniculus) and Yuma clapper rail (Rallus obsoletus yumanensis) are difficult to detect as they hide in thick marsh habitats such as cattails.

- Many wildlife species are wide-ranging and/or they only occur on a seasonal basis; therefore, they may not have been present within the BSA at the time of the surveys.

- Many species are nocturnal, move about a territory, may have become dormant for the season, or are less active during inclement weather. Many species of amphibians are dormant for most of the year and become active only during inclement weather (during and after storm events).

- Additional wildlife species that likely use the BSA were not observed or indirectly detected during the field surveys due to their scarcity or the need for special survey methods.

Vegetation communities form the basis of the wildlife habitats and provide the primary plant productivity upon which wildlife depends, along with nesting and denning sites, escape and movement cover, and protection from adverse weather. Some species are habitat specific for all their life history requirements, while many wildlife species move freely between plant communities to obtain all their life history needs. In general, more complex natural communities with more vegetation layers and more plant species provide higher value wildlife habitat than less complex vegetation communities. More complex communities have more niches for wildlife and usually support more animal species than less complex communities. Although simple communities may
support few wildlife species, they may provide habitat for great numbers of those few species. The BSA has complex vegetation communities. Eight contiguous plant communities exist within the BSA; and only relatively small portions are degraded and disturbed; therefore, the wildlife within the BSA vicinity is diverse.

Suitable bat roosting, maternity or hibernation habitat is present within the BSA because of the presence of rock crevices, rock outcrops.

5.8.2  Endangered, Threatened, and Candidate Wildlife

No wildlife species listed as endangered, threatened, rare, or that is proposed for such listing under ESA or CESA was observed within the BSA during the field surveys, nor was sign of any such species observed. In addition, the literature review and field surveys concluded that a majority of the listed species in the wildlife inventory do not have more than a low potential to exist within the BSA due to a lack of some suitable biological and physical features that are needed to support them adequately; however, habitat conditions create a moderate potential for one listed wildlife species to occur within the BSA due to the presence of potential suitable breeding and/or foraging habitat[44].

**Moderate Potential to Occur within the BSA**

- bank swallow (ST, Season of Concern: nesting)

5.8.3  Sensitive Wildlife

One sensitive wildlife species, was observed within the BSA during the field survey:

- coastal whiptail (SSC).

In addition, the literature review and field surveys concluded that a majority of the sensitive species in the wildlife inventory do not have more than a low potential to exist within the BSA due to a lack of some suitable biological and physical features that are needed to support them adequately; however, habitat conditions create a moderate to high potential for 11 sensitive wildlife species to occur within the BSA due to the presence of potential suitable breeding and/or foraging habitat[44].

**High Potential to Occur within the BSA**

- silvery legless lizard (SSC),
- Blainville’s horned lizard (SSC),
- Cooper’s hawk (WL, Season of Concern: nesting), and
- American badger (SSC).

**Moderate Potential to Occur within the BSA**

- Santa Monica grasshopper (IUCN:EN),
- golden eagle (fully protected, WL, BCC, Season of Concern: nesting and wintering),
- American peregrine falcon (fully protected, BCC),
- western mastiff bat (SSC),
- western red bat (SSC),
- western small-footed myotis (IUCN:LC), and

[44] For status code explanations please see Appendix E, Wildlife Special-Status Inventory and Potential Occurrence Determination.
• Yuma myotis (IUCN:LC).

The BSA has suitable roosting, maternity, and/or hibernation habitat for bats.

5.9 **Hydrology and Jurisdictional Areas**

5.9.1 **Watersheds**

A watershed is an area of land within which all waterways drain or seep to one specified place, such as an ocean, river, stream, reservoir, marsh, wetland, lake, playa, pond, or groundwater. Mountains, hills, and ridges separate watersheds. The BSA is located within the Big Sycamore Canyon – Frontal Santa Monica Bay Watershed (USGS HUC 10)(**Figure 12, USGS Surface Water and Watersheds**).

5.9.2 **Jurisdictional Areas**

The BSA crosses the heads of several ephemeral drainages that discharge into Los Alisos Canyon creek on the west and Lachusa Canyon creek on the east, both of which are Relatively Permanent Waters and therefore Waters of the U.S. under the jurisdiction of the USACE and RWQCB and Waters of the State under the jurisdiction of RWQCB and CDFW; however the project is located on an upland site above these waters. Jurisdictional waters that are located adjacent to the project are anticipated to be avoided and not impacted.

No wetlands were observed within the BSA\(^45\); however, several NWI wetland types (**Figure 13, USFWS National Wetland Inventory (NWI)\(^46\)**) are mapped within the BSA:

- **Riverine Wetland** – A total of four were found within the BSA: Two were found in southern portion of BSA. One is present south of the driveway to 3710 Decker Edison Road, within the project parcel, and the other is present south of the “Horse Stables to be Removed”, see **Figure 9, Land Cover Types**. Another one was found east of the project parcel and the other one was found west of the project parcel;
- **Freshwater Forested/Shrub Wetland** – A total of two were found within the BSA; one was found west and the other was found east of project parcel.

5.10 **Critical Habitats**

The literature review determined that the BSA is not located within a designated or proposed critical habitat for listed plant or wildlife species (**Figure 14, USFWS Critical Habitats**). The nearest critical habitat is for steelhead trout (*Oncorhynchus mykiss*) which is located in Arroyo Sequit Canyon, approximately 2.35 miles west of the project site.

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\(^{45}\) Some parts of the BSA (outside project parcel) were inaccessible so wetlands might be present but were not observed during the May 1st, 2017 survey.

\(^{46}\) Note that the NWI is a database resource reports wetlands on a broad scale and is not expected to produce detailed and accurate results for an area, hence, wetland delineations are necessary at all locations where waterways exist.
5.11 Wildlife Movement

The literature review determined that the BSA is not located within a CDFW designated Essential Connectivity Area but a portion of it is in a Natural Landscape Block.47 Decker Canyon Road runs between the project parcel and the Natural Landscape Block.48 (Figure 15, Wildlife Corridors).

A local corridor (linear strip of cleared vegetation) is located within the east side of the BSA, outside the project.

47 https://www.wildlife.ca.gov/Data/BIOS
48 Located approximately 0.3 miles west from the project boundary.
6.0 POTENTIAL IMPACTS OF THE PROJECT

"Effects analyzed under CEQA must be related to a physical change." State CEQA Guidelines § 15358. This section discusses potential effects or impacts on the biological resources that could result from project construction and operations. Biological resources may be either "directly" or "indirectly" impacted by a project (defined by State CEQA Guidelines § 15358).

- **Direct impact**: State CEQA Guidelines § 15358 provides that effects include "direct or primary effects which are caused by the project and occur at the same time and place." Any alteration, disturbance or destruction of biological resources that could result from project-related activities is considered a direct impact.

- **Indirect impact**: as a result of project-related activities, biological resources may also be affected in a manner that is not direct. State CEQA Guidelines § 15358 provides that effects include "indirect or secondary effects which are caused by the project and are later in time or farther removed in distance, but are still reasonably foreseeable." "Indirect or secondary effects may include growth-inducing effects and other effects related to induced changes in the pattern of land use, population density, or growth rate, and related effects on air and water and other natural systems, including ecosystems."

Direct and indirect impacts may be either "permanent" or "temporary" in nature:

- **Temporary impacts (short-term)**: impacts considered having reversible impacts on biological resources can be viewed as temporary.

- **Permanent impacts (long-term)**: impacts that result in the irreversible removal of biological resources are considered permanent.

In order to determine impacts on biological resources from project implementation, the current project design provided by Studio M of A Inc. and the landscape plan provided by RMA International Landscape Architecture & Planning in 2018 was overlaid on the result maps that were prepared after conducting the literature review and field surveys.

6.1 Direct Impacts

**Direct Permanent Impacts**

Direct, permanent project impacts include areas within the limits of ground-disturbing activities, such where a permanent change (land conversion) will occur. The project boundary includes all areas that would be impacted by the project (e.g., vegetation removal, construction grading, placement and replacement of facilities and improvements, beneficial impacts (native landscaping), staging and stockpiling, etc.).

Direct, permanent impacts on biological resources include:

- overhanging section of the second level (two bedrooms, two bathrooms and a den) to existing house,
• a new stand-alone guest house (three bedrooms, two bathrooms, kitchen, living room, deck, and garage),
• a new covered outdoor patio (California Room) - an addition to the main house,
• a new staircase immediately to the southwest of the current one,
• new hardscape (gazebo, gravel),
• fifteen outdoor light fixtures,
• fire access turnaround expansion,
• a pool,
• a pool house and
• new fuel modification areas.

Direct Temporary Impacts

Direct, temporary project impacts will consist of small areas for short-term project related construction vehicle parking, equipment storage and staging, construction laydown and debris sites, and temporary ground disturbing activities (proposed septic tank & storm drain). For this project, temporary impacts are measured 20 feet from all proposed development features. Direct, permanent project impacts include areas within the limits of ground-disturbing activities where a permanent change (land conversion) will occur. Biological resources, such as plant communities, non-vegetated features, plants, wildlife, within these areas are anticipated to be permanently lost.

Project construction-related ground disturbing and habitat altering activities could directly kill, injure or harass wildlife. Potential direct impacts on less mobile fossorial (burrowing) animals that are underground during most of the day or year (e.g., small mammals or lizards) or have a life stage in the soil or on plants (e.g., amphibians, nesting birds, insects) could occur from encounters with vehicles or heavy equipment as many of these animals do not run away from construction vehicles/equipment and would most likely be killed.

Indirect impacts may either be short-term related to construction or long-term and may affect plant and wildlife populations, habitats, and water quality over an extended period of time, long after construction activities have been completed. Indirect impacts on biological resources are hard to predict; however, potential project related indirect impacts are described below.

49 Temporary impacts will be avoided around coast live oak woodland.
Project construction-generated fugitive dust, pollution, mud splatter, runoff, siltation, sedimentation, and erosion could alter site conditions and affect vegetation by settling on plant surfaces and inhibiting metabolic processes such as photosynthesis and respiration. It could also degrade and alter site conditions, water quality, hydrology patterns, habitats, and soils that are adjacent to project construction sites. Consequently, the ability of these areas to support plant and wildlife populations may decrease.

Project construction could result in temporary increased noise levels, vibrations, lighting and/or human activity in and adjacent to project work sites. Potential impacts include a disruption of natural foraging, roosting, denning, and/or breeding behavior of wildlife species in or near the construction sites. Noise could interfere with territorial and mating vocalizations and wildlife breeding patterns. Nighttime project construction work with artificial lighting could disrupt natural foraging, roosting, and breeding behaviors and/or alter wildlife movement patterns and migratory routes of nocturnally active species. Most animals would attempt to avoid moving in or near the lighting; however, some animals such as insects, migratory birds, and bats might be attracted to the lighting. This could lead to being detected by nocturnal predators increasing construction-related mortalities. Wildlife species stressed by increased noise levels, vibrations, lighting and/or human activity may disperse from habitat in the project site/project vicinity and/or lead to the loss (take) of eggs and chicks, or nest abandonment. Workers could provide food in the form of trash and litter or water which attracts opportunistic predators, such as the common raven (*Corvus corax*), northern raccoon (*Procyon lotor*), Virginia opossum (*Didelphis virginiana*), and coyote (*Canis latrans*).

Removing established vegetation within temporary impact areas and creating areas of exposed soil could indirectly create areas that are favorable to non-native invasive plants. The introduction of invasive, exotic species could potentially reduce native plant population growth, dispersal, and recruitment. These conditions could also harm wildlife species. Weeds could displace native vegetation that serve as forage and breeding habitats for wildlife. The introduction of noxious weeds could also lead to increased wildfire.

### 6.4 Project Replacement Impacts

All impacts within the project boundary that result in the replacement or reconfiguration of developed land cover types are considered replacement. This includes replacement of existing pavement and stone in previously developed areas that do not currently contain vegetation or soil appropriate for other land type categories. Due to lack of vegetation or soil, and lack of evidence of nesting birds or roosting bat habitat, the replacement areas are considered to lack biological resources.

Replacement impacts on biological resources include:

- walkway that will replace existing pavement.

### 6.5 Project Beneficial Impacts

All impacts within the project boundary that result in a gain of native vegetation are considered beneficial. This includes replacement of disturbed habitat with native plant landscaping.
Beneficial impacts on biological resources include:

- New landscaping\textsuperscript{50} (7,630 square feet) using native plants from the pre-approved fuel modification plant list provided by the County of Los Angeles Fire Department.

6.6 Land Cover Types

6.6.1 Direct Impacts

Table 6.6-1, \textit{Acreage of Anticipated Direct Impacts on Land Cover Types}, describes the approximate acreages of each land cover type (including each plant community, non-vegetated feature, and/or waterway) that is anticipated to be directly impacted by project activities. Figure 16, \textit{Impacts on Land Cover Types}, depicts the location and size of each impacted land cover feature.

\textsuperscript{50} Beyond 50 feet from the primary residence plants were selected from a CNPS document titled "Recommended List of Plants for Landscaping in the Santa Monica Mountains" dated February 5, 1996.
# Table 6.6-1
## ACREAGE OF ANTICIPATED DIRECT IMPACTS ON LAND COVER TYPES

<table>
<thead>
<tr>
<th>Land Cover Type</th>
<th>Total Mapped Acreage within the BSA</th>
<th>Total Acreage within the Project Boundary</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Permanent Impact</td>
</tr>
<tr>
<td>Mixed Chaparral</td>
<td>63.10</td>
<td>0</td>
</tr>
<tr>
<td>Disturbed Habitat</td>
<td>10.82</td>
<td>0.07</td>
</tr>
<tr>
<td>Developed Lands</td>
<td>5.48</td>
<td>0.07</td>
</tr>
<tr>
<td>Disturbed Mixed Chaparral</td>
<td>4.18</td>
<td>0.02</td>
</tr>
<tr>
<td>California Brittle Bush Scrub</td>
<td>0.43</td>
<td>0</td>
</tr>
<tr>
<td>Upland Mustards</td>
<td>0.40</td>
<td>0</td>
</tr>
<tr>
<td>Deer Weed Scrub</td>
<td>0.20</td>
<td>0</td>
</tr>
<tr>
<td>Coast Live Oak Woodland</td>
<td>0.03</td>
<td>0</td>
</tr>
<tr>
<td>Isolated Non-riparian Western Sycamore Stand</td>
<td>0.005</td>
<td>0</td>
</tr>
<tr>
<td></td>
<td>Total Acreage:</td>
<td>84.645</td>
</tr>
</tbody>
</table>

*These acreages do not include impacts from the previously approved fuel modification area approved in July 5, 2005 as those impacts were already accounted for.
6.6.2  **Indirect Impacts**

Construction of the project could result in indirect reasonably foreseeable impacts on land covers (plant communities and non-vegetated features) located adjacent to the project work sites.

6.6.3  **Conservation Measures**

Implementing the conservation measures (CM) described in Section 7.0, *Conservation Measures*, namely CM-3 through CM-6, and CM-8 will help to avoid, eliminate and/or reduce impacts on these land cover types to less than significant levels. A Habitat Mitigation and Monitoring Plan (HMMP) *(Appendix H, Habitat Mitigation and Monitoring Plan for the Wang Residence)* will be implemented to mitigate impacts from previous development and new fuel modification areas.

6.7  **Special-Status Plants**

6.7.1  **Direct Impacts**

No listed endangered, threatened, candidate, state rare, or sensitive plants were observed within the project during the focused plant surveys; therefore, no direct impacts on special-status plants are anticipated as a result of construction of the project.

6.7.2  **Indirect Impacts**

Construction of the project is not expected to result in indirect reasonably foreseeable impacts on special-status plants located in or adjacent to the project work sites, as no special-status plants were found.

6.7.3  **Conservation Measures**

CM-2 through CM-6 are recommended to avoid, eliminate and reduce potential impacts on common and special-status plants.

6.8  **Special-Status Wildlife**

6.8.1  **Direct Impacts**

One sensitive wildlife species (coastal whiptail) was observed within the project boundary. No other special-status species were observed either directly or by their sign during the surveys, therefore, direct impacts on sensitive wildlife are anticipated as a result of construction of the project. Literature review and the field survey also concluded that the following have moderate to high potential to occur in the BSA and be impacted by the project:

*Listed Species*

No direct impacts are anticipated for any listed wildlife species.

*Sensitive Species*

*Observed*

- coastal whiptail.
High Potential to Occur within the BSA
- silvery legless lizard,
- Blainville's horned lizard, and
- American badger.

Moderate Potential to Occur within the BSA
- Santa Monica grasshopper,
- golden eagle,
- American peregrine falcon, and
- western mastiff bat.

6.8.2 Indirect Impacts
Construction of the project could result in indirect reasonably foreseeable impacts on special-status wildlife located adjacent to the project work sites. No listed species was observed within the BSA but one sensitive wildlife (coastal whiptail) was; therefore, indirect impacts sensitive wildlife is anticipated as a result of construction of the project. In addition, several sensitive wildlife species have moderate to high potential to occur within the BSA during project construction and could potentially be indirectly impacted by the project.

6.8.3 Conservation Measures
CM-1 through CM-5, CM-7 through CM-11 are recommended to avoid, eliminate and reduce potential impacts on common and special-status wildlife, such as breeding birds should they occur within the project work sites during construction activities.

6.9 Jurisdictional Areas

6.9.1 Direct Impacts
Direct impacts on jurisdictional areas have immediate consequences, such as the changes that occur when land is cleared for permanent development and jurisdictional waters are altered or filled in during project construction activities. Direct permanent impacts include all areas within the limits of construction in the project. The BSA contains Waters of the U.S. under the jurisdiction of the USACE and RWQCB and Waters of the State under the jurisdiction of RWQCB and CDFW; however, these jurisdictional waters do not occur near or within the project. These waters are located near the edges of the BSA and are anticipated to be avoided. No project-related impacts will occur.

6.9.2 Indirect Impacts
Implementation of the project could result in indirect impacts on the adjacent jurisdictional waters. Indirect impacts on jurisdictional waters result in secondary consequences and are likely to be temporary during construction. Indirect impacts from project implementation could occur within areas located adjacent to the limits of construction in the project. Construction-related pollution, airborne fugitive dust, erosion, runoff, siltation, and sedimentation, could adversely affect jurisdictional waters, water quality, and aquatic habitats.
6.9.3 Conservation Measures

The project will result in indirect impacts on jurisdictional areas. Implementing CM-2 through CM-4, and CM-8 through CM-11 will help to avoid, eliminate or reduce impacts on jurisdictional areas.

6.10 Critical Habitats

The project is not located within designated or proposed critical habitats; therefore, no direct or indirect impacts on critical habitats are anticipated as a result of construction of the project.

6.10.1 Conservation Measures

None are needed.

6.11 Wildlife Movement and Native Nursery Sites

6.11.1 Direct Impacts

The BSA contains a potential wildlife movement corridor located northeast of the project site, however it will not be directly impacted as it is not within the project.

No native wildlife nursery sites were observed within the BSA during the field surveys; therefore, no direct or indirect impacts on native wildlife nursery sites are anticipated as a result of construction of the project.

6.11.2 Indirect Impacts

Construction of the project could result in indirect reasonably foreseeable impacts on wildlife movement within areas located adjacent to the project work sites.

6.11.3 Conservation Measures

Implementing CM-2 through CM-5, and CM-7 through CM-8 will help to avoid, eliminate or reduce impacts on wildlife movement to less than significant levels.

6.12 Local Policies Protecting Biological Resources

6.12.1 Native Trees

The project’s fuel modification zone contains one toyon (Tree 1), two coast live oaks (Trees 2 & 3) and one western sycamore tree (Tree 4) that have a single trunk with a DBH of six inches or more, or a combination of any two trunks with a total DBH of eight inches or more (see Tree Impact Map).

The two coast live oaks (Trees 2 & 3) and single western sycamore (Tree 4) are already part of the existing fuel modification area. Trees 2 & 3 will be protected in place; therefore, no impacts are expected. Tree 4 will be impacted within the protected zone and possibly the root zone during construction grading, but canopy trimming is not anticipated. The toyon (Tree 1) is part of the new fuel modification zone and will need to follow the 2017 Brush Clearance Requirements put forth by the Los Angeles Fire Department which states that the lower 1/3rd of trees and shrubs will need to
be maintained by removing all leafy foliage, twigs, and branches up to a maximum of 6 feet from the ground.

### 6.12.2 Environmentally Sensitive Habitat Area

The project will directly impact approximately of 0.78 acre of mixed chaparral (included as part of ESHA) and .10 acre of disturbed habitat due to creation of new fuel modification areas required from LA County Fire Department (Figure 18, ESHAExtent and Figure 19, Impacts on ESHA).

**Table 6.12-1, Acreage of Anticipated Fuel Modification Impacts on Land Cover Types**, describes the approximate acreages of each land cover type (including each plant community, non-vegetated feature, and/or waterway) that is anticipated to be directly impacted by the Fuel Modification Plan.

<table>
<thead>
<tr>
<th>Land Cover Type</th>
<th><strong>Fuel Modification Zones</strong></th>
<th><strong>Total Impacts</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>A</td>
<td>B</td>
</tr>
<tr>
<td>Mixed chaparral (ESHA)</td>
<td>0</td>
<td>0.0004</td>
</tr>
<tr>
<td>Disturbed Habitat</td>
<td>0</td>
<td>0.01</td>
</tr>
<tr>
<td>Total Acreage:</td>
<td>0</td>
<td>0.0104</td>
</tr>
</tbody>
</table>

*These acreages do not include impacts from the previously approved fuel modification area approved in July 5, 2005 as those impacts were already accounted for.*

### 6.12.3 Conservation Measures

**Native Trees**

Trees 1 & 4 are protected trees that will be impacted within the protected zone as a result of the project. CM-2 through CM-6 and implementation of the Tree Protection Plan (Appendix I, Tree Protection Plan for the Wang Residence) will help to avoid, eliminate or reduce impacts on these species to less than significant levels.

**ESHA**

Implementing CM-2 through CM-6 and implementation of the HMMP (Appendix H) will help to avoid, eliminate and/or reduce impacts on land cover (ESHA) impacted by the fuel modification zones to less than significant levels.

### 6.13 Adopted HCP, NCCP, or other Approved Local, Regional, or State HCP

The project site is not located within a NCCP/HCP so the project will have no conflict with the provisions of an adopted HCP, NCCP, or other approved local, regional, or state HCP.
7.0 CONSERVATION MEASURES (CMS)

This section lists the conservation measures recommended to avoid, eliminate and/or reduce the project's anticipated and potential direct and indirect impacts on biological resources to less than significant levels. As used in this report, the term “conservation measures” include measures proposed as part of the project ("project design features"), as well as BMPs, avoidance and protection measures, and mitigation measures proposed to reduce the project's potentially significant impacts on biological resources as required under CEQA. Mitigation measures are not required for effects which are not found to be significant. State CEQA Guidelines § 15126.4 subd. (a)(3). State CEQA Guidelines § 15370, defines "mitigation" to include:

- "Avoiding" the impact altogether by not taking a certain action or parts of an action;
- "Minimizing" impacts by limiting the degree or magnitude of the action and its implementation;
- "Rectifying" the impact by repairing, rehabilitating, or restoring the impacted environment;
- "Reducing" or eliminating the impact over time by preservation and maintenance operations during the life of the action;
- "Compensating" for the impact by replacing or providing substitute resources or environments.

Mitigation measures must be fully enforceable through permit conditions, agreements, or other legally-binding instruments. State CEQA Guidelines § 15126.4 subd. (a)(2).

7.1 CM-1: Pre-Construction Breeding Bird Survey

In accordance with the MBTA and the California Fish and Game Code, and to avoid and reduce direct and indirect impacts on migratory, non-game breeding birds, and their nests, young, and eggs to less than significant levels, the project proponent shall have a qualified biologist conduct a 14-day pre-construction breeding bird survey.

Following the completion of the survey, the biologist would prepare a memo summarizing the results of the survey. The memo would be submitted to CDFW prior to initiating any ground disturbance activities.

If no breeding birds are observed during the survey and concurrence is received from CDFW, project activities may begin and no further mitigation would be required.

If an active bird nest is located during the pre-construction survey and potentially would be disturbed, a no-activity buffer zone would be delineated on maps and marked (flagging or other means) up to 500 feet for special-status avian species and raptors, or 100 feet for non-special status avian species. The limits of the buffer would be demarcated so as to not provide a specific indicator of the location of the nest to predators or people. Materials used to demarcate the nests would be removed as soon as work is complete or the fledglings have left the nest. The biologist would

51 Vegetation trimming for the fuel modification areas will require a preconstruction breeding survey.
determine the appropriate size of the buffer zone based on the type of activities planned near the
nest and bird species because some bird species are more tolerant than others to noise and other
disturbances. Buffer zones would not be disturbed until a qualified biologist determines that the nest
is inactive. Additionally, the area would also not be disturbed until the young have fledged, the young
are no longer being fed by the parents, the young have left the area, or the young would no longer be
impacted by project activities.

7.2 CM-2: Project Limits and Designated Areas

To avoid impacts on special-status wildlife, the project proponent would implement the following
measures prior to project construction and commencement of any ground-disturbing activities or
vegetation removal.

- Project boundary would be set at the minimum size to accomplish necessary work, resulting
  in minimal impacts on sensitive biological resources and jurisdictional areas.

- Specifications for the project boundary, limits of grading, project related parking, storage
  areas, laydown sites, and equipment storage areas would be mapped and clearly marked in
  the field with temporary fencing, signs, stakes, flags, rope, cord, or other appropriate markers.
  All markers would be maintained until the completion of activities in that area. No vegetation
  will be removed outside of the marked areas and no construction debris, equipment, or soils
  will be placed outside of the marked areas.

- To minimize the amount of disturbance, the construction/laydown activities, parking, staging,
  storage, spoil management, and equipment access will be restricted to designated areas.
  Designated areas will comprise of existing surfaces and previously disturbed areas (parking
  lots, access roads, graded and degraded areas, etc.) to the extent possible.

- Project related work limits would be defined and work crews would be restricted to
  designated work areas. Disturbance beyond the actual construction zone will be prohibited
  without site-specific surveys.

7.3 CM-3: Worker Environmental Awareness Program (WEAP)

Prior to project construction activities, a qualified biologist will prepare and conduct a Worker
Environmental Awareness Program (WEAP) that will describe the biological constraints of the
project. All personnel who will work within the project site will attend the WEAP prior to performing
any work. The WEAP will include, but not be limited to the following: results of pre-construction
surveys; description of sensitive biological resources potentially present within the project site; legal
protections afforded the sensitive biological resources; BMPs for protecting sensitive biological
resources (i.e. restrictions, avoidance, protection, and minimization measures); and individual
responsibilities associated with the project. The program will also include the reporting
requirements if workers encounter a sensitive wildlife species (i.e. notifying the biological monitor
or the construction foreman, who will then notify the biological monitor).

Training materials will be language-appropriate for all construction personnel. Upon completion of
the WEAP, workers will sign a form stating that they attended the program, understand all protection
measures, and will abide all the rules of the WEAP. A record of all trained personnel will be kept with
the construction foreman at the project field construction office and will be made available to any
resource agency personnel. If new construction personnel are added to the project later, the construction foreman will ensure that new personnel receive training before they start working. The biologist will provide written hard copies of the WEAP and photos of the sensitive biological resources to the construction foreman.

7.4 **CM-4: Biological Monitor**

Prior to initiation of construction, a qualified biologist will be designated to ensure that impacts do not exceed the limits of grading and to minimize the likelihood of inadvertent impacts on special-status species.

Prior to starting work, the biological monitor will perform a pre-construction site survey. During construction, the biological monitor will ensure that all biological mitigation measures, BMPs, avoidance and protection measures described in the relevant project permits, approvals, licenses, and environmental reports, and CEQA documents, are in place and are adhered to. When work has concluded at a site, the monitor will survey the site for trash or construction debris. If trash or construction debris is found, the construction contractor will be notified immediately to have the material properly removed from the site.

The biological monitor will have the authority to temporarily halt all construction activities and all non-emergency actions if special-status species are identified and will be directly impacted. The monitor will notify the appropriate resource agency and consult if needed. Work can continue at the location if the project proponent and the consulted resource agency determine that the activity will not result in impacts on the species.

The biological monitor will take photographs during the construction process and observations of common and special-status species will be recorded in monitoring logs, mapped, and special-status species recordings will be submitted to the CNDDB. Monitoring logs will be completed for each day of monitoring. In addition, the appropriate agencies will be notified if a dead or injured protected species is located within the project site. Written notification will be made within 48 hours of the date and time of the finding or incident (if known), and will include: species found, location of the carcass, a photograph, cause of death (if known), and other pertinent information.

7.5 **CM-5: General Vegetation Avoidance and Protection Measures**

The project proponent would implement the following general avoidance and protection measures to protect vegetation, to the extent practical.

- Efforts would be made to minimize impacts on vegetation located outside of the project work limits;

- Vegetation within the work limits would only be disturbed and/or removed immediately before construction activities in order to reduce erosion;

- Cleared or trimmed vegetation and woody debris would be disposed of in a legal manner and in accordance with regulatory permit conditions;

- Contractors, subcontractors, employees, and site visitors would be prohibited from collecting plants.
7.6 **CM-6: Tree Protection Measures**

As stated in **Section 5.4, Development Standards**, of the City of Malibu LCP LIP, the following measures will be followed:

- Protective fencing should be used around the outermost limits of the protected zone of the native trees that are within or adjacent to the project that may be disturbed during construction/grading activities;

- Approved development, including grading or excavation, that encroaches into the protected zone of a native tree shall be constructed using hand held tools;

- The applicant shall hire an independent biological consultant or arborist, approved by the planning director to monitor native trees within or adjacent to the construction area;

- The permit shall include these requirements as conditions of approval.

### 7.6.1 Mitigation

New development shall be sited and designed to avoid impacts on native trees to the maximum extent feasible. If there is no feasible alternative, then the alternative with fewest or least significant impacts shall be selected. Adverse impacts on native trees shall be fully mitigated with priority given to onsite mitigation.

#### 7.6.1.1 Tree Replacement

Pursuant to **Section 5.5.1** of the City of Malibu LCP LIP, Tree replacement will involve:

**A.** Prior to the issuance of the coastal development permit that includes native tree removal or the loss or worsened health of native trees resulting from encroachment, the applicant shall submit a native tree replacement planting program, prepared by a qualified biologist, arborist, or other resource specialist, which specifies replacement tree locations, tree or seedling size, planting specifications, and a monitoring program to ensure that the replacement planting program is successful, including performance standards for determining whether replacement trees are healthy and growing normally, and procedures for periodic monitoring and implementation of corrective measures in the event that the health of replacement trees declines.

**B.** Where the removal of native trees cannot be avoided 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 onsite, if suitable area exists on the project site, at a ratio of no less than 10 replacement trees for every one tree removed. The applicant shall plant seedlings, less than one year old on an area of the project site where there is suitable habitat. In the case of oak trees, the seedlings shall be grown from acorns collected in the area."

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52 The protected zone, per Section 5.2 of the City of Malibu LCP LIP, shall mean the area inside the dripline of the tree plus five feet beyond the dripline, or 15 feet from the trunk of the tree, whichever is greater.
7.6.1.2 Alternative Mitigation

Pursuant to Section 5.5.2 of the City of Malibu LCP LIP, if onsite mitigation through planting replacement trees is not feasible, then mitigation shall involve one of the following methods:

"a. Offsite mitigation shall be provided by planting no less than 10 replacement trees for every one tree removed, at a suitable site that is restricted from development or is public parkland. The applicant shall plant seedlings, less than one year old in an area where there is suitable habitat. In the case of oak trees, the seedlings shall be grown from acorns collected in the area: or

b. An in-lieu fee, shall be provided for that unavoidable impacts of the loss of native tree habitat. The fee shall be based on the type, size and age of the tree(s) removed.

The fee shall be paid into the Native Tree Impact Mitigation Fund, administered by the Santa Monica Mountains Conservancy."

7.6.2 Monitoring Trees with Encroachments

If trees are encroached upon during project activities, then compliance with Section 5.6.1, Trees with Encroachments of the City of Malibu LCP LIP is required as described below:

"Where approved development encroaches into the root zone of native trees, each affected tree shall be monitored annually for a period of not less than ten years. An annual monitoring report shall be submitted for review by the City for each of the ten years. Should any of these trees be lost or suffer worsened health or vigor as a result of the proposed development, the applicant shall mitigate the impacts as required in Section 5.5 of the Malibu LIP. If replacement plantings are required as mitigation, monitoring of the replacement trees shall be provided as required by Section 5.6.2 of the Malibu LIP."

7.7 CM-7 General Wildlife Avoidance and Protection Measures

The project proponent would implement the following general avoidance and protection measures to protect wildlife, to the extent practical.

- To minimize construction-related mortalities of nocturnally active species such as mammals and snakes, it is recommended that all non-emergency work be conducted during daylight hours. All unnecessary lights would be turned off at night to avoid attracting wildlife such as insects, migratory birds, and bats. Nighttime work (and use of artificial lighting) would not be permitted unless specifically authorized;

- If any wildlife is encountered during project activities, it will be allowed to freely leave the area unharmed or the biological monitor will capture the animal, if possible, and relocate it outside of the construction work limits out of harm's way;

- Wildlife would not be disturbed, captured, harassed, or handled, unless to relocate the animal out of imminent threat of injury or death. Animal nests, burrows and dens would not be disturbed without prior survey and authorization from the biological monitor;

- Active nests cannot be removed or disturbed. Nests can be removed or disturbed if determined inactive by a qualified biologist;
Conservation Measures

- Contractors, subcontractors, employees, and site visitors would be prohibited from feeding or collecting wildlife;

- To avoid the potential for mortality and harassment of wildlife, all non-security related firearms, weapons, and domestic dogs would be prohibited from the project site;

- Contractors, subcontractors, employees, and site visitors would inspect their vehicles and equipment for the presence of wildlife prior to moving their vehicles and equipment. The biological monitor would be contacted if a special-status species is detected and is in danger of being harmed;

- All steep-walled pitfalls (trenches, holes, bores, and other excavations) greater than two feet deep used during the project would be completely covered at all times except when being actively used, to prevent wildlife entrapment (i.e. reptiles and small mammals). If trenches cannot be covered, escape ramps (maximum slope of 2:1) will be provided to allow trapped animals to escape exclusion or fencing shall be installed around the trench or excavation. Trenches shall be inspected immediately before backfilling and wildlife removed;

- All onsite project workers shall look under their vehicles and equipment before movement. If wildlife is observed, no vehicles or equipment shall be moved until the animal has left the area voluntarily or can be legally relocated.

7.8 CM-8: Construction Stormwater BMPs

The project proponent and their subcontractors will actively implement standard water quality and construction BMPs where applicable to prevent erosion and the discharge of sediments, pollutants, and toxicants into the canals during project activities. In addition, measures will be taken to minimize soil disturbance. The project proponent will identify all potential pollution sources and incorporate all necessary pollution prevention BMPs as they relate to each potential pollution source identified. The project proponent and their subcontractors will utilize BMPs during project construction to minimize the controllable discharges of sediment and other wastes to the canals. BMPs will be monitored by the project proponent and their subcontractors and repaired, if necessary, to ensure maximum erosion, sediment, and pollution control. These BMP measures will be identified prior to construction and incorporated into the construction operations.

The project proponent will comply with all litter and pollution laws. All project contractors, subcontractors, and employees will also obey these laws and it will be the responsibility of the project proponent to ensure compliance.

- All materials generated from construction activities associated with this project will be managed appropriately;

- All trash and food-related items shall be disposed in self-closing, sealable containers with lids that latch to prevent wind and wildlife from opening containers. Trash containers shall be emptied daily and removed from the project site when construction is complete. Trash removal will reduce the attractiveness of the area to opportunistic predators such as

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Pursuant to section 17.4.1, BMP Requirement and Implementation, Appendix A, Storm Water Best Management Practices and Appendix B, BMP Implementation Table, of chapter 17 of the City of Malibu General Plan.
Conservation Measures

American crows (Corvus brachyrhynchos), northern raccoons, Virginia opossums, and coyotes;

- Water containing mud, silt, or other pollutants from grading, aggregate washing, or other activities will not be allowed to enter waterways or be placed in locations that may be subjected to high storm flows;

- Spoil sites shall not be located within the waterways or locations that may be subjected to high storm flows, where spoil may be washed back into the canals, or where it may impact streambed habitat, aquatic or riparian vegetation;

- No debris, soil, silt, sand, bark, slash, sawdust, rubbish, construction waste, cement or concrete or washings thereof, asphalt, paint, oil or other petroleum products, or any other substances/materials associated with any project-related activity shall be allowed to contaminate the soil and/or enter into or be placed where they may be washed by rainfall or runoff into a stream. When operations are completed, any excess materials or debris shall be removed from the work area;

- No equipment maintenance will be done within or near waterways where petroleum products or other pollutants from the equipment may enter these areas under any flow;

- Any equipment or vehicles driven and/or operated within or adjacent to the waterways shall be checked and maintained daily to prevent leaks of materials that could be deleterious to aquatic and terrestrial life or riparian habitat;

- Stationary equipment such as motors, pumps, generators, and welders, located within or adjacent to the canals shall be positioned over drip pans. Stationary heavy equipment shall have suitable containment to handle a catastrophic spill/leak;

- No equipment maintenance or fueling shall be done within or near any waterway where petroleum products or other pollutants from the equipment may enter these areas.

7.9 CM-9: Local Storm Water Pollution Prevention Plan (SWPPP)

Projects that require a Coastal Development Permit and a grading or building permit will require a local Storm Water Pollution Prevention Plan (SWPPP) that will apply to the construction phase of the project. The SWPPP will meet the requirements set forth in chapter 17, Water Quality Protection Ordinance, § 17.3.1.

7.10 CM-10: Storm Water Management Plan (SWMP)

Projects that require a Coastal Development Permit will also require a Storm Water Management Plan (SWMP) that will require the implementation of appropriate Site Design and Source Control BMPs from Section 17.5 of the Malibu LCP LIP and Appendix A to minimize or prevent post-construction polluted runoff. The SWMP will meet additional requirements set forth in chapter 17, Water Quality Protection Ordinance, § 17.3.2.
7.11 CM-11: Water Quality Mitigation Plan (WQMP)

Projects that require a Coastal Development Permit and is in a category of development identified in chapter 17, *Water Quality Protection Ordinance*, § 17.3.3A will require a Water Quality Mitigation Plan (WQMP) that will require the implementation of appropriate site design and source control BMPs from Section 17.5 of the Malibu LCP LIP and Appendix A to minimize or prevent post-construction polluted runoff. The WQMP will meet additional requirements set forth in chapter 17, *Water Quality Protection Ordinance*, § 17.3.3.
8.0 **FEDERAL, STATE AND LOCAL BIOLOGICAL APPROVALS AND PERMITS**

Each project must comply with federal, state, and local environmental laws and regulations. This section describes the necessary federal, state, and local biological permits and/or approvals that would be required for project approval. Additional requirements may be identified upon further consultation with the resource agencies. Prior to construction, the project will need to obtain the following federal and state biological permits and/or approvals:

- Coastal Development Permit,
- HMMP, and
- Tree Protection Plan.

Compliance with the terms and conditions of the permits and regulatory programs would ensure that the potential impacts on sensitive biological resources are less than significant.

8.1 **Coastal Development Permit**

Since the project is located within the Coastal Zone, this project will require the preparation of an application for coastal development permit from the CCC, cities or counties (if LCP was certified and delegated by the coastal commission). It will require various vicinity and assessor parcel maps, report documents (i.e., geology and soils reports, etc.), copies of the environmental documents, local approval of the project information, verification of all other permits (i.e., USACE or RWQCB), list of property owners and occupants within 100-feet of project boundaries, etc. A typical permit takes six to eight months.

8.2 **Habitat Mitigation and Monitoring Plan**

The purpose of the HMMP (Appendix H) is to describe the proposed mitigation, monitoring, and management of habitat provided as mitigation within the project site. The objective of the compensatory mitigation is to replace functions and values lost through previous development (i.e. horse stable) and creation of new fuel modification areas. The HMMP will need to follow the guidelines set in Section 4.8 of the City of Malibu LCP LIP which states that impacts can be mitigated by one of three methods: (1) habitat restoration, (2) habitat conservation, and (3) in-lieu fee for habitat conservation. The mitigation method will be selected after consultation with the City of Malibu and the Santa Monica Mountains Conservancy.

8.3 **Tree Protection Plan**

The Coastal Development Permit applications will require development sites subject to the Native Tree Protection Ordinance to prepare a Tree Protection Plan (Appendix I) by a qualified biologist or resource expert that provides the following (CCC, 2002):

"A. An inventory and assessment of the health of native trees on the site by type, size (both trunk circumference and extent of canopy).

B. Photographs of the site showing location of all native trees.

C. A site map depicting the location of all such trees, including a scale drawing of trunk, canopy location and extent."
D. An analysis of all potential construction and post-construction impacts on the identified native trees.

E. Project alternatives designed to avoid removal of trees and to avoid and minimize impacts to protected trees.

F. Identification of trees proposed to be removed by the project.

G. Onsite mitigation measures necessary to minimize or mitigate residual impacts that cannot be avoided through project alternatives, including the provision of replacement trees.

H. A long-term maintenance and monitoring program designed to assure long-term protection and health for all native trees."
9.0 LITERATURE CITED AND REFERENCES


CDFG (California Department of Fish and Game). 2010. List of Vegetation Alliances and Associations (or Natural Communities List). September 2010.

CDFG ESD (California Department of Fish and Game Environmental Services Division). 1994. A Field Guide to Lake and Streambed Alteration Agreements, Sections 1600-1607, California Fish and Game Code.


City of Malibu, 1995, *City of Malibu General Plan*. City of Malibu, CA.


The Malibu Planning Commission will hold a public hearing on Monday, January 4, 2021, at 6:30 p.m. on the project identified below which will be held via teleconference only in order to reduce the risk of spreading COVID-19 and pursuant to the Governor’s Executive Orders N-25-20 & N-29-20 and the County of Los Angeles Public Health Officer’s Safer at Home Order.

COASTAL DEVELOPMENT PERMIT NO. 19-001, VARIANCE NO. 19-001, SITE PLAN REVIEW NO. 19-001, AND MINOR MODIFICATION NO. 19-001 - An application for an interior and exterior remodel including additions to an existing single-family residence, construction of a detached second residential unit with an attached garage, detached pool house, swimming pool, onsite wastewater treatment system and associated development, including a variance for the required fuel modification to encroach onto Environmentally Sensitive Habitat Area and a site plan review for construction in excess of 18 feet in height not to exceed 28 feet for a pitched roof

LOCATION / APN / ZONING: 3710 Decker Edison Road / 4473-005-014 / Rural Residential-Ten Acre (RR-10)
APPLICANT / OWNER: Studio M of A Inc. / Tao Guan
APPEALABLE TO: City Council
ENVIRONMENTAL REVIEW: Categorical Exemption CEQA Guidelines Sections 15301(a) & (e), 15303(e), & 15304(b)
APPLICATION FILED: December 20, 2016
CASE PLANNER: Didier Murillo, Assistant Planner, dmurillo@malibucity.org (310) 456-2489, ext. 353

A written staff report will be available at or before the hearing for the project, typically 10 days before the hearing in the Agenda Center: www.malibucity.org/agendacenter. Related documents are available for review by contacting the Case Planner during regular business hours. You will have an opportunity to testify during the public hearing; written comments, which shall be considered public record, may be submitted any time prior to the beginning of the public hearing. If the City’s action is challenged in court, testimony may be limited to issues raised before or at the public hearing.

To view or sign up to speak during the meeting, visit www.malibucity.org/virtualmeeting.

LOCAL APPEAL - A decision of the Planning Commission may be appealed to the City Council by an aggrieved person by written statement setting forth the grounds for appeal. An appeal shall be emailed to psalazar@malibucity.org within ten days following the date of action and the filing fee shall be mailed to Malibu Planning Department, attention: Patricia Salazar, 23825 Stuart Ranch Road, Malibu, CA 90265. Payment must be received within 10 days of the appeal deadline. Appeal forms may be found online at www.malibucity.org/planningforms. If you are unable to submit your appeal online, please contact Patricia Salazar by calling (310) 456-2489, extension 245, at least two business days before your appeal deadline to arrange alternative delivery of the appeal.

RICHARD MOLLICA, Acting Planning Director

Date: December 10, 2020