



Commission Agenda Report

Planning Commission
Meeting
02-22-22
**Item
3.B.3.**

To: Chair Hill and Members of the Planning Commission

Prepared by: Jessica Thompson, Senior Planner

Approved by: Richard Mollica, Planning Director

Date prepared: February 10, 2022 Meeting date: February 22, 2022

Subject: Formula Retail Clearance No. 21-005 – Malibu Country Mart Shopping Center

Location: 23410 Civic Center Way, Unit A-1
APN: 4458-020-010
Owner: 3835 Cross Creek, LLC
Tenant: CB2

RECOMMENDED ACTION: Receive and file the Planning Director’s approval of Formula Retail Clearance (FRC) No. 21-005 (Attachment 1).

DISCUSSION: This agenda item is for informational and reporting purposes only. In March 2018, the City Council adopted Ordinance No. 431(a) regulating formula retail in commercial shopping centers. The ordinance went into effect on April 12, 2018, establishing Malibu Municipal Code (MMC) Chapter 17.61 (Formula Retail Clearance).

The ordinance sets forth a ministerial¹ process by which a tenant with a non-exempt formula retail business receives approval from the Planning Director to locate within a shopping center. MMC Section 17.61.030(C) (Report to Planning Commission) states that all FRCs approved by the Planning Director shall be noticed and reported to the Planning Commission within 30 days of issuance, and that the approval shall become final two days after the clearance is reported to the Commission, unless rescinded by the Director.

¹ A ministerial process is one in which there is no discretion on the part of the decision-maker in the application of the standards.

MMC Section 17.61.020 – Applicability

An FRC is required for new formula retail establishments or existing formula retail establishments that relocate to a new tenant space or expand by 200 square feet or more of gross floor area² (GFA), except for the following which are exempt:

- 1) Grocery
- 2) Drug stores/pharmacies
- 3) Gas stations
- 4) Banks and financial services
- 5) Real estate offices
- 6) Movie theaters
- 7) Postal services offices
- 8) Medical offices

➤ *The subject FRC is for CB2, a retail furniture store, which is a non-exempt use.*

MMC Section 17.61.030(B) – FRC Criteria for Issuance

The Planning Director shall issue an FRC if the formula retail use complies with the following requirements:

1. The location does not exceed 4,000 square feet of gross floor area.

➤ *The proposed tenant space is 2,658 square feet of gross floor area, which complies with this requirement.*
2. Issuing the FRC will not result in (a) non-exempt formula retail establishments occupying more than 30 percent of the total gross floor area of a shopping center excluding the floor area occupied by exempt formula retail defined in Section 17.66.020(A)(1)-(8) only; or (b) where the shopping center is more than one floor, non-exempt formula retail establishments occupying more than 40 percent of the total gross floor area of the ground floor of the shopping center, excluding the floor area occupied by exempt formula retail defined in Section 17.66.020(A)(1)-(8).

The ordinance provides the following formula:

Gross Floor Area - Floor Area of Exempt Formula Retail x .30 = Allowable Non-exempt Formula Retail

x .70 = Required Non-Formula Retail

² Gross floor area (GFA) means the sum of the gross horizontal areas of the several floors of a building measured from the interior face of exterior walls, or from the centerline of a wall separating two buildings, but not including interior parking spaces, loading space for motor vehicles, vehicular maneuvering areas, or any space where the floor-to-ceiling height is less than six feet.

- The shopping center³ occurs on three parcels that have common areas, including walkways, parking and public restrooms, and contains both one- and two-story buildings. Therefore, the calculations have been evaluated under the formulas of both (a) and (b) as follows:

Malibu Country Mart Shopping Center – Compliance Table Proposed 2,658 sq. ft. Non-exempt 1st Floor Tenant (Unit A-1)		
(a) Overall Shopping Center		
Total GFA of existing shopping center	1 st floor: 65,402 sq. ft. 2 nd floor: 14,760 sq. ft. Total: 80,162 sq. ft.	
Total exempt formula retail		*3,302 sq. ft.
30% Calculation	Total: 80,162 sq. ft. Exempt: - 3,302 sq. ft. 76,860 sq. ft. Allowable: 76,860 sq. ft. x .30 = 23,058 sq. ft.	
Non-exempt formula retail GFA, including applicant (2,658 sq. ft.)		21,708 sq. ft. ⁴ <i>Complies</i>
(b) First Floor Maximum		
Total GFA of 1 st floor of the existing shopping center		65,402 sq. ft.
1 st Floor exempt formula retail		*3,302 sq. ft.
40% Calculation	Total (1 st floor): 65,402 sq. ft. Exempt: -3,302 sq. ft. 62,100 sq. ft. Allowable: 62,100 sq. ft. x .40 = 24,840 sq. ft.	
1 st Floor non-exempt formula retail GFA, including applicant (2,648 sq. ft.)		20,007 sq. ft. ⁵ <i>Complies</i>

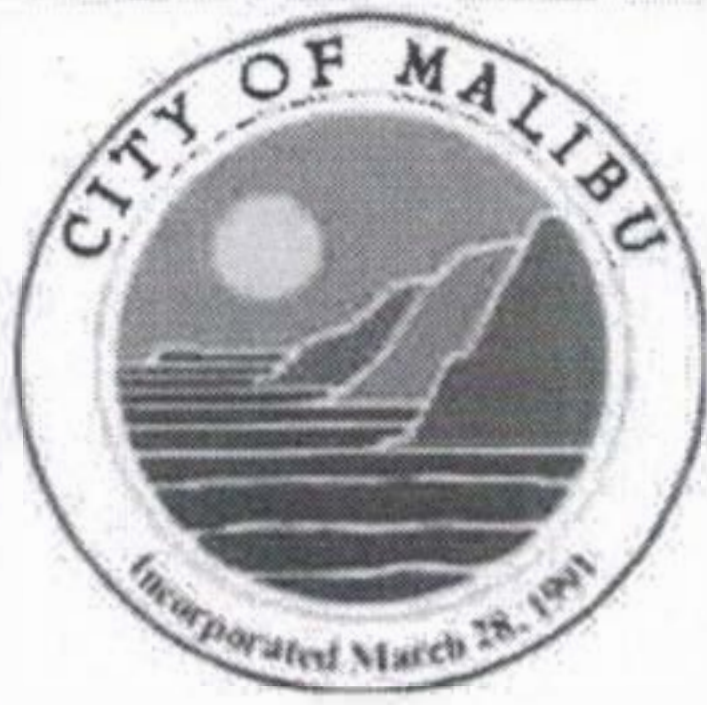
*Note the Malibu Country Mart Shopping center currently has two exempt formula retail tenants, occupying a total of 3,302 square feet. The tenant, Pacific Union, occupies 2,640 square feet and is exempt because it is a real estate office. The tenant, Coldwell Banker, occupies 662 square feet and is exempt because it is a bank/financial service.

³ As defined in MMC Section 17.02.060, a shopping center means a group of retail, retail service, and other commercial establishments operating under common management or having common areas such as walkways, parking, public restrooms, or similar shared amenities, and having at least ten thousand (10,000) square feet of gross floor area, whether on one parcel or multiple parcels. This definition is for purposes of MMC Chapter 17.61 only. Staff acknowledges that the subject tenant space is located on a parcel that does not directly abut the other parcels that make up the shopping center; however, the MMC does not require that the parcels abut each other. In the case of the subject parcel, it shares restrooms and parking with the other two parcels that make up the shopping center and are located across the street. Furthermore, since the subject parcel is part of the Country Mart Shopping center, through the proper documentation, this parcel could share its wastewater allocation with the other two parcels that make up the center.

PUBLIC NOTICE: This item was posted on the February 22, 2022, Regular Planning Commission Meeting agenda.

ATTACHMENTS:

1. FRC No. 21-005 Application
2. Tenant Lists
3. Site Plan



City of Malibu

FRC No. 21-005

23825 Stuart Ranch Road · Malibu, California · 90265-4861
Phone (310) 456-2489 · Fax (310) 456-7650 · www.malibucity.org

FORMULA RETAIL CLEARANCE APPLICATION

The City of Malibu will not accept incomplete applications

General Information

PROPERTY ADDRESS: 23410 Civic Center Way Unit # A-1
BUSINESS NAME: CB2
APPLICANT / CONTACT: First: ELISSA Last: EVANS
APPLICANT ADDRESS: 1250 Tenny Rd CITY: Northbrook STATE: IL ZIP: 60062
APPLICANT PHONE #: (218) 444-7445 APPLICANT EMAIL: eevans@crateandbarrel.com
PROPERTY OWNER: Malibu Cross Creek, LTD.

Fees

Formula Retail Clearance \$ _____

Formula Retail

1. DOES THE PROPOSED RETAIL SERVICE CURRENTLY HAVE 10 OR MORE OPERATIONAL RETAIL ESTABLISHMENTS WORLDWIDE AND MAINTAIN TWO OR MORE OF THE FOLLOWING FEATURES LISTED BELOW? YES NO

If yes, circle the applicable feature below.

- | | |
|--|--|
| a. Standardized array of merchandise or menu | e. Standardized layout |
| b. Standardized color scheme | f. Standardized signage, service mark or trademark |
| c. Standardized décor | g. Uniform apparel |
| d. Standardized signage | |

2. WILL THE PROPOSED LOCATION EXCEED 4,000 SQUARE FEET OF GROSS FLOOR AREA?

YES NO

3. PROPOSED BUSINESS: NEW BUSINESS OTHER: _____

4. BUSINESS DESCRIPTION (PROVIDE ADDITIONAL PAGES IF NECESSARY):

SALE OF FURNITURE, HOME DECOR, ACCESSORIES, AND DESIGN SERVICES

5. TOTAL GROSS FLOOR AREA OF SHOPPING CENTER: 80,162

6. PROPOSED FLOOR AREA: 2,655

*ISSUING THE FRC WILL NOT RESULT IN (A) NON-EXEMPT FORMULA RETAIL ESTABLISHMENTS OCCUPYING MORE THAN 30 PERCENT OF THE TOTAL GROSS FLOOR AREA OF A SHOPPING CENTER EXCLUDING THE FLOOR AREA OCCUPIED BY EXEMPT FORMULA RETAIL DEFINED IN 17.66.020(A)(1)-(8) ONLY, OR (B), WHERE THE SHOPPING CENTER IS MORE THAN ONE FLOOR, NON-EXEMPT FORMULA RETAIL ESTABLISHMENTS OCCUPY MORE THAN 40 PERCENT OF TOTAL GROSS FLOOR AREA OF THE GROUND FLOOR OF THE SHOPPING CENTER.

REPORT TO PLANNING COMMISSION

All formula retail clearances approved by the Planning Director shall be noticed and reported to the Planning Commission within 30 days of issuance. Such report shall include all calculations and descriptions of businesses used in making the determination. The approval shall become final two days after the clearance is reported to the Planning Commission, unless rescinded by the Planning Director.

ADDITIONAL PERMITS

Approval of this Formula Retail Clearance is to clear the tenant space to be occupied by a formula retail establishment. It does not eliminate the need for other permits, licenses, or certificates required. Additional permits may be required (e.g., Health Permit, Certificate of Occupancy, Sign Permit, Tenant Improvement Permit, Temporary Use Permit, Conditional Use Permit, etc.). See the Department of Environmental Sustainability to verify which construction permits may be required.

INDEMNIFICATION CLAUSE

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.

[Signature] Michael Koss 12/21/21
PROPERTY OWNER SIGNATURE PROPERTY OWNER NAME (PRINT) DATE

APPLICANT STATEMENT

I hereby certify under penalty of perjury that I have read and understand all of the sections above and that the information provided on this form is true and correct to the best of my knowledge. I also state that I have read and familiarized myself with the portions of the Malibu Municipal Code which apply to my business in this location. I agree to comply with these regulations and any other local, state, and federal regulation that my relation to this proposed business.

Property Owner, or Applicant Signature: [Signature] Date: 12/21/21

Staff Use Only

FORMULA RETAIL CALCULATION

PROPOSED FORMULA RETAIL FLOOR AREA: _____

*See Staff Report dated
2-22-2022 for calculations

EXEMPT FORMULA RETAIL FLOOR AREA: _____

SHOPPING CENTER TOTAL GROSS FLOOR AREA: 1st FLOOR: _____ 2nd FLOOR: _____ TOTAL: _____

TOTAL GFA: _____ - _____ EXEMPT FORMULA RETAIL = _____

_____ x 30% = _____ ALLOWABLE FORMULA RETAIL

NON-EXEMPT FORMULA RETAIL GFA (including applicant): _____ COMPLIES YES NO

SHOPPING CENTER - GROSS FLOOR AREA OF FIRST FLOOR:

TOTAL GFA FIRST FLOOR: _____ - _____ EXEMPT FORMULA RETAIL = _____

_____ x 40% = _____ ALLOWABLE FORMULA RETAIL

NON-EXEMPT FORMULA RETAIL GFA (including applicant): _____ COMPLIES YES NO

Approved FRC: Jessica Thompson
Planning Staff

Date: 2-10-2022

NOT Approved for FRC: _____
Planning Staff

Date: _____

Reason not approved or additional information required:

Tenant List - 1st Floor

Suite #	Tenant Name	Non-Exempt Square Feet	Non-Exempt Percent of First Floor	Exempt FR Square Feet	Exempt FR Percent of First Floor	Formula Retail Square Feet	Formula Retail Percent of First Floor	# of Stores
1 1	John's Garden	975	3.35%					1
2 1A	Chrome Hearts					860	2.96%	11+
3 2	Mutt's Grill	475	1.63%					1
4 2A	K-Chocolatier	132	0.45%					2
5 3	Sunlife Organics					867	2.98%	11+
6 3A	Alicia Bell	562	1.93%					1
7 4	Faherty					660	2.27%	11+
8 5	Madison	1,378	4.74%					3
9 5A	Faherty					1,025	3.53%	11+
10 7	Alfred Coffee					750	2.58%	11+
11 8	The Malibu Colony	1,948	6.70%					1
12 8A	Tra Di Noi	2,157	7.42%					1
13 9	Outerknown	786	2.70%					2
14 10	Vince					1,241	4.27%	11+
15 12	Brandy Melville					999	3.44%	11+
16 13	Vacant	924	3.18%					
17 14	Vacant	959	3.30%					
18 15	Vacant	924	3.18%					
19 17	Obsessed	1,292	4.44%					1
20 18	Lucky's	2,759	9.49%					2
21 19	Bleusalt	711	2.45%					2
22 20	9026-Eyes	669	2.30%					1
23 21	Bravo	631	2.17%					1
24 22	Cie Salon	600	2.06%					1
25 23	Room at the Beach	1,086	3.74%					1
26 A	Paige					1,148	3.95%	11+
27 B	Double RL	772	2.66%					10
28 C	Vuori					1,389	4.78%	11+
29 NA	Common Area SF	388	1.33%					
Totals		20,128	69.25%	0	0.00%	8,939	30.75%	

Property Totals

Total Square Feet	29,067
Total Exempt Square Feet	0
Total Exempt Square Feet as a % of Property	0.00%
Total Non-Exempt Square Feet	29,067
Total Non-Exempt Square Feet as a % of Property	100.00%
Total Formula Retail Square Feet	8,939
Total Formula Retail Square Feet as a % of Property	30.75%
Total Formula Retail as a % of Non-Exempt Square Footage	30.75%

Tenant List - 1st Floor

Suite #	Tenant Name	Non-Exempt Square Feet	Non-Exempt Percent of First Floor	Exempt FR Square Feet	Exempt FR Percent of First Floor	Formula Retail Square Feet	Formula Retail Percent of First Floor	# of Stores
1	9B John Varvatos					1,982	9.62%	11+
2	9C Heroes Motors	1321	6.41%					2
3	A-1 CB2					2,658	12.91%	11+
4	A-3 Nomad	1,310	6.36%					1
5	B-1 Taverna Tony	4,604	22.35%					1
6	B-2 Nenergy Boost	1,100	5.34%					4
7	B-3 Malibu Shaman	623	3.03%					1
8	C-1 Pacific Union			2,640	11.05%			NA
9	C-2 Canvas Boutique and Gallery	1,181	5.73%					1
10	D-1 Tobi Tobin	614	2.98%					1
11	D-2 Coldwell Banker			662	3.21%			NA
12	D-3 Rubin Chapelle	1,569	7.62%					2
13	D-5 Ba&sh					1,365	6.63%	11+
14	D-6 Toy Crazy	1,422	6.90%					4
15	D-7 Malibu Groomers	379	1.84%					1
16	F-1 Malibu Car Wash	257	1.25%					1
16	NA Common Area SF	210	1.02%					
Totals		14,590	70.84%	3,302	14.26%	6,005	29.16%	

First Floor Totals

Total Square Feet	23,897
Total Exempt Square Feet	3,302
Total Exempt Square Feet as a % of Floor	13.82%
Total Non-Exempt Square Feet	20,595
Total Non-Exempt Square Feet as a % of Floor	86.18%
Total Formula Retail Square Feet	6,005
Total Formula Retail Square Feet as a % of Floor	25.13%
Total Formula Retail as a % of Non-Exempt Square Footage	29.16%

Tenant List - 2nd Floor

Suite #	Tenant Name	Square Feet	Percent of 2nd Floor	Exempt FR Square Feet	Exempt FR Percent of 2nd Floor	Formula Retail Square Feet	Formula Retail Percent of 2nd Floor	# of Stores
1	B-1 Taverna Tony	0	0.00%					1
2	C-1 Pacific union	0	0.00%					NA
3	E-1 Daily Calm	266	1.80%					1
4	E-2 Ambience	318	2.15%					1
5	E-3 5 Point Yoga	1,156	7.83%					1
6	E-4A Beach House	1,512	10.24%					1
7	E-4B Tobi Tobin Storage	280	1.90%					1
8	E-5 APN Capital	1,339	9.07%					1
9	E-6A The Colony Company Office/Storage	791	5.36%					1
10	E-6B Maxfield Enterprises Office/Storage	1,207	8.18%					1
11	E-7 Vacant	1,371	9.29%					1
12	E-8 APN Lodge	1,649	11.17%					1
13	E-8A Vacant	1,787	12.11%					1
14	E-9 Pure Barre					1,701	11.52%	11+
15	E-10 Air Bud Entertainment	1,047	7.09%					1
16	NA Common Area SF	336	2.28%					
Totals		13,059	88.48%	0	0.00%	1,701	11.52%	

Second Floor Totals

Total Square Feet	14,760
Total Exempt Square Feet	0
Total Exempt Square Feet as a % of Floor	0.00%
Total Non-Exempt Square Feet	14,760
Total Non-Exempt Square Feet as a % of Floor	100.00%
Total Formula Retail Square Feet	1,701
Total Formula Retail Square Feet as a % of Floor	11.52%
Total Formula Retail as a % of Non-Exempt Square Footage	11.52%

Property Totals

Total Square Feet	38,657
Total Exempt Square Feet	3,302
Total Exempt Square Feet as a % of Property	8.54%
Total Non-Exempt Square Feet	35,355
Total Non-Exempt Square Feet as a % of Property	91.46%
Total Formula Retail Square Feet	7,706
Total Formula Retail Square Feet as a % of Property	19.93%
Total Formula Retail as a % of Non-Exempt Square Footage	21.80%

Tenant List - 1st Floor

Suite #	Tenant Name	Non-Exempt Square Feet	Non-Exempt Percent of First Floor	Exempt FR Square Feet	Exempt FR Percent of First Floor	Formula Retail Square Feet	Formula Retail Percent of First Floor	# of Stores
1 1	Starbucks					1,315	10.57%	11+
2 1A	Noble Souls					1612	12.96%	3
3 2	Beauty Collection	1878	15.10%					4
4 3	Malibu Kitchen	3,624	29.14%					1
5 3A	Sunroom	926	7.44%					2
6 4	Gorjana					493	3.96%	11+
7 5	Westside Estate Agency	356	2.86%					4
8 6	Ron Herman Sport					854	6.87%	11+
9 7	Encore	563	4.53%					1
10 8	Oliver Peoples					789	6.34%	11+
11 NA	Common Area SF	28	0.23%					
Totals		7,375	59.29%	0	0.00%	5,063	40.71%	

Property Totals

Total Square Feet	12,438
Total Exempt Square Feet	0
Total Exempt Square Feet as a % of Property	0.00%
Total Non-Exempt Square Feet	12,438
Total Non-Exempt Square Feet as a % of Property	100.00%
Total Formula Retail Square Feet	5,063
Total Formula Retail Square Feet as a % of Property	40.71%
Total Formula Retail as a % of Non-Exempt Square Footage	40.71%

Malibu Country Mart - Property Totals

10-Jan-22

Property Totals - 1st Floor

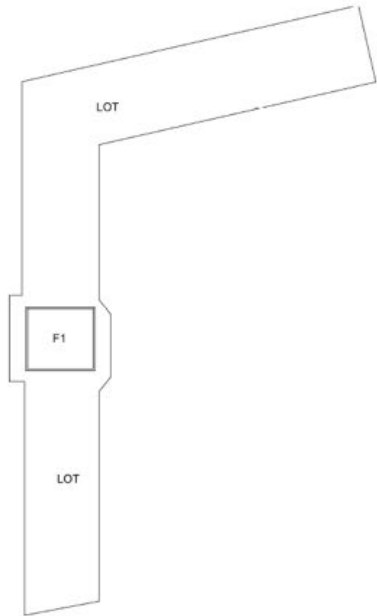
	3835	23410	3900	Totals
Total Square Feet	29,067	23,897	12,438	65,402
Total Exempt Square Feet	0	3,302	0	3,302
Total Exempt Square Feet as a % of Property	0.00%	13.82%	0.00%	5.05%
Total Non-Exempt Square Feet	29,067	20,595	12,438	62,100
Total Non-Exempt Square Feet as a % of Property	100%	86.18%	100%	94.95%
Total Formula Retail Square Feet	8,939	6,005	5,063	20,007
Total Formula Retail Square Feet as a % of Property	30.75%	25.13%	40.71%	30.59%
Total Formula Retail as a % of Non-Exempt Square Footage	30.75%	29.16%	40.71%	32.22%

Property Totals - 2nd Floor

	23410	Totals
Total Square Feet	14,760	14,760
Total Exempt Square Feet	0	0
Total Exempt Square Feet as a % of Property	0.00%	0.00%
Total Non-Exempt Square Feet	14,760	14,760
Total Non-Exempt Square Feet as a % of Property	100%	100%
Total Formula Retail Square Feet	1,701	1,701
Total Formula Retail Square Feet as a % of Property	11.52%	11.52%
Total Formula Retail as a % of Non-Exempt Square Footage	11.52%	11.52%

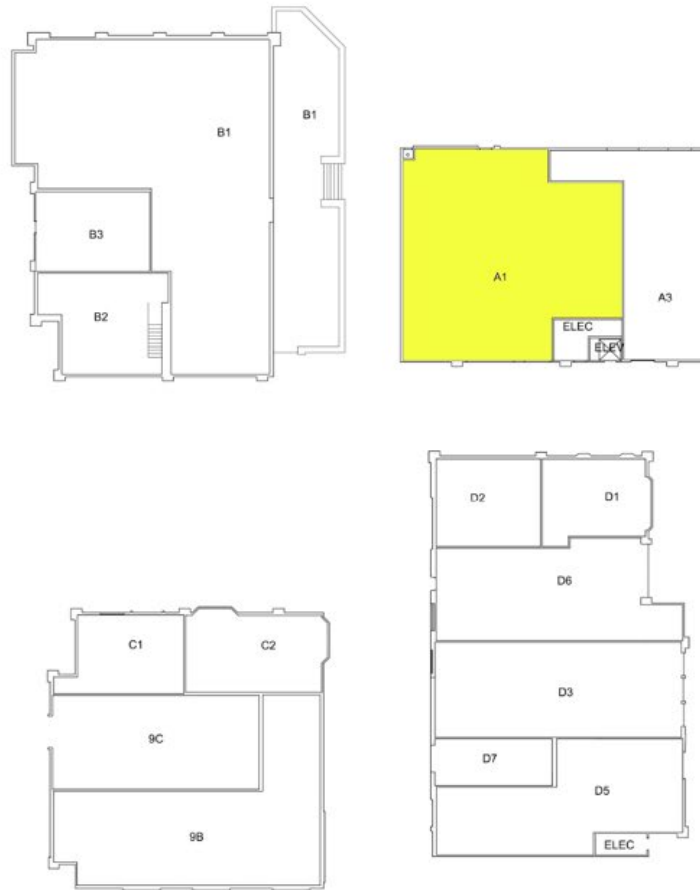
Property Totals - ALL

	3835	23410	3900	Totals
Total Square Feet	29,067	38,657	12,438	80,162
Total Exempt Square Feet	0.00%	3,302	0.00%	3,302
Total Exempt Square Feet as a % of Property	0.00%	8.54%	0.00%	4.12%
Total Non-Exempt Square Feet	29,067	35,355	12,438	76,860
Total Non-Exempt Square Feet as a % of Property	100%	91.46%	100%	95.88%
Total Formula Retail Square Feet	8,939	7,706	5,063	21,708
Total Formula Retail Square Feet as a % of Property	30.75%	19.93%	40.71%	27.08%
Total Formula Retail as a % of Non-Exempt Square Footage	30.75%	21.80%	40.71%	28.24%



2ND FLOOR

MEZZANINES



1ST FLOOR

Malibu Country Mart

23410 Civic Center Way