A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MALIBU, RECOMMENDING THAT THE CITY COUNCIL CERTIFY ENVIRONMENTAL IMPACT REPORT NO. 11-001, ADOPT THE MITIGATION MONITORING AND REPORTING PROGRAM, AND ADOPT THE FINDINGS OF FACT REQUIRED BY THE CALIFORNIA ENVIRONMENTAL QUALITY ACT FOR THE CONSTRUCTION OF A 38,425 SQUARE FOOT COMMERCIAL SHOPPING CENTER, INCLUDING 24,549 SQUARE FEET FOR A WHOLE FOODS MARKET AND 13,876 SQUARE FEET FOR ADDITIONAL COMMERCIAL RETAIL SPACE; 4,800 SQUARE FEET OF OUTDOOR SEATING; 103,341 SQUARE FEET OF ON-SITE LANDSCAPING AND 4,514 SQUARE FEET OF OFF-SITE LANDSCAPING; 220 PARKING SPACES; AND OTHER INFRASTRUCTURE IMPROVEMENTS. (THE PARK AT CROSS CREEK, LLC)

THE PLANNING COMMISSION OF THE CITY OF MALIBU DOES HEREBY FIND, ORDER AND RESOLVE AS FOLLOWS:

Section 1. Recitals.

A. On May 5, 2010, Marny Randall on behalf of DB Malibu Holdco LLC (which was subsequently changed to The Park at Cross Creek, LLC) submitted an application for Coastal Development Permit (CDP) No. 10-022 and related entitlements for the Whole Foods and the Park shopping center project. The applications were routed for review to the City Biologist, City Geologist, City Public Works Department, the Los Angeles County Sherriff’s Department, the Los Angeles County Fire Department (LACFD), and Waterworks District No. 29 for Local Coastal Program (LCP) and Malibu Municipal Code (M.M.C) conformance review.

B. On September 12, 2011, the City Council approved a contract with Impact Sciences to initiate work on the preparation of the Draft EIR for the proposed project.

C. On April 16, 2012, a Notice of Application for Coastal Development Permit was posted on the subject property.

D. On April 24, 2012, story poles were placed on the project site to demonstrate the location, height, mass and bulk of the proposed commercial structures. The placement of the story poles were certified by a professional land surveyor.

E. On April 25, 2012, the Environmental Review Board (ERB) reviewed the proposed project and made recommendations. All feasible recommendations have been incorporated into the final project.

F. On April 26, 2012, the City published a Notice of Preparation (NOP) and Scoping Meeting
The 30-day circulation period ran from April 26, 2012 through May 29, 2012. The NOP was also sent to the State Clearinghouse (SCH# 2012041087), who distributed the document to State reviewing agencies for a 30-day public review period from April 26, 2012 through May 29, 2012.

G. On May 22, 2012, the City held a public scoping meeting regarding the preparation of the EIR.

H. Between May 22, 2012 and January 2015, the applicant chose to delay processing of the development applications until the Civic Center Wastewater Treatment Facility was further along in order to coordinate its application with that facility. In addition, Measure R created the additional requirement of a specific plan for the applications.

I. On January 5, 2015, the property owner’s representative submitted a Draft Specific Plan for review by City Staff in accordance with Malibu Municipal Code (M.M.C) Section 17.02.045.

J. On January 29, 2015, story poles were re-installed on the proposed project site to depict the siting and bulk of the proposed commercial shopping center. The story pole installation was certified by a licensed surveyor.

K. On January 30, 2015, the Draft Specific Plan was reviewed by city staff and was updated and re-submitted.

L. On February 5, 2015, a Notice of Availability for a Draft Environmental Impact Report (EIR) and Planning Commission Hearing on the Whole Foods and the Park Project, was published in a newspaper of general circulation within the City of Malibu and was mailed to all interested parties, as well as property owners and occupants within a 500 foot radius.

M. On February 5, 2015, the City and the Governor’s Office of Planning and Research distributed the Draft EIR, which identified and evaluated the potential environmental impacts of the proposed Specific Plan and associated entitlements to interested parties and responsible agencies (SCH #2012041087) for a 45-day public review period, February 5, 2015 through March 23, 2015.

N. On March 2, 2015, a Planning Commission hearing was held to take comments on the Draft EIR. Following a presentation by the City and their CEQA consultant, the Planning Commission and members of the public were given the opportunity to comment on the Draft EIR.

O. From March 23, 2015 through May 14, 2015, the City worked with the EIR consultant to prepare the Final EIR. The Final EIR responds to the comments received on the Draft EIR and proposes minor text revisions to the Draft EIR.

P. On April 23, 2015, a Notice of Public Hearing was published in a newspaper of general circulation within the City of Malibu and was mailed to all interested parties, as well as property owners and occupants within a 500 foot radius.

Q. On May 7, 2015, a Revised Notice of Public Hearing was published in a newspaper of general circulation within the City of Malibu to change the public hearing date from May 18, 2015 to a
Special Planning Commission meeting on June 11, 2015.

R. On May 14, 2015, the Final EIR was made available. Also on this date, a Revised Notice of Public Hearing was published in a newspaper of general circulation within the City of Malibu, as well as property owners and occupants within a 500 foot radius. The Response to Comments on the Draft EIR was circulated to all of those who submitted comments as well as to interested parties.

S. On May 14, 2015, a revised Notice of Public Hearing was published in a newspaper of general circulation within the City of Malibu and was mailed to all interested parties, as well as property owners and occupants within a 500 foot radius to update the list of requested entitlements.

T. On June 3, 2015, the Draft Specific Plan was revised by city staff.

U. Ordinarily, the Planning Commission is the decision-making body for CDP projects and certification of California Environmental Quality Act (CEQA) documents. However, for General Plan Amendments, Zoning Map Amendments, Specific Plans, and other legislative approvals, the Planning Commission acts exclusively as an advisory body, and the City Council is the decision-maker. Since the entitlements for the Whole Foods and the Park project depend upon the General Plan and Zoning Map amendments, adoption of the Specific Plan, and a public vote pursuant to Measure R, the Planning Commission will act in an advisory capacity on the amendments, the EIR and the entitlements, and the City Council will be the decision-maker for all.

V. On June 11, 2015, the Planning Commission held a duly noticed public hearing on the Final EIR, GPA No. 11-001, ZMA No. 11-001, CDP No. 10-22, Lot Merger No. 10-004, Specific Plan No. 15-001 and reviewed and considered the agenda report, reviewed and considered written reports, public testimony, and other information in the record.

Section 2. Adoption of CEQA Findings.

The Malibu Planning Commission considered the Environmental Impact Report (EIR No. 11-001) for the proposed Specific Plan, GPA, ZMA and the overall project and in doing so found that the amendments would not have significant adverse environmental impacts, except in one resource category (Construction Noise). In compliance with Public Resources Code Section 12081 and California Environmental Quality Act (CEQA) Guidelines Section 15093, and as detailed in the Final EIR, changes and alterations have been incorporated in the Whole Foods and the Park project and related entitlements which avoid or substantially lessen the significant environmental effect because feasible mitigation measures included in the Mitigation Monitoring and Reporting Program (MMRP) have been incorporated into the CDP conditions of approval. Nevertheless, the significant environmental effects cannot be feasibly mitigated to a level of insignificance. In accordance with Public Resources Code Section 21002 and 21002.2, the Planning Commission has determined that there are specific overriding economic, legal, social, technological, or other benefits of the project which outweigh the significant effects on the environment and a statement of overriding considerations has been prepared.

The Planning Commission finds as follows:

A. CEQA requires decision-makers to balance the benefits of a proposed project against its
unavoidable environmental impacts. If the benefits of a proposed project outweigh the unavoidable adverse environmental effects, the adverse effects may be considered "acceptable" by adopting a Statement of Overriding Considerations. This statement sets forth the project benefits or reasons why the Lead Agency, City of Malibu, is in favor of approving and weighs these benefits against the project's environmental impacts identified in the Final EIR that cannot be mitigated to a level less than significant.

B. CEQA requires decision makers to adopt a mitigation monitoring and/or reporting program (MMRP) for those mitigation measures identified in the Final EIR that would mitigate or avoid each significant effect identified in the Final EIR, and to incorporate the MMRP including all mitigation measures as conditions of project approval. The Final EIR also includes an analysis of the extent to which the proposed project's direct and indirect impacts will commit nonrenewable resources to uses that future generations will probably be unable to reverse.

C. CEQA requires that the responses to comments in the Final EIR demonstrate good faith and a well-reasoned analysis and may not be conclusory. In response to several comments received, portions of the Draft EIR have been revised. Although new material has been added to the Draft EIR through preparation of the Final EIR, this new material provides clarification to points and information already included in the Draft EIR and is not considered to be significant new information or a substantial change to the Draft EIR that would necessitate recirculation.

D. The CEQA Guidelines state that "[t]he EIR is to inform other governmental agencies and the public generally of the environmental impact of a proposed project" and "CEQA does not require technical perfection in an EIR, but rather adequacy, completeness and a good-faith effort at full disclosure." (14 Cal. Code of Regs. § 15003(c) and (i).)

E. Comments received on the Draft EIR during the public review period show that a number of citizens are concerned about traffic and circulation and wildland fire and public safety. Therefore, in addition to traditional responses to comments, the Final EIR includes additional topical responses which provide a clarifying narrative as part of the Response to Comments for the purposes of responding to a large number of comments regarding traffic and circulation impacts and wildland fire and public safety concerns. Further, the clarifying narrative in the Final EIR serve the purpose of fully disclosing the information sources and reasoning used by City Staff and their consultants during the completion of their analysis of traffic and circulation and public safety impacts.

F. The documents and other materials which constitute the record of proceedings upon which this decision is based are in the custody of the City Clerk of the City of Malibu and shall be located at City Hall.

G. The Planning Commission recommends the City Council certify Final EIR No. 11-001.

Section 3. Adoption of Findings Addressing the Issues Analyzed in the Final EIR.

The Planning Commission hereby finds that the Final EIR for the Whole Foods and the Park project and associated entitlements identifies and discloses project-specific impacts and cumulative project impacts. Environmental impacts identified in the Final EIR, findings, and facts in
support of findings are herein incorporated as Findings Required by CEQA, and are as follows:

A. The Final EIR identifies project-level impacts determined to be significant and mitigable to a less than significant level. They include:

2. BIOLOGICAL RESOURCES

Significant Impact:

*Special-Status Species*

No special status wildlife was identified as occurring or potentially occurring on the project site. Construction of the proposed project would include the removal of eight native western sycamore trees. There is the potential for migratory birds to nest in these trees. Should an active nest be present at the time of tree removal, a direct loss would occur. Construction noise could also adversely impact nesting birds in close proximity to the project site, such as within the trees just outside the northern property line. Night lighting could interfere with bird nesting activities in the trees along the property line. All migratory birds are protected under the federal Migratory Bird Treaty Act and Section 3503 of the state Fish and Game Code protects bird nest and eggs; as such, removal of a nest, eggs, or abandonment of an active nest caused by the project would result in a significant adverse impact.

**Finding:** Pursuant to CEQA Section 15091(a)(1), changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the Final EIR.

**Facts in Support of Finding:** Implementation of Final EIR Mitigation Measures 3.3-1 and 3.3-2 would ensure that the proposed project does not result in any significant impacts to biological resources, including bids protected by the Migratory Bird Treaty Act and native trees protected under the City’s Native Tree Protection Ordinance.

3. CULTURAL RESOURCES

Significant Impact: Records searches and field surveys concluded that there are no observable cultural resources, including artifacts or altered soil, indicating the presence of prehistoric archaeological remains on the project site. Therefore, damage to, destruction, or disturbance of known important cultural, paleontological, or archaeological resources would not be expected to occur. During construction, all grading activities and surface modifications would be confined to only those areas of absolute necessity to reduce any form of impact on unrecorded (buried) cultural resources that may exist within the confines of the project site. Nonetheless, ground-disturbing construction activities could potentially uncover previously unknown archaeological resources.

**Finding:** Pursuant to CEQA Section 15091(a)(1), mitigation measures have been required in, or incorporated into, the project which avoid or substantially lessen the
environmental effect as identified in the Final EIR.

**Facts in Support of Finding:** Implementation of the Final EIR Mitigation Measures 3.4.1 and 3.4.3 would ensure that the proposed project does not result in any significant cultural resource impacts. Implementation of Final EIR Mitigation Measure 3.4-2 would ensure that the proposed project will not result in any significant paleontological resource impacts.

4. GEOLOGY AND SOILS

**Significant Impact:** Construction of the proposed project would entail site grading consisting of approximately 3,876 cubic yards (cy) of cut material and 13,643 cubic yards of fill material at full build-out. In addition, the Project would import approximately 9,767 cy of material for use as fill beneath the proposed structures and as part of remedial grading measures.

*Geotechnical Hazards*

The geotechnical engineering reports for the project site have been reviewed from a geotechnical perspective and approved-in-concept by the City’s consulting Geologist. Based upon the findings of the geotechnical investigation, supplemental response reports, and subsequent conditions imposed through the remarks noted on the City’s approval-in-concept for said reports, the site is considered suitable for the planned development.

The site would be developed in compliance with all existing local, city, county, state and federal laws, regulations, codes, and statutes applicable to the geology, soils seismicity, and soil conditions outlined in the project geotechnical engineering and investigation reports, and subsequent comments and conditions of the approval in concept granted by the City for the project. Compliance and adherence to project design measures mentioned herein will reduce potentially significant impacts to less than significant levels.

*Groundshaking-Seismicity*

Property owners and the general public should be aware that any structure in the southern California region is subject to potentially significant damage as a result of a moderate or major earthquake. The project will increase the potential for human health hazards and destruction of property to occur on the project site during a sizable seismic event. The risks associated with seismic activity are unavoidable and inherent to any location throughout the southern California region. While it is impossible to totally prevent structural damage to buildings and loss of life as a result of seismic events, adherence to all applicable building codes and regulations and site-specific engineering specifications can reduce such impacts to less than significant levels.

If engineering studies using state-of-the-practice techniques are employed, the impacts from seismic related ground failure (liquefaction) can be accounted for with
foundation designs to accommodate several inches of movement. Liquefaction impacts are considered significant but mitigable.

Finding: Pursuant to CEQA Section 15091(a)(1), changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the Final EIR.

Facts in Support of Finding: Implementation of Final EIR Mitigation Measure 3.5-1 will reduce the impacts from geology and soils to a level less than significant.

6. HYDROLOGY AND WATER QUALITY

Significant Impact: Post-development storm water runoff has the potential to contribute pollutants to the storm water conveyance system and ultimately to the ocean. The quality of storm water could be negatively affected by transported sediment, parking lot runoff. Moreover, the project would place commercial development within a FEMA floodplain, which could impede or redirect flood flow.

Finding: Pursuant to CEQA Section 15091(a)(1), changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the Final EIR.

Facts in Support of Finding: Implementation of Final EIR Mitigation Measures 3.8-1 and 3.8-2 will reduce the impact to a level less than significant.

7. TRANSPORTATION AND TRAFFIC

Significant Impact: Using the criteria in the City’s TIA Guidelines, the proposed project would significantly impact the intersection of Cross Creek Road and Pacific Coast Highway, Pacific Coast Highway and Malibu Canyon Road, and Pacific Coast Highway and Webb Way under Existing Plus Project Conditions (2012), Future Plus Project Conditions (2017), Future Plus Project Conditions (2030).

Finding: Pursuant to CEQA Section 15091(a)(1), changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the Final EIR.

Facts in Support of Finding: Implementation of Final EIR Mitigation Measures 3.13-1 through 3.13-3 will reduce the impacts to a level less than significant.

B. Project-Level Impacts Determined to be Significant, Unavoidable and Mitigated to the Maximum Feasible Extent

The Final EIR identifies project-level impacts in the resource area of Construction Noise that cannot be fully mitigated and are therefore considered unavoidable. To the extent the impacts remain significant and unavoidable, such an impact is acceptable when weighed against the overriding social, economic, legal, technical and other considerations, including beneficial effects of
the project, which are described in the Statement of Overriding Considerations in Section 6.

1. CONSTRUCTION NOISE

**Significant Impact:** Noise impacts resulting from construction of the proposed project have been found to be potentially significant and unavoidable. Noise levels could be as loud as 93 dBA Leq at the closest sensitive receptor during construction of proposed commercial shopping center due to the use of heavy equipment used during grading, and finish construction. Construction noise is governed by Municipal Code Section 8.24.050(G), which prohibits the use of construction tools, equipment, impact devices, derricks or hoists on weekdays between the hours of 7:00 PM and 7:00 AM, before 8:00 AM or after 5:00 PM on Saturday, or at any time on Sundays or holidays, unless the City Manager grants expressed written permission pursuant to Section 8.24.060(D). Construction noise is also governed by policies in the General Plan. Maximum noise levels for non-transportation sources are provided in the Noise Element. The City requires that mobile construction equipment not exceed an average of 65 dBA at the adjacent equestrian center land use and an average of 55 dBA for single-family residential land uses. Construction of the project would result in temporary increases in noise levels near the equestrian land use located immediately north of the project site and at single-family residential land uses located along Cross Creek Road and Harbor Vista Drive. The increase in noise levels during construction would range from 1 to 8 dB over the exterior noise threshold. Noise levels could exceed this noise threshold for a short period of time thereby exposing people to noise levels in excess of established City thresholds. In the event the proposed project is approved despite these significant noise impacts, a Statement of Overriding Considerations will be required to be adopted by the decision-makers.

Operational noise impacts resulting from the use of delivery trucks in the loading dock area and use of rooftop mechanical equipment on the proposed commercial structures would be potentially significant. However, implementation of Final EIR Mitigation Measures 3.10-8 through 3.10-10 would reduce impacts to a less than significant level.

**Finding:** Impacts from the project’s construction noise impacts are reduced by identified mitigation measures but cannot be mitigated to a less than significant level. The Planning Commission finds that, to the extent the impacts remain significant and unavoidable, such impacts are acceptable when weighed against the overriding social, economic and other considerations set forth in the Statement of Overriding Considerations in Section 6.

**Facts in Support of Finding:** Implementation of Final EIR Mitigation Measures 3.10-1 through 3.10-7 is required to address construction noise; however, this issue will remain significant and unavoidable during the construction phase of the project. The aforementioned mitigation measures indicate that the identified significant effects of the project have been reduced or avoided to the extent feasible.

C. Cumulative Impacts Associated with the Project which Remain Potentially Significant and Unavoidable.
The Final EIR concludes that all cumulative impacts associated with the project would be less than significant without mitigation or less than significant after implementation of the required mitigation measures. Significant and unavoidable construction noise impacts would only occur during construction and were considered temporary. Given this temporary condition, cumulative construction noise impacts were considered less than significant.

Section 4. Alternatives Analysis.

Based upon the testimony and other evidence received, and upon studies and investigation made by the Planning Commission and on its behalf, the Planning Commission further finds that the Final EIR analyzes a reasonable range of project alternatives. The alternatives in the Final EIR are as follows:

A. No Project/No Development – This alternative would not alter the physical appearance of the project site as no new construction would occur. The existing topographic and vegetative characteristics of the site would remain unchanged. The views of the northern hillside from vantage points to the south looking in a northerly direction and views from the south would continue to be unobstructed as they overlook the project site. The project site would, however, remain somewhat incompatible with the existing and planned environment within the Civic Center area, as the project site would neither be developed for local and visitor-serving serving uses or be in a state of natural open space.

No buildings or structures would be constructed on the site, no landscaping or hardscaping would occur. Any on-going maintenance that is currently occurring would continue, such as discing for the properties for fire suppression purposes. The No Project Alternative would completely avoid the anticipated construction impacts that would occur with implementation of the proposed project. However, this alternative would fail to meet any of the Project Applicant’s stated objectives.

Objective 1: Fulfill the City’s General Plan and Local Coastal Program objectives for commercial development in the Civic Center area.

The No Project Alternative would not meet this objective. Under this alternative, no commercial development would take place on the project site; it would remain an unattractive vacant lot.

Objective 2: Provide several compatible uses, meeting both local and visitor-serving needs, within one shopping center in a convenient location with shared parking.

The No Project Alternative would not meet this objective. This alternative would not provide a 24,549 sf Whole Foods market, 13,876 sf of retail/restaurant space or 4,800 sf of outdoor dining area. This alternative would not provide any shopping and dining opportunities, limiting the shopping experience in the area. Under this alternative the children’s parks, community gardens, ancillary retail, and restaurant facilities with outdoor dining would not be constructed. The project objective of serving as a center for multiple activities, and thus minimizing vehicle trips would not be met.
Objective 3: Afford a wider range of organic grocery and produce options to support the Malibu community and reduce reliance on out of town markets and vehicle trips.

The No Project Alternative would not meet this objective. Under this alternative, no grocery store would be built; no new organic grocery and produce items would be provided. The project objective of helping to minimize reliance on out of town markets would not be met.

Objective 4: Extend the shopping experience that exists on Cross Creek Road into a park-like atmosphere, which will provide a physical and visual link to Legacy Park.

The No Project Alternative would not meet this objective. This alternative would not provide a 24,549 sf Whole Foods market, 13,876 square feet of retail/restaurant space or 4,800 sf of outdoor dining area, 103,341 square feet of landscaping, or 64,042 square feet of open space. As a result, this alternative would not provide any shopping and dining opportunities, limiting the shopping experience in the area. Under this alternative, the above described landscaping and open space would not be provided, thus this alternative would not provide a physical and visual link to Legacy Park.

Objective 5: Situate the project in an area where it is clustered with other similar uses along the eastern portion of Civic Center Way.

The No Project Alternative would not meet this objective. This alternative would not provide a 24,549 sf Whole Foods market, 13,876 square feet of retail/restaurant space or 4,800 sf of outdoor dining area. As a result, the site would not provide a cluster of similar uses, as it would provide no opportunities for grocery or retail shopping and dining.

Objective 6: Increase pedestrian interaction among the business and public spaces along Civic Center Way and Cross Creek Road.

The No Project Alternative would not meet this objective. Under this alternative, no commercial development would take place on the project site; it would remain an unattractive vacant lot. There would be no opportunities for interaction with other businesses and public spaces along Civic Center Way and Cross Creek Road.

Objective 7: Create a visually appealing and inviting project to add to the Civic Center of Malibu.

The No Project Alternative would not meet this objective. Under this alternative, unlike with the proposed project, no landscaping, children’s parks, community garden, or public open space would be provided; the project site would remain an unattractive vacant lot.

Objective 8: Revegetate the site with plantings that incorporate the plants species of both Malibu’s and the Santa Monica Mountain’s native coastal plant community.

The No Project Alternative would not meet this objective. Unlike with the proposed
project, no landscaping or gardens would be provided; the project site would remain an unattractive vacant lot.

Objective 9: Provide an aesthetic relationship with the Santa Monica Mountains and Malibu Creek.

The No Project Alternative would not meet this objective. Under this alternative the landscaping, children’s parks, and community garden would not be constructed. Further, this alternative would not provide a physical and visual link to Legacy Park. However, as no building would be built, there would be no blocking of views through the project site.

Objective 10: Minimize and eliminate negative impacts to the neighborhood.

The No Project Alternative would partially meet this objective. Under this alternative, no construction would take place, and there would be no construction noise impacts and traffic in the area would be reduced as compared to the “Future with Project” condition. However, the project site would remain an unattractive vacant lot.

Objective 11: Deliver project features that contribute benefits to the community.

The No Project Alternative would not meet this objective. This alternative would not provide a 24,549 sf Whole Foods market, 13,876 sf of retail/restaurant space or 4,800 sf of outdoor dining area. As a result, this alternative would provide fewer shopping and dining opportunities, limiting the shopping experience in the area. Under this alternative the children’s parks, community gardens, ancillary retail, and restaurant facilities with outdoor dining would not be constructed. Further, this alternative would not provide a physical and visual link to Legacy Park.

The Planning Commission finds that the No Project Alternative is infeasible because it would not meet the project objectives.

B. Code Complying Alternative – This alternative would consist of a supermarket (28,879 sf) and 129 parking spaces. Pursuant to the MMC and the LCP, a total of 166,509 sf of landscape area and open space are required to be provided. The total landscape area and open space provided under the Code Complying Alternative would be 166,719 sf. This alternative would provide the code specified Yard Setbacks, Open Space and Landscaped Area (65 percent). Further, because the building is set more than 250 feet from the adjoining horse training facility, the Code Complying Alternative would not require the construction of a 12-foot sound wall to reduce potential sudden noise impacts.

This alternative was evaluated for the same impact categories as the proposed project and was found to have similar impacts to the proposed project, but incrementally greater impacts to traffic and utilities (natural gas and electricity). This Alternative would meet some of the project’s stated objectives; however it would be to a lesser extent than the proposed project.

Objective 1: Fulfill the City’s General Plan and Local Coastal Program objectives for
commercial development in the Civic Center area.

The Code Complying Alternative would not provide 13,876 sf of retail/restaurant space. As a result, this alternative would provide fewer shopping and dining opportunities, limiting the shopping experience in the area. Under this alternative, landscaping and open space would be provided. However, the children’s parks, community garden, and public open space would not be constructed on the project site. Thus, this alternative would not provide as much of a physical and visual link to Legacy Park when compared to the proposed project.

Objective 2: Provide several compatible uses, meeting both local and visitor-serving needs, within one shopping center in a convenient location with shared parking.

The Code Complying Alternative would not construct 13,876 sf of local and visitor serving ancillary retail/restaurant structures and 4,800 sf of outdoor dining area. As a result, the project would be less desirable from a convenience point of view in that fewer activities or tasks can be combined with food shopping. The project objective of serving as a center for multiple activities, and thus allowing for shared parking, as well as minimizing vehicle trips, would not be met.

Objective 3: Afford a wider range of organic grocery and produce options to support the Malibu community and reduce reliance on out-of-town markets and vehicle trips.

The Code Complying Alternative assumes that a generic grocery store building would be provided. The unknown tenant may or may not have a commitment to providing a wide range of organic grocery and produce options. Patrons wishing to purchase these items may still need to travel to the San Fernando Valley, Santa Monica or West Los Angeles to shop at Whole Foods. The project objective of helping to minimize reliance on out of town markets would not be met.

Objective 4: Extend the shopping experience that exists on Cross Creek Road into a park-like atmosphere, which will provide a physical and visual link to Legacy Park.

The Code Complying alternative would not provide 13,876 sf of retail/restaurant space. As a result, this alternative would provide fewer shopping and dining opportunities, limiting the shopping experience in the area. The children’s parks, community garden, and public open space would not be constructed on the project site and therefore recreational opportunities would be reduced. Thus this alternative would not provide a physical and visual link to Legacy Park.

Objective 5: Situate the project in an area where it is clustered with other similar uses along the eastern portion of Civic Center Way.

The Code Complying Alternative would not provide 13,876 sf of retail/restaurant space or 4,800 sf of outdoor dining area. As a result, the site would not be as effective as the proposed project in providing a cluster of similar uses, as it would provide no opportunities for retail shopping and dining.
Objective 6: Increase pedestrian interaction among the business and public spaces along Civic Center Way and Cross Creek Road.

The Code Complying Alternative would provide a generic grocery store building along with landscaping and public open space. However, since the children’s parks, community garden, ancillary retail, and restaurant facilities with outdoor dining would not be constructed, it is likely that foot traffic to the site would be reduced when compared to the proposed project.

Objective 7: Create a visually appealing and inviting project to add to the Civic Center of Malibu.

Under the Code Complying Alternative, it cannot be assumed that Whole Foods would be the tenant. The architecture of the proposed grocery store building would be a generic “box” in order to appeal to the greatest number of potential tenants and the children’s parks, community garden and public open space would not be constructed on the project site.

Objective 8: Revegetate the site with plantings that incorporate the plants species of both Malibu’s and the Santa Monica Mountain’s native coastal plant community.

Similar to the prosed project, the Code Complying Alternative would provide drought tolerant landscaping and would include species of both Malibu’s and the Santa Monica Mountain’s native coastal plant community to the extent feasible.

Objective 9: Provide an aesthetic relationship with the Santa Monica Mountains and Malibu Creek.

The Code Complying Alternative would include a generic grocery store building on the southerly portion of the site. Views of the Santa Monica Mountains would be more limited from Civic Center Way when compared to the proposed project.

Objective 10: Minimize and eliminate negative impacts to the neighborhood.

The Code Complying Alternative would not provide 13,876 sf of retail/restaurant space. As a result, this alternative would provide fewer shopping and dining opportunities, limiting the shopping experience in the area. Under this alternative, landscaping and open space would be provided and noise impacts would be reduced when compared to the proposed project.

Objective 11: Deliver project features that contribute significant benefits to the community.

The Code Complying Alternative would not provide 13,876 sf of retail/restaurant space or 4,800 sf of outdoor dining area. As a result, this alternative would provide fewer shopping and dining opportunities, limiting the shopping experience in the area. Under this alternative, landscaping and open space would be provided and thus it is likely that foot
traffic to the site would be greatly reduced. Further, this alternative would not provide a physical and visual link to Legacy Park. However, noise impacts would be reduced when compared to the proposed project.

The Planning Commission finds that Alternate B – Code Complying Alternative will not meet the project objectives to the same extent as the proposed project, and that the preferred alternative provides a more desirable mix of commercial retail uses and a more aesthetically pleasing environment.

C. Two Story Alternative – This alternative would consist of 38,425 sf neighborhood shopping center designed to be anchored by a Whole Foods Market (24,549 sf) and four smaller outbuildings (3,015 sf, 3,086 sf, 3,592 sf, and 4,183 sf, respectively) and 220 parking spaces. Pursuant to the MMC and the LCP, which require that 40 percent of the gross lot area constitute landscaped area, a total of 102,467 sf of landscaping and open space would be provided. This alternative would also include two play areas for children (Shane’s Inspiration Park and a Sensory Garden), a gathering area for users, including a Kitchen Community Learning Center, and several outdoor seating areas scattered throughout the project.

This alternative was evaluated for the same impact categories as the proposed project and was found to have similar impacts to the proposed project, but greater construction noise impacts due to the additional excavation, framing, and access requirements for two-story structures and incrementally greater aesthetic impacts due to the construction of a larger two-story structure. This Alternative would meet the proposed project’s stated objectives; however it would be to a lesser extent than the proposed project.

Objective 1: Fulfill the City’s General Plan and Local Coastal Program objectives for commercial development in the Civic Center area.

The Two-Story Alternative would remain desirable from a convenience point of view in that more activities or tasks could be combined with food shopping. The same level of landscaping and open space would be provided, and the children’s parks, community garden, and public open space would be constructed on the project site. Thus this alternative would provide a physical and visual link to Legacy Park.

Objective 2: Provide several compatible uses, meeting both local and visitor-serving needs, within one shopping center in a convenient location with shared parking.

The Two-Story Alternative would consolidate buildings into two two-story buildings rather than four single-story structures. As a result, the project would remain desirable from a convenience point of view in that more activities or tasks could be combined with food shopping. The project objective of serving as a center for multiple activities, and thus minimizing vehicle trips would be met.

Objective 3: Afford a wider range of organic grocery and produce options to support the Malibu community and reduce reliance on out-of-town markets and vehicle trips.
Due to the modified site layout under the Two Story Alternative, it cannot be assumed that Whole Foods would occupy the space; therefore, the unknown tenant may or may not have a commitment to providing a wide range of organic grocery and produce options. Patrons wishing to purchase these items may still need to travel to the San Fernando Valley, Santa Monica or West Los Angeles to shop at Whole Foods.

**Objective 4:** Extend the shopping experience that exists on Cross Creek Road into a park-like atmosphere, which will provide a physical and visual link to Legacy Park.

The Two Story Alternative would provide shopping and dining opportunities similar to the proposed project. Under this alternative, slightly more landscaping and open space would be provided compared to the proposed project, thus this alternative would provide a physical and visual link to Legacy Park.

**Objective 5:** Situate the project in an area where it is clustered with other similar uses along the eastern portion of Civic Center Way.

The Two Story Alternative would provide 13,876 square feet of retail/restaurant space and 4,800 sf of outdoor dining areas in two, two-story buildings along the eastern portion of Civic Center Way. As a result, the site would provide a cluster of similar uses, and similar to the proposed project, offer greater opportunities for shopping and dining.

**Objective 6:** Increase pedestrian interaction among the business and public spaces along Civic Center Way and Cross Creek Road.

The Two Story Alternative would provide three two-story buildings along with landscaping, a children’s park and public open space, intended to encourage pedestrian traffic in the Civic Center area.

**Objective 7:** Create a visually appealing and inviting project to add to the Civic Center of Malibu.

The Two Story Alternative would construct attractive buildings along with landscaping, two children’s parks, a community garden, and public open space. However, this layout would not fulfill the intent of the proposed project design, which is that of simple and contemporary low-rise structures, with a series of small, intimate courtyards.

**Objective 8:** Revegetate the site with plantings that incorporate the plants species of both Malibu’s and the Santa Monica Mountain’s native coastal plant community.

Similar to the proposed project, the Two Story Alternative would plant drought tolerant landscaping and would include species of both Malibu’s and the Santa Monica Mountain’s native coastal plant community to the extent feasible.

**Objective 9:** Provide an aesthetic relationship with the Santa Monica Mountains and Malibu Creek.
The Two Story Alternative would construct two, two-story buildings on the project site. Due to their distance, background views of the Santa Monica Mountains and Malibu Creek would be maintained from and through the site.

**Objective 10: Minimize and eliminate negative impacts to the neighborhood.**

The Two Story Alternative would include a grocery store building along with 13,876 sf of retail/restaurant space. As a result, this alternative would provide similar shopping and dining opportunities, expanding the shopping experience in the area. Under this alternative, landscaping and open space would be provided along with two children’s parks, community gardens, ancillary retail, and restaurant facilities with outdoor dining. However, construction noise impacts under this alternative would be greater than the proposed project.

**Objective 11: Deliver project features that contribute benefits to the community.**

The Two Story Alternative would include a generic grocery store building along with 13,876 sf of retail/restaurant space and 4,800 sf of outdoor dining area. However, because of the site layout it cannot be assumed that Whole Foods would occupy the space; the unknown tenant may or may not have a commitment to providing a wide range of organic grocery and produce options. Patrons wishing to purchase these items may still need to travel to the San Fernando Valley, Santa Monica or West Los Angeles to shop at Whole Foods. Under this alternative, landscaping and open space would be provided, along with two children’s parks, and a community garden; foot traffic to the site would be increased. Further, this alternative would provide a physical and visual link to Legacy Park.

The Planning Commission finds that Alternate C - Two Story Alternative will not meet the project objectives to the same extent as the proposed project, and the proposed project provides a more desirable and lower scale mix of commercial retail uses and a more aesthetically pleasing environment.

**D. The Preferred Alternative**

This alternative is described in detail throughout the associated staff report and Final EIR as the proposed project. The proposed project does reduce significant impacts through the implementation of mitigation measures and meets the project objectives described above. The Final EIR provides substantial evidence that the proposed project will result in no significant impact to Aesthetics, Air Quality, Greenhouse Gas Emissions, Hazards and Hazardous Materials, Land Use, Fire Protection Services, Sheriff Protection Services, Recreation, Recreation, Agricultural Resources, Mineral Resources, Population and Housing, and Schools. With regard to the remaining environmental subject areas (Biological Resources, Cultural Resources, Geology and Soils, Hydrology and Water Quality, and Transportation and Traffic), any impacts posed by the proposed project are less than significant with the implementation of mitigation measures. Construction noise impacts were found to be significant and unavoidable; however, they will be temporary in nature, during the construction phase and minimized to the extent feasible by Final EIR Mitigation Measures 3.10-1 through 3.10-10.
Based on substantial evidence in the record, the Planning Commission finds that the proposed project is the least environmentally damaging alternative.

Section 5. General Findings.

Based upon the testimony and other evidence received, and upon studies and investigation conducted for the project, the Planning Commission finds:

A. The Final EIR for this project is adequate, complete, and has been prepared in accordance with CEQA.

B. The Planning Commission has reviewed and considered the Final EIR in reaching its conclusion.

C. In accordance with CEQA Guidelines Sections 15091 and 15093, the EIR includes a description of each potentially significant impact and rationale for finding that changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as detailed in Section 3.

D. In accordance with Public Resources Code Section 21081 and CEQA Guidelines Section 15091, changes and alterations have been required and incorporated into the Whole Foods and the Park project and related entitlements which avoid or substantially lessen the significant environmental effect because feasible mitigation measures included in the MMRP, Exhibit A to this resolution, are made conditions of approval for this project.

E. The Final EIR reflects the City’s independent judgment and analysis.


Based upon the testimony and other evidence received, and upon studies and investigation conducted for the project, the Planning Commission has determined that, although EIR mitigation measures and conditions of approval imposed on the project will provide substantial mitigation of the identified significant environmental project-level and cumulative effects pertaining to Construction Noise discussed in Section 3(B), this environmental effects cannot be feasibly mitigated to a level of insignificance. Consequently, in accordance with CEQA Guidelines Section 15093, a Statement of Overriding Considerations has been prepared to substantiate the Planning Commission’s findings that these significant, unavoidable impacts are acceptable when balanced against the specific overriding economic, legal, social, technological and other considerations and community benefits afforded by the project.

SPECIFIC, OVERRIDING COMMUNITY BENEFITS OF THE PROJECT THAT OUTWEIGH THE SIGNIFICANT EFFECTS ON THE ENVIRONMENT

A. Any one or a combination of these specific community benefits would outweigh the unavoidable environmental impacts of the project.
1. The project will provide fiscal benefits to the City’s general fund.

2. The project will fulfill long-term economic and social goals for the City and the community.

3. The project will contribute its pro-rata share of funds to the City to facilitate the construction of improvements to infrastructure including improvements to the Pacific Coast Highway/Cross Creek Road intersection, the Pacific Coast Highway/Webb Way intersection, and the Pacific Coast Highway/Malibu Canyon Road intersection.

4. The project will contribute its pro-rata share of funds to Waterworks District No. 29 to facilitate the construction of improvements to water supply infrastructure, including 5,000 feet of 12-inch water main, pump station upgrades, a regulating station, and an approximately 800,000 gallon water tank.

5. The project proposes commercial uses in support of the City’s General Plan Goals and Policies. The following are a sample of the goals and policies of the City’s General Plan which are supported by the project:

   LU Policy 1.1.5: “The City shall require careful site planning which blends development with the natural topography.”

   LU Policy 1.3.1: “The City shall regulate development in floodways.”

   The project supports Land Use Element Goal 2: Manage Growth to Preserve a Rural Community Character as follows:

   LU Policy 2.1.1: “The City shall promote an aesthetically pleasing and visually stimulating environment whose architecture, common and open spaces inspire and uplift the human spirit.”

   LU Policy 2.1.6: “The City shall encourage pedestrian friendly design in concentrated commercial areas.”

   LU Policy 2.2.1: “The City shall require adequate infrastructure, including but not limited to roads, water, and wastewater disposal capacity, as a condition of proposed development.”

6. The project provides short-term construction employment and long-term permanent employment within the City.

7. The project will help to develop a “town center” that is geographically centrally located, that provides interdependent uses thereby minimizing trips and enhances the existing civic center uses.

Section 7. The Planning Commission has reviewed and considered the environmental information contained in the Final EIR (SCH # 2012041087) and determines that it is adequate and in
compliance with CEQA (Public Resources Code, Section 21000 et seq.). In compliance with Public Resources Code Section 12081 and CEQA Guidelines Section 15093, the Planning Commission has considered the project benefits as balanced against the unavoidable adverse environmental effects and hereby determines that any of the overriding considerations listed in the Statement of Overriding Considerations outweighs the unavoidable adverse environmental effects; therefore, the Planning Commission determines that the adverse environmental effects are considered acceptable.

Section 8. The Planning Commission recommends the City Council adopt the above Statement of Overriding Considerations.

Section 9. The Planning Commission recommends the City Council adopt the Mitigation Monitoring Program attached hereto as “Exhibit A” and made a part hereof.

Section 10. The Planning Commission recommends certification of the Final EIR for the Whole Foods and Park project.

PASSED, APPROVED AND ADOPTED this 11th day of June 2015.

DAVID BROTMAN, Planning Commission Chair

ATTEST:

KATHLEEN STECKO, Recording Secretary

I CERTIFY THAT THE FOREGOING RESOLUTION NO. 15-57 was passed and adopted by the Planning Commission of the City of Malibu at the regular meeting thereof held on the 11th day of June 2015, by the following vote:

AYES: 3 Commissioners: Brotman, Jennings, Stack
NOES: 2 Commissioners: Mazza, Pierson
ABSTAIN: 0
ABSENT: 0

KATHLEEN STECKO, Recording Secretary
4.0 MITIGATION MONITORING
AND REPORTING PROGRAM

PURPOSE

The Mitigation Monitoring and Reporting Program (MMRP) has been prepared in conformance with Section 21081.6 of the California Environmental Quality Act (CEQA). It is the intent of this program to: (1) verify satisfaction of the required mitigation measures of the EIR; (2) provide a methodology to document implementation of the required mitigation measures; (3) provide a record of the Monitoring Program; (4) identify monitoring responsibility; (5) establish administrative procedures for the clearance of mitigation measures; (6) establish the frequency and duration of monitoring; and (7) utilize existing review processes wherever feasible.

INTRODUCTION

This Mitigation Monitoring and Reporting Program describes the procedures that will be used to implement the mitigation measures adopted in connection with the approval of the project and the methods of monitoring such actions. This MMRP takes the form of a table that identifies the responsible entity for monitoring each mitigation measure and the timing of each measure.
### Table 4.0-1
Mitigation Monitoring and Reporting Program Matrix

<table>
<thead>
<tr>
<th>Biological Resources</th>
<th>Mitigation Measure</th>
<th>Action Required</th>
<th>Timing</th>
<th>Monitoring Responsibility</th>
</tr>
</thead>
<tbody>
<tr>
<td>3.3-1: If construction would commence during the nesting/breeding season (February through August), a pre-construction survey of the project vicinity for nesting birds shall be conducted by a qualified biologist (i.e., experienced with the nesting behavior of bird species of the region) within two weeks of the commencement of construction activities. The intent of the survey would be to determine if active nests of special-status bird species or other species protected by the Migratory Bird Treaty Act and/or the California Fish and Game Code are present within the construction zone or within 500 feet of the construction zone. The survey area shall include all trees, shrubs, and buildings in the construction zone and a surrounding 500 feet area, including suitable habitat areas outside the project site. If active nests are found in areas that could be directly affected by, or are within 500 feet of, construction and would be subject to prolonged construction-related noise, a no-disturbance buffer zone shall be created around active nests during the breeding season or until a qualified biologist determines that all young have fledged. The size of the buffer zones and types of construction activities restricted within them shall be determined by the qualified biologist taking into account factors such as the following:</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Qualified biologist to prepare nesting bird survey reports</td>
<td>• Pre-Construction</td>
<td>• City of Malibu Planning Department</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Review and approval of nesting bird survey reports.</td>
<td>• During Construction</td>
<td>• City Biologist</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Field verify that sufficient space is given to nesting birds (if necessary)</td>
<td>• Field verify that sufficient space is given to nesting birds (if necessary)</td>
<td>• Construction Manager</td>
</tr>
</tbody>
</table>
### Biological Resources (continued)

<table>
<thead>
<tr>
<th>Mitigation Measure</th>
<th>Action Required</th>
<th>Timing</th>
<th>Monitoring Responsibility</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>3.3-1:</strong> (continued)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>LUP Policy 6.23 requires exterior lighting to be low intensity and shielded. As discussed in Section 3.1 Aesthetics, it is anticipated that prior to project entitlement and buildout the City will have adopted a citywide lighting ordinance. As a new project, all lighting for the proposed project would be required to meet the standards in the City’s General Plan, MMC Title 17, LIP Sections 4.6.2 and 6.5(G) and the adopted citywide lighting ordinance. In addition, uplighting in landscaping or elsewhere on-site shall be prohibited. The combination of low wattage and shielding would reduce potential impacts to nesting birds to less than significant levels.</td>
<td>• Qualified biologist to prepare annual replacement tree monitoring reports</td>
<td>• Prior to issuance of grading permit and coastal development permit</td>
<td>• City of Malibu Planning Department</td>
</tr>
<tr>
<td><strong>3.3-2:</strong></td>
<td>• Review and approval of replacement tree planting plan</td>
<td>• Annually for 10 years</td>
<td>• City Biologist</td>
</tr>
<tr>
<td>The project applicant shall ensure the requirements of LIP Section 5.6.2 are met through the preparation of a monitoring plan. The applicant (or designee) shall be responsible for preparation of annual monitoring reports on the replacement trees. The monitoring report shall include measurements of replacement trees (i.e., DBH, approximate height and canopy width) and the relative health, including noting any damage from fire, insects, and disease, or other vectors affecting health. If at any time, within the monitoring period the health of a replacement tree begins to decline beyond recovery, that tree shall be replaced in kind with a healthy tree. Monitoring reports shall be provided to the City annually and at the conclusion of the 10-year monitoring period documenting the success or failure of the mitigation. If performance standards are not met by the end of 10 years, at the discretion of the City Planning Department the monitoring period shall be extended until the standards are met.</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
### Mitigation Measure

<table>
<thead>
<tr>
<th>Cultural Resources</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>3.4.1:</strong> The services of an archaeologist shall be secured by contacting the Center for Public Archaeology – Cal State University Fullerton, or an archaeologist who meets the Secretary of the Interior's guidelines and is listed in the Register of Professional Archaeologists, who shall be present to monitor all ground-disturbing activities associated with the Project.</td>
</tr>
</tbody>
</table>

Prior to initiation of ground-disturbing activities, the Project Archaeologist shall conduct a brief awareness training session for the benefit of all construction workers and supervisory personnel. The training, which could be held in conjunction with the Project’s initial on-site safety meeting and paleontological resources training, shall explain the importance of and legal basis for the protection of significant archaeological resources. In the event that archaeological resources are exposed during ground-disturbing activities, work in the immediate vicinity of the find shall stop until the Project Archaeologist can evaluate the significance of the find. Construction activities may continue in other areas.

If the discovered cultural materials are prehistoric in nature or include Native American remains, the Project Archaeologist shall arrange for a Native American monitor to be retained to assist in the identification of the resources or human remains. The Native American monitor shall be retained from a list of suitable candidates from the Native American Heritage Commission.

The Archaeologist shall assess the discovered material(s) and prepare a survey, study, or report evaluating the impact. The Archaeologist’s survey, study, or report shall contain a recommendation(s), if necessary, for the preservation, conservation, or relocation of the resource. The applicant shall comply with the recommendations of the evaluating Archaeologist, as contained in the survey, study, or report. Project development activities may resume once copies of the archaeological survey, study or report are submitted to:

- South Central Coastal Information Center
- Department of Anthropology
- McCarthy Hall 477
- CSU Fullerton
- 800 North State College Boulevard
- Fullerton, CA 92834

Prior to the issuance of any building permit, the Applicant shall submit a letter to the case file indicating what, if any, archaeological reports have been submitted, or a statement indicating that no material was discovered. A covenant and agreement binding the Applicant to this condition shall be recorded prior to issuance of a grading permit.

<table>
<thead>
<tr>
<th>Action Required</th>
<th>Timing</th>
<th>Monitoring Responsibility</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Confirm measure is incorporated into project specifications.</td>
<td>Pre-Construction</td>
<td>• City of Malibu Planning Department</td>
</tr>
<tr>
<td>• Confirm that any cultural resources uncovered during construction are treated in accordance with recommendations from archaeologist and Native American cultural monitor.</td>
<td>During Construction</td>
<td>• Project Archaeologist</td>
</tr>
<tr>
<td>• Confirm that any cultural resource whose treatment is under dispute is treated in accordance with the recommendations of the Native American Heritage Commission.</td>
<td></td>
<td>• Construction Manager</td>
</tr>
<tr>
<td>• Confirm that any human remains are uncovered during construction are handled in accordance with applicable regulations, as proscribed in this measure.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mitigation Measure</td>
<td>Action Required</td>
<td>Timing</td>
</tr>
<tr>
<td>--------------------</td>
<td>----------------</td>
<td>--------</td>
</tr>
<tr>
<td>Cultural Resources (continued)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3.4-2: All excavations and grading activities into the older Quaternary alluvium and/or Sespe Formation, or below a depth of 5 feet, shall be monitored by a qualified paleontologist. The on-site monitor shall be equipped and permitted to salvage fossils and samples of sediments as they are unearthed. If unearthed paleontological resources determined to be significant by the on-site paleontologist are discovered during project construction activities, all work should halt within 50 feet of the find until it can be fully evaluated and excavated by a qualified paleontologist. Recovered specimens shall be prepared to a point of identification and permanent preservation, including washing of sediments to recover small invertebrates and vertebrates. Specimens shall be curated into a professional, accredited museum repository with permanent retrievable storage. A report of findings, with an appended itemized inventory of specimens, shall be prepared and submitted to the City. The report and inventory, when submitted to the City, shall signify completion of the program to mitigate impacts on paleontological resources.</td>
<td>• Confirm that measure is incorporated into project specifications. • Verify that monitor has resources necessary to salvage fossils and sample sediments as they are unearthed. • Confirm that any specimens uncovered during construction are curated into a museum repository meeting the requirements stipulated in the measure. • Confirm receipt of report of findings and inventory of specimens.</td>
<td>• Pre-construction • During Construction</td>
</tr>
</tbody>
</table>
### Mitigation Measure

- **Cultural Resources (continued)**

<table>
<thead>
<tr>
<th>Mitigation Measure</th>
<th>Action Required</th>
<th>Timing</th>
<th>Monitoring Responsibility</th>
</tr>
</thead>
</table>
| **3.4-3:** If human remains are encountered during excavation and grading activities within the project site, the contractor shall stop such activities. In the event of accidental discovery or recognition of any human remains there shall be no further excavation or disturbance of the subject site or any nearby areas reasonably suspected to overlie adjacent human remains and the following steps shall be taken: | • Confirm measure is incorporated into project specifications. | • Pre-Construction  
• During Construction | • City of Malibu Planning Department  
• Project Archaeologist  
• Construction Manager |
| | • Confirm that any human remains are uncovered during construction are handled in accordance with applicable regulations, as proscribed in this measure. | | |
| | • Implementing or local agencies or authorized representatives should retain a Native American monitor, and an archaeologist, if recommended by the Native American monitor, and rebury the Native American human remains and any associated grave goods, with appropriate dignity, on the property and in a location that is not subject to further subsurface disturbance when any of the following conditions occurs: | | |
| | • The coroner of the City in which the remains are discovered must be contacted to determine that no investigation of the cause of death is required; and, | | |
| | • If the remains are of Native American origin, either of the following steps shall be taken: | | |
| | The coroner should contact the Native American Heritage Commission in order to ascertain the proper descendants from the deceased individual. The coroner should make a recommendation to the landowner or the person responsible for the excavation work, for means of treating or disposing of, with appropriate dignity, the human remains and any associated grave goods, which may include obtaining a qualified archaeologist or team of archaeologists to properly excavate the human remains. Implementing or local agencies or authorized representatives should retain a Native American monitor, and an archaeologist, if recommended by the Native American monitor, and rebury the Native American human remains and any associated grave goods, with appropriate dignity, on the property and in a location that is not subject to further subsurface disturbance when any of the following conditions occurs: | • Confirm that any human remains are uncovered during construction are handled in accordance with applicable regulations, as proscribed in this measure. | • City of Malibu Planning Department  
• Project Archaeologist  
• Construction Manager |
| | • The Native American Heritage Commission is unable to identify a descendant. | | |
| | • The descendant identified fails to make a recommendation. | | |
| | • The implementing agency or its authorized representative rejects the recommendation of the descendant, and the mediation by the Native American Heritage Commission fails to provide measures acceptable to the landowner. | | |
### 4.0 Mitigation Monitoring and Reporting Program

**Mitigation Measure** | **Action Required** | **Timing** | **Monitoring Responsibility**
--- | --- | --- | ---
**Geology and Soils** |  |  |  |
3.5-1: Prior to project approval, the project applicant shall submit for review and approval by the City of Malibu Building Department detailed plans to address potential liquefaction hazards. These plans shall reduce liquefaction hazards through one of the following methods:

The proposed structures may be supported on friction piles extending through the potentially liquefiable sands. The friction piles may be designed in two ways.

**Option 1:**

The minimum friction pile diameter is 24 inches. Friction piles should extend into the non-liquefiable alluvium a minimum of 10 feet, which is found at a depth of 30 feet. The friction piles may be proportioned using skin friction value of 500 pounds per square foot. All friction piles shall be designed to resist a creep force of 1,000 pounds per lineal foot for each foot of shaft exposed to the liquefiable sands above 30 feet.

Lateral loads may be resisted by friction at the base of the conventional foundations and by passive resistance within the compacted fill. A coefficient of friction of 0.4 may be used between the foundations and the alluvium. The passive resistance may be assumed to act as a fluid with a density of 500 pounds per cubic foot. A maximum passive earth pressure of 2,000 pounds per square foot may be assumed. For isolated poles, the allowable passive earth pressure may be doubled.

Buried utilities and parking areas would still be affected by liquefaction. Appropriate measures such as flexible connections resistant to earthquake damage and shutoff valves should be considered.

**Option 2:**

The minimum continuous footing size is 12 inches wide and 24 inches deep into the compacted fill, measured from the lowest adjacent grade. Continuous footings may be proportioned, using a bearing value of 1,500 pounds per square foot. Column footings placed into the compacted fill may be proportioned, using a bearing value of 2,000 pounds per square foot, and shall be a minimum of 2 feet in width and 24 inches deep, below the lowest adjacent grade.

- Confirm design and project specifications incorporate the recommendations in the geotechnical reports for the Project and Section 300 of the Standard Specifications for Public Works Construction and Regional Supplemental Amendments.
- Verify that site preparation and earthwork is done as required in specifications.

- Design
- Pre-Construction
- During Construction
- City of Malibu Building Department Public Works Department
- Construction Manager
### Mitigation Monitoring and Reporting Program

#### Geology and Soils (continued)

<table>
<thead>
<tr>
<th>Mitigation Measure</th>
<th>Action Required</th>
<th>Timing</th>
<th>Monitoring Responsibility</th>
</tr>
</thead>
<tbody>
<tr>
<td>3.5-1: (continued)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>The bearing values given above are net bearing values; the weight of concrete below grade may be neglected. These bearing values may be increased by one-third for temporary loads, such as, wind and seismic forces. All footing excavation depths shall be measured from the lowest adjacent grade of recommended bearing material. Footing depths shall not be measured from any proposed elevations or grades. Any foundation excavations that are not the recommended depth into the recommended bearing materials will not be acceptable. Lateral loads may be resisted by friction at the base of the conventional foundations and by passive resistance within the compacted fill. A coefficient of friction of 0.4 may be used between the foundations and the alluvium. The passive resistance may be assumed to act as a fluid with a density of 300 pounds per cubic foot. A maximum passive earth pressure of 2,000 pounds per square foot may be assumed. For isolated poles, the allowable passive earth pressure may be doubled. The liquefaction hazard may be mitigated by in place treatment of the liquefiable sands to reduce the liquefaction potential. In place densification of the material may be accomplished with Vibro-Compaction or Stone Column densification. Shallow foundations may be utilized provided that the liquefaction potential is reduced to an acceptable level. Additional testing following the treatment shall verify the results of the densification</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

#### Hydrology and Water Quality

<table>
<thead>
<tr>
<th>Mitigation Measure</th>
<th>Action Required</th>
<th>Timing</th>
<th>Monitoring Responsibility</th>
</tr>
</thead>
<tbody>
<tr>
<td>3.8-1: Prior to issuance of any building or grading permit or Certificate of Occupancy, the project proponent shall submit proof of compliance with all requirements of the National Pollutant Discharge Elimination System (NPDES) General Permit, including the submittal of an Erosion and Sediment Control Plan (MS4 Permit Section VI.D.8.h.ii) for approval.</td>
<td>• Confirm design and project specifications incorporate requirements of the NPDES permit. • Verify that construction activities comply with the SWPPP and state General Construction Permit requirements. • Pre-Construction • During Construction • During Project Operation</td>
<td></td>
<td>• City of Malibu Public Works Department • Construction Manager</td>
</tr>
</tbody>
</table>

Impact Sciences, Inc. 4.0-8 Whole Foods and the Park Shopping Center Project Final EIR 0592.003 May 2015
### Mitigation Monitoring and Reporting Program

#### Hydrology and Water Quality (continued)

<table>
<thead>
<tr>
<th>Mitigation Measure</th>
<th>Action Required</th>
<th>Timing</th>
<th>Monitoring Responsibility</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>3.8-2:</strong> Prior to issuance of any building or grading permits, the project proponent must submit, to the City, and receive final approval of a Water Quality Mitigation Plan (WQMP). The WQMP shall be supported by a final hydrology and hydraulic study that identifies all contributory runoff areas on the property and shall substantially conform to the submitted concept grading and drainage plan. The WQMP shall meet all the requirements of the City’s current Municipal Separate Stormwater Sewer System (MS4) permit Section VI.D.7.c. The following elements shall be included within the WQMP:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>City of Malibu Public Works Department</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Construction Manager</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Site Design Best Management Practices (BMPs)</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Source Control BMPs</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>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 shall bio-filtrate 1.5 times the SWQDv that is not retained on-site. The SWQDv is defined as the greater of the 85th percentile, 24-hour storm event or the 0.75-inch, 24-hour storm event.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Drainage Improvements</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>A plan for the maintenance and monitoring of the proposed treatment BMPs for the expected life of the structure.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>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.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>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 any permits. The Public Works Department shall tentatively approve the plan and shall keep a copy on file until the completion of the project. Once the project is completed, the Public Works Department shall verify the installation of the BMPs. If there are proposed revisions to the drainage system or treatment control BMPs, the applicant shall submit the modification to the Public Works Department for review and subsequent approval. Following the Public Works Department final approval of the WQMP, 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 issuance of the Certificate of Occupancy.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>The WQMP shall include a maintenance covenant; a report documenting compliance shall be submitted to the City for review on an annual basis for the life of the project.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Confirm design and project specifications incorporate requirements of the WQMP.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Verify that construction activities comply with the WQMP requirements.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Verify that construction is in compliance with BMPs.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Pre-Construction</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>During Construction</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>During Project Operation</td>
</tr>
</tbody>
</table>
### Mitigation Monitoring and Reporting Program

<table>
<thead>
<tr>
<th>Mitigation Measure</th>
<th>Action Required</th>
<th>Timing</th>
<th>Monitoring Responsibility</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Noise</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3.10-1</td>
<td>· Confirm design and project specifications incorporate requirements of the mitigation measure. · Verify that construction activities comply with mitigation measure requirements.</td>
<td>· Pre-Construction · During Construction</td>
<td>· City of Malibu Public Works Department · Construction Manager</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3.10-2</td>
<td>· Confirm design and project specifications incorporate requirements of the mitigation measure. · Verify that construction activities comply with mitigation measure requirements.</td>
<td>· Pre-Construction · During Construction</td>
<td>· City of Malibu Public Works Department · Construction Manager</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3.10-3</td>
<td>· Confirm design and project specifications incorporate requirements of the mitigation measure. · Verify that construction activities comply with mitigation measure requirements.</td>
<td>· Pre-Construction · During Construction</td>
<td>· City of Malibu Public Works Department · Construction Manager</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mitigation Measure</td>
<td>Action Required</td>
<td>Timing</td>
<td>Monitoring Responsibility</td>
</tr>
<tr>
<td>--------------------</td>
<td>---------------------------------------------------------------------------------</td>
<td>-------------------------------</td>
<td>---------------------------------------------</td>
</tr>
<tr>
<td><strong>Noise (continued)</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
| **3.10-4**         | The construction site shall be laid out such that materials are stored and staged near the south end of the site to maximize the distance from the equestrian center. | • Confirm design and project specifications incorporate requirements of the mitigation measure.  
• Verify that construction activities comply with mitigation measure requirements. | • Pre-Construction  
• During Construction | • City of Malibu Public Works Department  
• Construction Manager |
| **3.10-5**         | Prior to construction, all residences within 1,000 feet of the site shall be individually notified of the project’s construction schedule. | • Confirm design and project specifications incorporate requirements of the mitigation measure.  
• Verify that construction contractor complies with mitigation measure requirements. | • Pre-Construction  
• During Construction | • City of Malibu Public Works Department  
• Construction Manager |
| **3.10-6**         | Prior to construction, a sign shall be posted on the site that is legible from at least 50 feet off-site. The sign shall include a telephone number that residents can call to inquire about the construction process and to register complaints. The project developer shall designate a “noise control coordinator” who will reply to all construction noise-related questions and complaints. | • Confirm design and project specifications incorporate requirements of the mitigation measure.  
• Verify that construction activities comply with mitigation measure requirements. | • Pre-Construction  
• During Construction | • City of Malibu Public Works Department  
• Construction Manager |
### 4.0 Mitigation Monitoring and Reporting Program

<table>
<thead>
<tr>
<th>Mitigation Measure</th>
<th>Action Required</th>
<th>Timing</th>
<th>Monitoring Responsibility</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Noise (continued)</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3.10-7 Prior to the commencement of general construction, the contractor shall construct a noise wall along the property’s entire north boundary to minimize the noise emissions to the equestrian center, the residence at its west edge and the residences to the north. The wall shall be at least 12 feet tall, and can be made of any solid material that weighs at least 5 pounds per square foot, e.g., stucco, wood, masonry, etc. The noise wall shall be reviewed and approved by the City of Malibu Planning Department prior to its construction.</td>
<td>• Confirm design and project specifications incorporate requirements of the mitigation measure. • Field verify that wall construction complies with mitigation measure requirements.</td>
<td>• Pre-Construction • During Construction</td>
<td>• City of Malibu Planning Department • City of Malibu Public Works Department • Construction Manager</td>
</tr>
<tr>
<td>3.10-8 The project shall retain the north boundary’s 12-foot-high noise wall to minimize the operational phase noise emissions to the equestrian center, the residence at its west edge and the residences to the north. This will control the noise from such on-grade sources as cars, delivery and garbage trucks, parking lot sweepers, etc.</td>
<td>• Confirm design and project specifications incorporate requirements of the mitigation measure. • Field verify that wall construction complies with mitigation measure requirements.</td>
<td>• Pre-Construction • During Construction • During Project Operation</td>
<td>• City of Malibu Planning Department • City of Malibu Public Works Department • Construction Manager</td>
</tr>
<tr>
<td>3.10-9 The project shall install rooftop noise barrier screens that surround all rooftop equipment on Building 5. The locations, weights, and heights of the screens will depend on the specific equipment. At a minimum, the screens shall be made of a solid material that weighs at least 4 pounds per square foot, and they shall completely shield the line-of-sight from each piece of rooftop equipment to the noise-sensitive receptors and shall be as close to the equipment as possible, while allowing for proper operation and maintenance.</td>
<td>• Confirm design and project specifications incorporate requirements of the mitigation measure. • Field verify that barrier screens comply with mitigation measure requirements.</td>
<td>• Pre-Construction • During Construction • During Project Operation</td>
<td>• City of Malibu Planning Department • City of Malibu Public Works Department • Construction Manager</td>
</tr>
</tbody>
</table>
4.0 Mitigation Monitoring and Reporting Program

<table>
<thead>
<tr>
<th>Mitigation Measure</th>
<th>Action Required</th>
<th>Timing</th>
<th>Monitoring Responsibility</th>
</tr>
</thead>
<tbody>
<tr>
<td>Noise (continued)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3.10-10</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>All truck deliveries and all maintenance operations shall occur between the hours of 7:00 AM and 7:00 PM.</td>
<td>• Confirm design and project specifications incorporate requirements of the mitigation measure. • Field verify that project is in compliance with mitigation measure requirements.</td>
<td>• Pre-Construction • During Construction • During Project Operation</td>
<td>• City of Malibu Planning Department • City of Malibu Public Works Department • Construction Manager • Development Manager</td>
</tr>
</tbody>
</table>
### Mitigation Measure

**Transportation and Traffic**

<table>
<thead>
<tr>
<th>Mitigation Measure</th>
<th>Action Required</th>
<th>Timing</th>
<th>Monitoring Responsibility</th>
</tr>
</thead>
</table>
| 3.13-1: The project applicant shall contribute its pro-rata share of the costs associated with the intersection improvements required at Pacific Coast Highway and Cross Creek Road, which are currently undergoing review by the City of Malibu Planning Department (CDP No. 14-036). These intersection improvements shall consist of the construction of an additional westbound right-turn lane to provide additional right-turn capacity. Figure 3.13-17, Traffic Mitigation Plan, Cross Creek Road & Pacific Coast Highway, illustrates the design of the Cross Creek Road/Pacific Coast Highway intersection improvement. The pro-rata share of the improvement costs shall be determined by the City of Malibu prior to the issuance of building permits. The percentage fair-share contribution shall be calculated using the total trips generated by the project divided by the total “new” traffic, which is the net increase in traffic volume from all proposed projects and growth. The cost of mitigation shall be calculated using verifiable cost estimates from reliable and recognized sources. The fair-share cost of mitigation shall be calculated using the following formula:  

\[ P = \frac{T}{(TB - TE)} \]

*P= Fair share of the project’s impact  
*P= The vehicle trips generated by the project during the peak hour of the adjacent intersection/roadway facility in vehicles per hour  
*TB = The forecasted traffic volume on the impacted intersection/roadway facility for the analysis scenario (vph)  
*TE = The traffic volume existing on the impacted roadway facility (vph)  

The City shall verify that all pro-rata funds have been received for the improvements prior to issuance of building permits. Additionally, the City shall verify that the improvements have been constructed prior to final Planning Department inspection. |
| - Confirm design and specifications incorporate requirements of the mitigation measure.  
- Verify pro-rata share of the improvement costs have been received by the City of Malibu prior to the issuance of building permits.  
- Verify that the improvements have been constructed prior to final Planning Department inspection.  
- Pre-Construction  
- Prior to the issuance of building permits  
- Prior to final Planning Department inspection |
| - City of Malibu Planning Department  
- City of Malibu Public Works Department  
- Construction Manager |
### 4.0 Mitigation Monitoring and Reporting Program

#### Transportation and Traffic (continued)

<table>
<thead>
<tr>
<th>Mitigation Measure</th>
<th>Action Required</th>
<th>Timing</th>
<th>Monitoring Responsibility</th>
</tr>
</thead>
</table>
| 3.13-2: The project applicant shall contribute its pro-rata share of the costs associated with roadway improvements at the intersection of Malibu Canyon Road and Pacific Coast Highway. The improvements shall consist of restriping the south leg of the intersection to include a left-turn lane, one through lane and one right-turn lane. In addition, the project applicant shall fund traffic signal improvements for the intersection consisting of installing a northbound right turn overlap phase to run concurrently with the westbound left turn phase. Prior to construction, all applicable permits shall be obtained from Caltrans. Figure 3.13-18, Traffic Mitigation Plan, Malibu Canyon Road & Pacific Coast Highway, illustrates the design of the Malibu Canyon Road and Pacific Coast Highway intersection improvements. The pro-rata share of the improvement costs shall be determined by the City of Malibu prior to the issuance of building permits. The percentage fair-share contribution shall be calculated using the total trips generated by the project divided by the total “new” traffic, which is the net increase in traffic volume from all proposed projects and growth. The cost of mitigation shall be calculated using verifiable cost estimates from reliable and recognized sources. The fair-share cost of mitigation shall be calculated using the following formula:

\[
P = \frac{T}{(TB - TE)}
\]

where,

- **P** = Fair share of the project’s impact
- **T** = The vehicle trips generated by the project during the peak hour of the adjacent intersection/roadway facility in vehicles per hour
- **TB** = The forecasted traffic volume on the impacted intersection/roadway facility for the analysis scenario (vph)
- **TE** = The traffic volume existing on the impacted roadway facility (vph)

The City shall verify that all pro-rata funds have been received for the improvements prior to the issuance of building permits. Additionally, the City shall verify that the improvements have been constructed prior to final Planning Department inspection.

- Confirm design and specifications incorporate requirements of the mitigation measure.
- Verify pro-rata share of the improvement costs have been received by the City of Malibu prior to the issuance of building permits.
- Verify that the improvements have been constructed prior to final Planning Department inspection.
- Pre-Construction
- Prior to the issuance of building permits
- Prior to final Planning Department inspection
- City of Malibu Planning Department
- City of Malibu Public Works Department
- Construction Manager
### 4.0 Mitigation Monitoring and Reporting Program

**Transportation and Traffic (continued)**

<table>
<thead>
<tr>
<th>Mitigation Measure</th>
<th>Action Required</th>
<th>Timing</th>
<th>Monitoring Responsibility</th>
</tr>
</thead>
<tbody>
<tr>
<td>3.13-3: The project applicant shall fund the construction of dual eastbound left-turn lanes at the eastbound approach to the intersection of Pacific Coast Highway and Webb Way. Prior to construction, all applicable permits shall be obtained from Caltrans. Figure 3.13-19, Traffic Mitigation Plan, Webb Way &amp; Pacific Coast Highway, illustrates the design of the Pacific Coast Highway intersection improvements. The pro-rata share of the improvement costs shall be determined by the City of Malibu prior to the issuance of building permits. The percentage fair-share contribution shall be calculated using the total trips generated by the proposed project divided by the total &quot;new&quot; traffic, which is the net increase in traffic volume from all proposed projects and growth. The cost of mitigation shall be calculated using verifiable cost estimates from reliable and recognized sources. The fair-share cost of mitigation shall be calculated using the following formula:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>- Confirm design and specifications incorporate requirements of the mitigation measure.</td>
<td>- Pre-Construction</td>
<td></td>
<td></td>
</tr>
<tr>
<td>- Verify pro-rata share of the improvement costs have been received by the City of Malibu prior to the issuance of building permits.</td>
<td>- Prior to the issuance of building permits</td>
<td></td>
<td></td>
</tr>
<tr>
<td>- Verify that the improvements have been constructed prior to final Planning Department inspection.</td>
<td>- Prior to final Planning Department inspection</td>
<td></td>
<td></td>
</tr>
<tr>
<td>P=T/(TB-TE) where,</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>P= Fair share of the project’s impact</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>T= The vehicle trips generated by the project during the peak hour of the adjacent intersection/roadway facility in vehicles per hour</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>TB = The forecasted traffic volume on the impacted intersection/roadway facility for the analysis scenario (vph)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>TE = The traffic volume existing on the impacted roadway facility (vph)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>The City shall verify that all pro-rata funds have been received for the improvements prior to issuance of building permits. Additionally, the City shall verify that the improvements have been constructed prior to final Planning Department inspection.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>- City of Malibu Planning Department</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>- City of Malibu Public Works Department</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>- Construction Manager</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
### Mitigation Measure Action Required Monitoring Responsibility

<table>
<thead>
<tr>
<th>Mitigation Measure</th>
<th>Action Required</th>
<th>Timing</th>
<th>Monitoring Responsibility</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Solid Waste</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3.14.5-1: Pursuant to the City’s Construction and Demolition Debris Recycling Program, an affidavit and certification to implement a Waste Reduction and Recycling Plan for the proposed project shall be completed and submitted to the City Environmental Sustainability Department prior to building permit issuance. The Plan shall include plans to recycle at a minimum 50 percent of discarded materials, such as concrete, sheetrock, wood, and metals, from proposed construction. Upon completion of the project, a Summary Report must be submitted to the Environmental Sustainability Director for approval.</td>
<td>• Confirm design and project specifications incorporate a Waste Reduction and Recycling Plan.</td>
<td>• Pre-Construction During Construction</td>
<td>• City of Malibu Environmental Sustainability Department • Construction Manager</td>
</tr>
<tr>
<td><strong>Solid Waste (continued)</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3.14.5-2: Pursuant to the City’s Integrated Waste Management Program, the project applicant shall provide a plan for the disposal, storage, and collection of solid waste material for the project. The development of the plan shall be coordinated with City-permitted solid waste collection and disposal firms.</td>
<td>• Confirm design and project specifications incorporate requirements of the City’s Integrated Waste Management Program. • Verify that project is operating in compliance with the City’s Integrated Waste Management Program.</td>
<td>• Pre-Construction Project Operations</td>
<td>• City of Malibu Public Works Department • Construction Manager • Development Manager</td>
</tr>
</tbody>
</table>
CITY OF MALIBU PLANNING COMMISSION
RESOLUTION NO. 15-58

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MALIBU, RECOMMENDING THAT THE CITY COUNCIL ADOPT GENERAL PLAN AMENDMENT NO. 11-001 AND ZONING MAP AMENDMENT NO. 11-001, TO AMEND THE CITY OF MALIBU GENERAL PLAN LAND USE MAP AND THE MUNICIPAL CODE ZONING MAP TO REVISE THE LAND USE AND ZONING DESIGNATION OF A SPECIFIC PARCEL (ASSESSOR PARCEL NUMBER 4458-022-022) FROM COMMERCIAL GENERAL TO COMMERCIAL VISITOR SERVING-1 FOR CONSISTENCY WITH THE MALIBU LOCAL COASTAL PROGRAM LOCATED AT 23401 CIVIC CENTER WAY (THE PARK AT CROSS CREEK, LLC)

THE PLANNING COMMISSION OF THE CITY OF MALIBU DOES HEREBY FIND, ORDER AND RESOLVE AS FOLLOWS:

Section 1. Recitals.

A. On July 13, 2009, the City Council adopted Resolution No. 09-43 and Ordinance No. 338 to amend the land use designation of the General Plan and the zoning designation of the Malibu Municipal Code (M.M.C) Title 17 Zoning Map for property located at 23401 Civic Center Way. The property land use and zoning designation was changed from Commercial General (CG) to Commercial Visitor Serving-1 (CV-1) for consistency with the Malibu Local Coastal Program (LCP). However, the property at 23401 Civic Center Way consisting of two parcels was not recognized at the time, and only one of the two parcels (Assessor Parcel Number (APN) 4458-022-001) was amended. The other parcel, APN 4458-022-022, remained designated CV-1 under the LCP and CG under the General Plan and M.M.C Zoning Map.

B. On May 5, 2010, Manny Randall on behalf of DB Malibu Holdco LLC (which subsequently was subsequently changed to The Park at Cross Creek, LLC) submitted an application for Coastal Development Permit (CDP) No. 10-022 and related entitlements for the Whole Foods and the Park shopping center project. During conformance review, planning staff identified the discrepancy between the LCP land use and zoning designations and the General Plan land use and M.M.C zoning designations for APN 4458-022-022 and assigned General Plan Amendment (GPA) No. 11-001 and Zoning Map Amendment (ZMA) No. 11-001 to the proposed project entitlements to correct the conflict.

C. On February 5, 2015, a Notice of Availability for a Draft Environmental Impact Report (EIR) and Planning Commission Hearing on the Whole Foods and the Park Project, including the map amendments, was published in a newspaper of general circulation within the City of Malibu and was mailed to all interested parties, as well as property owners and occupants within a 500-foot radius.
D. On February 5, 2015, the City and the Governor’s Office of Planning and Research distributed the Draft EIR, which identified and evaluated the potential environmental impacts of the proposed Specific Plan and associated entitlements to interested parties and responsible agencies (SCH #2012041087) for a 45-day public review period, February 5, 2015 through March 23, 2015.

E. On March 2, 2015, a Planning Commission hearing was held to take comments on the Draft EIR.

F. On April 23, 2015, a Notice of Public Hearing was published in a newspaper of general circulation within the City of Malibu and was mailed to all interested parties, as well as property owners and occupants within a 500-foot radius.

G. On May 7, 2015, a Revised Notice of Public Hearing was published in a newspaper of general circulation within the City of Malibu to change the public hearing date from May 18, 2015 to a Special Planning Commission meeting on June 11, 2015.

H. On May 14, 2015, the Final EIR was made available. Also on this date, a Revised Notice of Public Hearing was published in a newspaper of general circulation within the City of Malibu, as well as property owners and occupants within a 500-foot radius. The Response to Comments on the Draft EIR was circulated to all of those who submitted comments as well as to interested parties.

I. On June 3, 2015, the Draft Specific Plan was revised by city staff.

J. On June 11, 2015, the Planning Commission held a duly noticed public hearing on the Final EIR, GPA No. 11-001, ZMA No. 11-001, CDP No. 10-22, CCSP No. 15-001 and considered the agenda report, reviewed and considered written reports, public testimony, and other information in the record.

Section 2. Environmental Review.

In accordance Public Resources Code Section 21080.9, the California Environmental Quality Act (CEQA) does not apply to activities and approvals by the City as necessary for the preparation and adoption of an LCP. The proposed ZMA and GPA are necessary in order to correct an inconsistency between the LCP and the City’s Zoning Ordinance (Title 17 of the M.M.C) and the General Plan. Because these amendments are entirely dependent on, related to, and duplicative of the exempt activity, they are subject to the same CEQA exemption. Without intending to waive the CEQA exemption referenced above, the City prepared an EIR for the Whole Foods and the Park project which analyzed the Specific Plan, GPA and ZMA together with the proposed Whole Foods and the Park project.
Section 3. General Plan Amendment.

Amend the General Plan Land Use Policy Map Section 2 (Figure LU-2(C) for 23401 Civic Center Way (APN 4458-022-022) to change the land use designation from Commercial General (CG) to Commercial Visitor Serving-1 (CV-1).

Section 4. Zoning Map Amendment.

Amend the M.M.C Zoning Map for 23401 Civic Center Way (APN 4458-022-022) to change the zoning designation from CG to CV-1.

Section 5. Findings.

A. The General Plan map amendment will make the land use designation for the subject property consistent with the LCP.

B. The subject zoning map amendment is consistent with the objectives, policies, general land uses and programs specified in the General Plan.

Section 6. Recommendations.

A. The Planning Commission held a public hearing, reviewed GPA No. 11-001 and recommends City Council approve the amendment.

B. The Planning Commission held a public hearing, reviewed ZMA No. 11-002 and recommends City Council approve the amendment.

Section 7. Certification.

The Planning Commission shall certify the adoption of this Resolution.

PASSED, APPROVED AND ADOPTED this 11th day of June 2015.

DAVID BROTMAN, Planning Commission Chair

ATTEST:

KATHLEEN STECKO, Recording Secretary
I CERTIFY THAT THE FOREGOING RESOLUTION NO. 15-58 was passed and adopted by the Planning Commission of the City of Malibu at the regular meeting thereof held on the 11th day of June 2015, by the following vote:

AYES: 5 Commissioners: Brotman, Jennings, Mazza, Pierson, Stack
NOES: 0
ABSTAIN: 0
ABSENT: 0

KATHLEEN STECKO, Recording Secretary
23401 Civic Center Way (APN 4458-022-022) Change CG to CV-1
CITY OF MALIBU PLANNING COMMISSION
RESOLUTION NO. 15-59

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MALIBU, RECOMMENDING THAT THE CITY COUNCIL ADOPT CIVIC CENTER SPECIFIC PLAN NO. 15-001 FOR THE CONSTRUCTION OF A 38,425 SQUARE FOOT COMMERCIAL SHOPPING CENTER, INCLUDING 24,549 SQUARE FEET FOR A WHOLE FOODS MARKET AND 13,876 SQUARE FEET FOR ADDITIONAL COMMERCIAL RETAIL SPACE; 4,800 SQUARE FEET OF OUTDOOR SEATING; 103,341 SQUARE FEET OF ON-SITE LANDSCAPING AND 4,514 SQUARE FEET OF OFF-SITE LANDSCAPING; 220 PARKING SPACES; AND OTHER INFRASTRUCTURE IMPROVEMENTS SUBJECT TO APPROVAL BY THE REGISTERED VOTERS OF THE CITY OF MALIBU (THE PARK AT CROSS CREEK, LLC)

THE PLANNING COMMISSION OF THE CITY OF MALIBU DOES HEREBY FIND, ORDER AND RESOLVE AS FOLLOWS:

Section 1. Recitals.

A. On May 5, 2010, Marny Randall on behalf of DB Malibu Holdco LLC (which was subsequently changed to The Park at Cross Creek, LLC) submitted an application for Coastal Development Permit (CDP) No. 10-022 and related entitlements for the Whole Foods and the Park shopping center project. The applications were routed for review to the City Biologist, City Geologist, City Public Works Department, the Los Angeles County Sheriff’s Department, the Los Angeles County Fire Department (LACFD), and Waterworks District No. 29 for Local Coastal Program (LCP) and Malibu Municipal Code (M.M.C) conformance review.

B. On September 12, 2011, the City Council approved a contract with Impact Sciences to initiate work on the preparation of an Environmental Impact Report (EIR) for the proposed project.

C. On April 16, 2012, a Notice of Application for Coastal Development Permit was posted on the subject property.

D. On April 24, 2012, story poles were placed on the project site to demonstrate the location, height, mass and bulk of the proposed commercial structures. The placement of the story poles were certified by a professional land surveyor.

E. On April 25, 2012, the Environmental Review Board (ERB) reviewed the proposed project and made recommendations. All feasible recommendations have been incorporated into the final project.
F. On April 26, 2012, the City published a Notice of Preparation (NOP) and Scoping Meeting for the Draft EIR. The 30-day circulation period ran from April 26, 2012 through May 29, 2012. The NOP was also sent to the State Clearinghouse (SCH# 2012041087), who distributed the document to State reviewing agencies for a 30-day public review period from April 26, 2012 through May 29, 2012.

G. On May 22, 2012, the City held a public scoping meeting regarding the preparation of the EIR.

H. Between May 22, 2012, and January 2015, the applicant chose to delay processing of the development applications until the Civic Center Wastewater Treatment Facility was further along in order to coordinate its application with that facility. In addition, Measure R created the additional requirement of a specific plan for the applications.

I. On January 5, 2015, the property owner’s representative submitted a Draft Specific Plan for review by City Staff in accordance with Malibu Municipal Code (M.M.C) Section 17.02.045.

J. On January 29, 2015, story poles were re-installed on the proposed project site to depict the siting and bulk of the proposed commercial shopping center. The story pole installation was certified by a licensed surveyor.

K. On January 30, 2015, the Draft Specific Plan was reviewed by city staff and was updated and re-submitted.

L. On February 5, 2015, a Notice of Availability for a Draft Environmental Impact Report (EIR) and Planning Commission Hearing on the Whole Foods and the Park project, was published in a newspaper of general circulation within the City of Malibu and was mailed to all interested parties, as well as property owners and occupants within a 500 foot radius.

M. On February 5, 2015, the City and the Governor’s Office of Planning and Research distributed the Draft EIR, which identified and evaluated the potential environmental impacts of the proposed Specific Plan and associated entitlements to interested parties and responsible agencies (SCH #2012041087) for a 45-day public review period, February 5, 2015 through March 23, 2015.

N. On March 2, 2015, a Planning Commission hearing was held to take comments on the Draft EIR. Following a presentation by the City and their CEQA consultant, the Planning Commission and members of the public were given the opportunity to comment on the Draft EIR.

O. From March 23, 2015 through May 14, 2015, the City worked with the EIR consultant to prepare the Final EIR. The Final EIR responds to the comments received on the Draft EIR and proposes minor text revisions to the Draft EIR.
P. On April 23, 2015, a Notice of Public Hearing was published in a newspaper of general circulation within the City of Malibu and was mailed to all interested parties, as well as property owners and occupants within a 500 foot radius.

Q. On May 7, 2015, a Revised Notice of Public Hearing was published in a newspaper of general circulation within the City of Malibu to change the public hearing date from May 18, 2015 to a Special Planning Commission meeting on June 11, 2015.

R. On May 14, 2015, the Final EIR was made available. Also on this date, a Revised Notice of Public Hearing was published in a newspaper of general circulation within the City of Malibu, as well as property owners and occupants within a 500 foot radius. Response to Comments on the Draft EIR was circulated to all of those who submitted comments as well as to interested parties.

S. On May 14, 2015, a revised Notice of Public Hearing was published in a newspaper of general circulation within the City of Malibu and was mailed to all interested parties, as well as property owners and occupants within a 500 foot radius to update the list of requested entitlements.

T. On June 3, 2015, the Draft Specific Plan was revised by city staff.

U. Ordinarily, the Planning Commission is the decision-making body for CDP projects and certification of California Environmental Quality Act (CEQA) documents. However, for General Plan Amendments, Zoning Map Amendments, Specific Plans, and other legislative approvals, the Planning Commission acts exclusively as an advisory body, and the City Council is the decision-maker. Since the entitlements for the Whole Foods and the Park project depend upon the General Plan and Zoning Map amendments, adoption of the Specific Plan, and a public vote pursuant to Measure R, the Planning Commission will act in an advisory capacity on the amendments, the EIR and the entitlements, and the City Council will be the decision-maker for all.

V. On June 11, 2015, the Planning Commission held a duly noticed public hearing on the Final EIR, GPA No. 11-001, ZMA No. 11-001, CDP No. 10-22, Lot Merger No. 10-004, Specific Plan No. 15-001 and reviewed and considered the agenda report, reviewed and considered written reports, public testimony, and other information in the record.

Section 2. Environmental Review.

The Malibu Planning Commission considered the Environmental Impact Report (EIR No. 11-001) for the proposed Specific Plan, GPA, ZMA, and the overall project and in doing so found that the project would not have significant adverse environmental impacts, except in one resource category (Construction Noise). In compliance with Public Resources Code Section 12081 and California Environmental Quality Act (CEQA) Guidelines Section 15093, and as detailed in the Final EIR, changes and alterations have
been incorporated in the Project and related entitlements which avoid or substantially lessen the significant environmental effect because feasible mitigation measures included in the Mitigation Monitoring and Reporting Program (MMRP) will be incorporated into the CDP conditions of approval. Nevertheless, the significant environmental effects cannot be feasibly mitigated to a level of insignificance. In accordance with Public Resources Code Section 21002 and 21002.2, the Planning Commission has determined that there are specific overriding economic, legal, social, technological, or other benefits of the project which outweigh the significant effects on the environment and a statement of overriding considerations has been prepared. This resolution incorporates by reference the findings, analysis and recommendations set forth in Planning Commission Resolution No. 15-57, which recommends that the City Council certify the Final EIR, make findings of fact, and adopt a statement of overriding consideration for the overall project.

Section 3. Specific Plan Findings.

The City of Malibu Local Coastal Plan (LCP) Land Use Plan (LUP) encourages the use of a specific plan or other comprehensive plan for the Civic Center Area. The Whole Foods and the Park Specific Plan has been prepared in accordance with the relevant provisions state law (Government Code §65451) and M.M.C Section 17.02.045. The Planning Commission finds that proposed Specific Plan, as amended, is consistent with the Malibu Local Coastal Program and the Malibu General Plan; and more specifically finds as follows:

A. The Project is one for which the applicant/property owner seeks discretionary approval in the commercial zone which proposes to develop in excess of 20,000 square feet of commercial gross floor area and requires a voter-approved specific plan pursuant to Measure R. The project site proposed for the Specific Plan includes the construction of 38,425 sf of commercial retail space and 4,800 sf of outdoor dining space. The Specific Plan development proposes a total of five individual buildings, outdoor seating areas, landscaping, open space and recreational facilities, driveway and access road improvements, grading and drainage improvements, and vehicle parking areas. The Specific Plan proposes a shopping center designed to be anchored by a Whole Foods Market (24,549 sf) with the remaining 13,876 sf of commercial retail space allocated among four smaller shopping center buildings, ranging in size from 3,015 sf to 4,183 sf along the eastern and western sides of the site. Up to 4,000 sf of this commercial retail space is available for restaurant uses.

B. The City Council used materials and a draft plan prepared by the landowner, which documents were made available to the public on the City’s website and available at City Hall, as the basis for the plan; and the final plan has been prepared under the City’s direction and in accordance with the requirements of MMC §17.02.045 (Measure R).

C. The overall vision of the City’s General Plan for the civic center area is to develop “community village” atmosphere consistent with Malibu’s rural residential character and in harmony with the natural environment. The General Plan envisions pedestrian-oriented, residential scale developments. The overall vision of the LUP is to
protect coastal resources and promote public access. The specific plan meets all applicable goals, objectives, policies, and requirements of the Malibu General Plan and the Malibu Local Coastal Program with its design, scale and specific amenities.

D. The specific development standards in the Specific Plan are compatible with the requirements of the Zoning Ordinance and the LCP, establishing standards that are either the same as the current standards or within the range of standards that could be permitted or justified using the existing provisions for modifications. The low-density distribution of the structures, low profile of building heights and design elements, and limited landscaping amongst undisturbed open space maintains a spacious and small-town feel in and around the project site. The project site proposed for the Specific Plan and the Civic Center area is surrounded by rural residential uses on hillsides to north, public open space along Malibu Creek and Lagoon on the east, multi-family and rural residential to the west, and the Pacific Coast Highway (PCH) to the south. Commercial, recreation, open space, and residential uses lie south of PCH.

E. The proposed Specific Plan area occupies 5.88 acres of vacant, nearly flat land in the Civic Center area of the City of Malibu. The project site consists of two vacant parcels identified as Assessor Parcel Numbers (APNs) 4458-022-001 and 4458-022-022, which comprise 2.33 and 3.55 acres, respectively. The Specific Plan area is located at the northwest corner of the intersection of Civic Center Way and Cross Creek Road. Adjacent uses include a vacant parcel to the west (La Paz Commercial site); commercial uses to the east (Malibu Hardware and Supply, Urban Outfitters, general commercial office space, and the Southern California Edison building); an equestrian facility (Sycamore Farm) to the north, and a commercial office and retail center to the south (Malibu Country Mart). A building housing a storm water treatment system operated by the City of Malibu adjoins the Project site along its southern boundary.

F. The Specific Plan area would allow development with a floor area ratio (FAR) of 0.15. All buildings have pitched roofs up to 28 feet in height and they surround a central landscaped parking area. The Specific Plan’s overall design intent is to extend the shopping experience that exists on Cross Creek Road across from the Civic Center Way into a similar low-scaled natural shopping atmosphere. The Specific Plan’s design concept clusters smaller-scale buildings around a central parking area. The cluster of buildings is connected by pedestrian walkways, decks and patio spaces for outdoor dining.

G. The Specific Plan area would allow buildings designed at a scale similar to the existing Cross Creek commercial buildings. The building elevations are simple and contemporary in style. The proposed building materials include stucco, wood siding, heavy timber, metal roofs, with earth-tone colors that blend with the proposed native landscaping. The heavy timber trellises and standing seam metal roofs pay homage to Malibu’s ranching history. The vertical “green” wall systems are integrated into the building walls along key elevations.

H. The commercial uses permitted in the Specific Plan would be consistent with
the visitor serving commercial uses envisioned in the City’s General Plan and LCP, and
the buildings have been sited along the western and northern portions of the property.
The proposed rear yard (southern) setback of approximately 86 feet, the eastern side
setback of approximately 50 feet, the western side setback of approximately 42 feet and
the front (north) setback of 88 feet combined with the proposed perimeter landscaping
would visually screen the proposed commercial structures and would preserve views
from Civic Center Way and the surrounding properties.

I. The project site can accommodate the required on-site parking, vehicle
driveways, and loading areas for the shopping center and park uses. The project plans
demonstrate the site's ability to meet all applicable parking requirements. A total of 220
vehicle parking spaces, 7 ADA-compliant spaces, 2 electric vehicle charging spaces, 4
loading spaces, 2 motorcycle spaces, and 16 bicycle spaces will be provided on-site.

J. The proposed commercial structures were determined to be located in a
geologically feasible location and after establishment of the proposed building pad
elevations, the commercial structures would be located outside the 100-year flood plain
by at least three feet. The site is located within a Federal Emergency Management
Administration (FEMA) designated flood zone. The Project had been designed to FEMA
development requirements by raising the finished floor between approximately one to
three feet.

K. The proposed on-site drainage improvements will sufficiently convey, detain,
and treat stormwater on-site pursuant to MS4 standards. The proposed project has
received conformance review and approval from the City Public Works Department, City
Biologist, City Environmental Health Administrator, City Geologist and Los Angeles
County Fire Department. The site is physically suitable for the proposed development.
The adequacy of public utilities and services has been analyzed in the EIR, Section 3.11
(Public Services) and 3.14 (Public Utilities). Impacts were considered less than
significant.

L. The subject site is commercially zoned but currently vacant. The site is
surrounded by a variety uses including residential to the north and upslope. The project
will result in noise impacts during construction, but these will be temporary and mitigated
as much as feasible. The project will comply with the City’s Noise Ordinance (M.M.C
Chapter 8.24) which limits construction hours to 7 a.m. to 7 p.m. on weekdays, 8 a.m. to
5 p.m. on Saturday, and prohibits construction on Sundays and City holidays.
Construction traffic will be controlled by a construction management plan that will be
required to be reviewed and approved by the City prior to permit issuance. The
construction management plan will include, among other things, limits on construction
delivery hours to avoid conflicts with existing commercial uses and provisions for
maintaining pedestrian and bicycle safety.

M. The Specific Plan area limits hours of business operation to 7:00 AM and
11:00 PM, which contributes to the compatibility with nearby residential development.
Overall site landscaping also softens the visual impact of new development. The

Planning Commission Resolution No. 15-59
Page 6 of 9
proposed development and limited restaurant use will not interfere with the parking and
circulation in the area as the site has adequate onsite parking and the daytime uses will
offset the demand for later, evening restaurant uses and overall the use is compatible with
similar adjacent commercial uses in the surrounding neighborhood.

N. The proposed project will be compatible with the CV-1 zone, as the
commercial shopping center will only permit or conditionally permit individual uses
listed in Section 2.2 of the Specific Plan. Future tenants will also be required to comply
with the M.M.C Section 17.66.130 – Limits on Formula Retail. The underlying CV-1
zoning designation for the project site and the surrounding areas allows for a mix of
retail, restaurants, community service businesses, financial institutions, government
offices facilities, and visitor serving business. These uses exist in the area, and this
project will be compatible in that it provides commercial spaces for many of these uses.

N. Emergency access would be provided in accordance with Fire Code
requirements. A fire lane would be provided along the perimeter of the site, including
behind the Whole Foods market. A secondary access would be provided on Cross Creek
Road to facilitate emergency/fire service access if needed.

O. The project area is in a seismically active area of Southern California and may
experience severe shaking in the future from the Malibu Coast Fault and other nearby
faults. While it is impossible to totally prevent structural damage to buildings and loss of
life as a result of seismic events, adherence to all applicable building codes and
regulations and site-specific engineering specifications can reduce such impacts to less
than significant levels. If engineering studies using state-of-the-practice techniques are
employed, the impacts from ground rupture can be accounted for with setbacks and
foundation designs to accommodate several inches of movement. Surface rupture
potential is considered low to moderate, and the impacts are considered less than
significant. Geotechnical studies identified potentially liquefiable soils within the project
site. Liquefaction on the project site can be mitigated by reinforcing the buildings’
foundations and deriving support from the alluvial soils below the potentially liquefiable
soils. Alternatively, removal or treatment of the liquefiable material could lead to denser
sands which would reduce the project site’s liquefaction potential. Liquefaction is
addressed in Section 3.5 – Geology and Soils; see Threshold 3.5-1. After compliance
with Mitigation Measure 3.5-1, impacts will be less than significant and the project is not
at risk from flooding or liquefaction.

P. The entire Specific Plan area will be heavily landscaped, anchored by 80
western sycamore trees and 50 additional trees, which will create a heavily landscaped
environment. All of the buildings will be landscaped and covered in green walls which
will help blend the buildings with the surrounding landscaping. All roof-top mounted
equipment will be screened from view with a combination of landscaping, roof elements,
and walls and fencing. Outdoor lighting will be shielded and/or directed downward in
order to comply with the relevant provisions of the M.M.C.
Q. To address site planning and environmental constraints, such as onsite flooding, nearby noise sensitive receptors, and the unique characteristics of the Civic Center area to the maximum extent feasible, the Specific Plan proposes site-specific development standards which modify but are within the allowable discretionary range of the existing M.M.C and LIP development standards for building height, setbacks, noise attenuating wall height, landscaping, and onsite remedial grading. The M.M.C and LCP contemplate such modifications to the development standards to address site-specific conditions through a variance, site plan review and minor modification when the specified findings can be made. The proposed development standards included in the Specific Plan are within the range typically granted by a variance, site plan review, and minor modification when special circumstances exist and findings of General Plan and LCP consistency can be made. The project will result in development of desirable character that will be compatible with existing and proposed development in the Civic Center area of Malibu and thus will be consistent with the General Plan and LCP.

Section 4. Recommendations.

Based on the findings stated herein and in light of the whole record, the Planning Commission recommends that the City Council adopt Specific Plan 15-001 as revised, subject to the required voter approval; and that the City Council adopt the Commission Agenda Report prepared by the Planning Department as the report required by M.M.C Section 17.02.045.C.

Section 5. Certification.

The Planning Commission shall certify the adoption of this Resolution.

PASSED, APPROVED AND ADOPTED this 11th day of June 2015.

DAVID BROTMAN, Planning Commission Chair

ATTEST:

KATHLEEN STECKO, Recording Secretary
I CERTIFY THAT THE FOREGOING RESOLUTION NO. 15-59 was passed and adopted by the Planning Commission of the City of Malibu at the regular meeting thereof held on the 11th day of June 2015, by the following vote:

AYES: 3 Commissioners: Brotman, Jennings, Stack
NOES: 2 Commissioners: Mazza, Pierson
ABSTAIN: 0
ABSENT: 0

KATHLEEN STECKO, Recording Secretary
CITY OF MALIBU PLANNING COMMISSION
RESOLUTION NO. 15-60

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MALIBU, RECOMMENDING THAT THE CITY COUNCIL APPROVE COASTAL DEVELOPMENT PERMIT NO. 10-022 AND LOT MERGER NO. 10-004 FOR THE CONSTRUCTION OF A 38,425 SQUARE FOOT COMMERCIAL SHOPPING CENTER, INCLUDING 24,549 SQUARE FEET FOR A WHOLE FOODS MARKET AND 13,876 SQUARE FEET FOR ADDITIONAL COMMERCIAL RETAIL SPACE; 4,800 SQUARE FEET OF OUTDOOR SEATING; 103,341 SQUARE FEET OF ONSITE LANDSCAPING AND 4,514 SQUARE FEET OF OFFSITE LANDSCAPING; 220 PARKING SPACES; AND OTHER INFRASTRUCTURE IMPROVEMENTS IN THE COMMERCIAL VISITOR SERVING-1 ZONING DISTRICT; AND DENY WITHOUT PREJUDICE CONDITIONAL USE PERMIT NO. 10-013; SITE PLAN REVIEW NOS. 10-042 AND 10-043; MINOR MODIFICATION NO. 10-009; VARIANCE NO. 10-029; AND MASTER SIGN PROGRAM NO. 10-020 (THE PARK AT CROSS CREEK, LLC)

THE PLANNING COMMISSION OF THE CITY OF MALIBU DOES HEREBY FIND, ORDER AND RESOLVE AS FOLLOWS:

Section 1. Recitals.

A. On May 5, 2010, Marny Randall on behalf of DB Malibu Holdco LLC (which was subsequently changed to The Park at Cross Creek, LLC) submitted an application for Coastal Development Permit (CDP) No. 10-022 and related entitlements for the Whole Foods and the Park shopping center project. The applications were routed for review to the City Biologist, City Geologist, City Public Works Department, the Los Angeles County Sheriff's Department, the Los Angeles County Fire Department (LACFD), and Los Angeles County Waterworks District No. 29 for Local Coastal Program (LCP) and Malibu Municipal Code (M.M.C) conformance review.

B. On September 12, 2011, the City Council approved a contract with Impact Sciences to initiate work on the preparation of an Environmental Impact Report (EIR) for the proposed project.

C. On April 16, 2012, a Notice of Application for Coastal Development Permit was posted on the subject property.

D. On April 24, 2012, story poles were placed on the project site to demonstrate the location, height, mass and bulk of the proposed commercial structures. The placement of the story poles were certified by a professional land surveyor.

E. On April 25, 2012, the Environmental Review Board (ERB) reviewed the proposed project and made recommendations. All feasible recommendations have been incorporated into the final project.
F. On April 26, 2012, the City published a Notice of Preparation (NOP) and Scoping Meeting for the Draft EIR. The 30-day circulation period ran from April 26, 2012 through May 29, 2012. The NOP was also sent to the State Clearinghouse (SCH# 2012041087), who distributed the document to State reviewing agencies for a 30-day public review period from April 26, 2012 through May 29, 2012.

G. On May 22, 2012, the City held a public scoping meeting regarding the preparation of the EIR.

H. Between May 22, 2012 and January 2015, the applicant chose to delay processing of the development applications until the Civic Center Wastewater Treatment Facility application materials had been reviewed by City staff. In addition, the processing of the development applications was delayed in part because of Measure R requirements.

I. On January 5, 2015, the property owner’s representative submitted a Draft Specific Plan for review by City Staff in accordance with M.M.C Section 17.02.045.

J. On January 29, 2015, story poles were re-installed on the proposed project site to depict the siting and bulk of the proposed commercial shopping center. The story pole installation was certified by a licensed surveyor.

K. On January 30, 2015, the Draft Specific Plan was reviewed by City staff and was updated and re-submitted.

L. On February 5, 2015, a Notice of Availability for a Draft Environmental Impact Report and Planning Commission Hearing on the Whole Foods and the Park Project, was published in a newspaper of general circulation within the City of Malibu and was mailed to all interested parties, as well as property owners and occupants within a 500-foot radius.

M. On February 5, 2015, the City and the Governor’s Office of Planning and Research distributed the Draft EIR, which identified and evaluated the potential environmental impacts of the proposed Specific Plan and associated entitlements to interested parties and responsible agencies (SCH #2012041087) for a 45-day public review period, February 5, 2015 through March 23, 2015.

N. On March 2, 2015, a Planning Commission hearing was held to take comments on the Draft EIR.

O. From March 23, 2015 through May 14, 2015, the City worked with the EIR consultant to prepare the Final EIR. The Final EIR responds to the comments received on the Draft EIR and proposes minor text revisions to the Draft EIR.

P. On April 23, 2015, a Notice of Public Hearing was published in a newspaper of general circulation within the City of Malibu and was mailed to all interested parties, as well as property owners and occupants within a 500-foot radius.

Q. On May 7, 2015, a Revised Notice of Public Hearing was published in a newspaper of general circulation within the City of Malibu to change the public hearing date from May 18, 2015 to a
Special Planning Commission meeting on June 11, 2015.

R. On May 14, 2015, the Final EIR was made available. Also on this date, a Revised Notice of Public Hearing was published in a newspaper of general circulation within the City of Malibu, as well as property owners and occupants within a 500 foot radius. Response to Comments on the Draft EIR was circulated to all of those who submitted comments as well as to interested parties.

S. On May 14, 2015, a revised Notice of Public Hearing was published in a newspaper of general circulation within the City of Malibu and was mailed to all interested parties, as well as property owners and occupants within a 500 foot radius to update the list of requested entitlements.

T. On June 3, 2015, the Draft Specific Plan was revised by city staff.

U. Ordinarily, the Planning Commission is the decision-making body for CDP projects and certification of California Environmental Quality Act (CEQA) documents. However, for General Plan Amendments, Zoning Map Amendments, Specific Plans, and other legislative approvals, the Planning Commission acts exclusively as an advisory body, and the City Council is the decision-maker. Since the entitlements for the Whole Foods and the Park project depend upon the General Plan and Zoning Map amendments, adoption of the Specific Plan, and a public vote pursuant to Measure R, the Planning Commission will act in an advisory capacity on the amendments, the EIR and the entitlements, and the City Council will be the decision-maker for all.

V. On June 11, 2015, the Planning Commission held a duly noticed public hearing on Final EIR No. 11-001, GPA No. 11-001, ZMA No. 11-001, CDP No. 10-022, Lot Merger No. 10-004, Specific Plan No. 15-001 and reviewed and considered the Final EIR, agenda report, reviewed and considered written reports, public testimony, and other information in the record and recommended approval of project entitlements and other legislative actions to the City Council. The Planning Commission’s recommended approval of Specific Plan No. 15-001 eliminated the need to recommend approval of Conditional Use Permit No. 10-013, Site Plan Review Nos. 10-042 and 10-043, Minor Modification No. 10-009, and Variance No. 10-029, because these entitlements will be allowed as a matter of right under the Specific Plan. The approval of Final EIR No. 11-001, GPA No. 11-001, ZMA No. 11-001, CDP No. 10-022, Lot Merger No. 10-004, and Specific Plan No. 15-001 would not be valid unless and until approved by the City Council and/or the registered voters of the City of Malibu.

Section 2. Environmental Review.

The Malibu Planning Commission considered the Environmental Impact Report (EIR No. 11-001) for the proposed Specific Plan, GPA, ZMA, and the overall project and in doing so found that the project would not have significant adverse environmental impacts, except in one resource category (Construction Noise). In compliance with Public Resources Code Section 12081 and CEQA Guidelines Section 15093, and as detailed in the Final EIR, changes and alterations have been incorporated in the Project and related entitlements which avoid or substantially lessen the significant environmental effect because feasible mitigation measures included in the Mitigation Monitoring and Reporting Program (MMMRP) will be incorporated into the CDP conditions of approval. Nevertheless, the significant environmental effects cannot be feasibly mitigated to a level of insignificance. In accordance with Public Resources Code Section 21002 and 21002.2, the Planning Commission has determined that there are specific overriding economic, legal, social, technological, or other benefits
of the project which outweigh the significant effects on the environment and a statement of
overriding considerations has been prepared. This resolution incorporates by reference the findings,
analysis and recommendations set forth in Planning Commission Resolution No. 15-57, which
recommends that the City Council certify the Final EIR, make findings of fact, and adopt a statement
of overriding consideration for the overall project.

Section 3. Recommendation of Approval of Entitlements.

Based on substantial evidence contained within the record and pursuant to Sections 13.7(B) and 13.9
of the Malibu Local Coastal Program (LCP) Local Implementation Plan (LIP), the Planning
Commission recommends adoption of the analysis in the agenda report, incorporated herein, the
findings of fact below, and approval of Coastal Development Permit No. 14-022 and Lot Merger No.
10-004 for the construction of a 38,425 square foot commercial shopping center, including 24,459
square feet for a Whole Foods Market, 13,876 square feet of additional retail space, 4,800 square feet
of outdoor seating, 103,341 square feet of on-site landscaping, 220 parking spaces, and other
infrastructure improvements located at 23401 Civic Center Way.

The required findings can be made as follows.

A. General Coastal Development Permit (LIP Chapter 13)

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

Finding A1. 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.

As shown in Table 3 in the agenda report, the project has been reviewed for conformance with the
LCP. If Specific Plan No. 15-001 is approved, the project conforms to the certified LCP in that it
meets all the required development standards. In addition, as discussed herein, all other required
LCP findings can be made.

Finding A2. 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 project site is not located between the first public road and the sea. No potential project-related
or cumulative impact on public access is anticipated. The Project site is not located on the seaward
side of Pacific Coast Highway (PCH) and will not interfere with the public's right to access the coast
or coastal resources. With regard to recreation, a segment of the planned Malibu Pacific Trail
(formerly the Coastal Slope Trail), a trail mapped on the Trails Master Plan adopted by the City as
well as identified in the LCP, appears to run along the frontage of Civic Center Way just west of the
project site. The project would maintain the existing sidewalk as a connection to this trail segment.
Therefore, the project conforms to the public access and recreation policies of Chapter 3 of the
Coastal Act of 1976 (commencing with Section 30200 of the Public Resources Code).
Finding A3. The project is the least environmentally damaging alternative.

According to the CEQA Guidelines Section 15064(d), “In evaluating the significance of the environmental effect of a project, the Lead Agency shall consider direct physical changes in the environment which may be caused by the project and reasonably foreseeable indirect physical changes in the environment which may be caused by the project.” As described in more detail in Chapter 4 of the Final EIR, the following two alternatives, plus the proposed project, were considered:

A. No Project/No Development

This alternative would not alter the physical appearance of the project site as no new construction would occur. The existing topographic and vegetative characteristics of the site would remain unchanged. The views of the northern hillside from vantage points to the south looking in a northerly direction and views from the south would continue to be unobstructed as they overlook the project site. Any on-going maintenance that is currently occurring would continue, such as discing for the properties for fire suppression purposes. The No Project Alternative would completely avoid the anticipated construction impacts that would occur with implementation of the proposed project.

The Planning Commission finds that this alternative would fail to meet any of the project applicant’s stated objectives, including the objective of commercial development on a site designated for such use in all City land use regulatory documents.

B. Code Complying Alternative

This alternative would consist of a 28,879 sf supermarket and 129 parking spaces. Pursuant to the MMC and the LCP, a total of 166,509 sf of landscape area and open space are required to be provided. This alternative would not require any minor modifications or variances as this alternative would provide the code specified Yard Setbacks, Open Space and Landscaped Area (65 percent). Further, because the building is set back more than 250 feet from the adjoining horse training facility the Code Complying Alternative would not require the construction of a 12-foot sound wall to reduce potential sudden noise impacts.

This alternative was evaluated for the same impact categories as the proposed project and was found to have similar impacts to the proposed Project, but incrementally greater impacts to traffic and utilities (natural gas and electricity). This Alternative would meet some of the stated objectives; however it would be to a lesser extent than the proposed Project.

The Commission finds that Alternative B – Code Complying Alternative will meet some of the project objectives, to a lesser degree than the preferred alternative, but may result in greater environmental impacts.

C. Two Story Alternative
This alternative would consist of 38,425 sf neighborhood shopping center designed to be anchored by a Whole Foods Market (24,549 sf) along with four smaller outbuildings totaling 13,876 sf. The 13,876 sf of ancillary retail/restaurant structures, would be constructed as two, two-story buildings. The parking required under this alternative would be 220 spaces (five spaces for every 1,000 sf of retail space), as with the proposed project. This alternative would also include two play areas for children (Shane’s Inspiration Park and a Sensory Garden), a gathering area for users, including a Kitchen Community Learning Center, and several outdoor seating areas scattered throughout the project.

This alternative was evaluated for the same impact categories as the proposed project and was found to have similar impacts to the proposed project, but greater construction noise impacts due to the additional excavation, framing, and access requirements for two-story structures and incrementally greater aesthetic impacts due to the construction of two-story structures. This Alternative would meet the proposed project’s stated objectives; however it would be to a lesser extent than the proposed project.

The Commission finds that Alternative C – Two Story Alternative will meet the project objectives to the same degree as the preferred alternative but may result in greater environmental impacts.

D. Preferred Alternative

This alternative is described in detail throughout the associated staff report and Final EIR as the proposed project. The proposed project does reduce significant impacts through the implementation of mitigation measures and meets the project objectives described above. The Final EIR provides substantial evidence that the proposed project will result in no significant impact to Aesthetics, Air Quality, Greenhouse Gas Emissions, Hazards and Hazardous Materials, Land Use, Fire Protection Services, Sheriff Protection Services, Recreation, Recreation, Agricultural Resources, Mineral Resources, Population and Housing, and Schools. With regard to the remaining environmental subject areas (Biological Resources, Cultural Resources, Geology and Soils, Hydrology and Water Quality, and Transportation and Traffic), any impacts posed by the proposed project are less than significant with the implementation of mitigation measures. Construction noise impacts were found to be significant and unavoidable; however, they will be temporary in nature, during the construction phase and minimized to the extent feasible by Final EIR Mitigation Measures 3.10-1 through 3.10-10.

Based on substantial evidence in the record, the Planning Commission finds that the proposed project is the least environmentally damaging alternative.

Finding A4. If the project is located in or adjacent to an environmentally sensitive habitat area (ESHA) 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 or ESHA buffer as depicted on the LCP ESHA and Marine Resources Overlay Map. However, the site does contain native trees and therefore the project was
reviewed by the ERB. As detailed in the accompanying agenda report, all feasible recommendations have been incorporated into the project and no additional conditions of approval were required. The project conforms to the recommendations of the ERB.

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

As noted in Finding A4, the project site is not located in ESHA or ESHA buffer. However, the Project site supports protected native trees. The Final EIR includes three reports that document the biological resource impacts associated with the project: Appendix 3.3(a) (Biological Resources Inventory); Appendix 3.3(b) (City Biologist Referral Report); Appendix 3(c and d) (Tree Reports), and Appendix 3(e) (Wetland Delineation). As discussed previously in the Final EIR and in the technical reports, the project site does not support wetland habitat, ESHA or special status plants or wildlife. However, the project site does contain eight protected native sycamore trees, which are proposed for removal. These trees provide roosting habitat for nesting birds. Therefore, Mitigation Measure 3.3-1 is required to reduce impacts to nesting birds during construction. If active nests are found during construction, appropriate buffer zones must be established until the young have fledged.

To mitigate the potentially significant impacts associated with the removal of eight sycamore trees, the project proposes to plant 80 replacement sycamore trees on-site. This would ensure compliance with LIP Section 5.5. Mitigation Measure 3.3-2 is required to ensure compliance with LIP Section 5.6.2, which requires annual monitoring of the replacement trees for a period of 10 years.

On April 17, 2012, the City Biologist determined that, subject to the conditions of approval, the Project is consistent with the LCP.

C. Native Tree Protection Ordinance (LIP Chapter 5)

The provisions of the Native Tree Protection Ordinance only apply to those areas containing one or more native Oak, California Black Walnut, Western Sycamore, Alder or Toyon trees that have at least one trunk measuring six inches or more in diameter, or a combination of any two trunks measuring a total of eight inches or more in diameter, four and one-half feet from the ground. As discussed in the ESHA section above, the project site contains eight protected native western sycamore trees, all of which would be removed by the project. The findings required by LIP Chapter 5 are made below.

Finding C1. The proposed project is sited to minimize removal of or encroachment into the protected zone of native trees to the maximum extent feasible.

Eight sycamore trees are located in the northern portion of site. Given the site dimensions, LCP and other requirements, including setbacks, open space, landscaping, fire department requirements, circulation, etc., it is not feasible to site the development of roads and structures to allow retention of the trees. Any development would be expected to utilize the area of the site supporting these trees given all the constraints of siting development. In addition, the required onsite grading and recompaction of the site for FEMA and geological requirements make it infeasible to site development that avoids encroaching upon and requiring the removal of the sycamore trees. Mitigations for tree removal require the replacement of the sycamore trees at a ratio of 10 to 1 onsite. Pursuant to LIP Section 5.5.1, a tree replacement plan has been submitted and reviewed by the City Biologist and is
incorporated into the landscape plans. The approved landscape plans illustrate 80 sycamores will be planted as part of the landscape plan, thus meeting the LCP mitigation requirement for removal of eight (8) native sycamore trees.

Finding C2. The adverse impact of tree removal and/or encroachment cannot be avoided because there is no other feasible alternative.

It is not feasible to avoid the adverse impacts of removing the eight trees due to the siting constraints listed in Finding C1.

Finding C3. 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 following protective measures (Final EIR Mitigation Measures) shall be incorporated into the project to lessen the impact on native trees.

1. If construction would commence during the nesting/breeding season (February through August), a pre-construction survey of the project vicinity for nesting birds shall be conducted by a qualified biologist (i.e., experienced with the nesting behavior of bird species of the region) within two weeks of the commencement of construction activities. The intent of the survey would be to determine if active nests of special-status bird species or other species protected by the Migratory Bird Treaty Act and/or the California Fish and Game Code are present within the construction zone or within 500 feet of the construction zone. The survey area shall include all trees, shrubs, and buildings in the construction zone and a surrounding 500 feet area, including suitable habitat areas outside the project site.

If active nests are found in areas that could be directly affected by, or are within 500 feet of, construction and would be subject to prolonged construction-related noise, a no-disturbance buffer zone shall be created around active nests during the breeding season or until a qualified biologist determines that all young have fledged. The size of the buffer zones and types of construction activities restricted within them shall be determined by the qualified biologist taking into account factors such as the following:

- Noise and human disturbance levels at the construction site at the time of the survey and the noise and disturbance expected during the construction activity.
- Distance and amount of vegetation or other screening between the construction site and the nest.
- Sensitivity of individual nesting species and behaviors of the nesting birds.

Limits of construction to avoid an active nest shall be established in the field by a qualified biologist with flagging, fencing, or another appropriate barrier and construction personnel shall be instructed on the sensitivity of nest areas.

2. The project applicant shall ensure the requirements of LIP Section 5.6.2 are met.
through the preparation of a monitoring plan. The applicant (or designee) shall be responsible for preparation of annual monitoring reports on the replacement trees. The monitoring report shall include measurements of replacement trees (i.e., DBH, approximate height and canopy width) and the relative health, including noting any damage from fire, insects, and disease, or other vectors affecting health. If at any time, within the monitoring period the health of a replacement tree begins to decline beyond recovery, that tree shall be replaced in kind with a healthy tree.

Monitoring reports shall be provided to the City annually and at the conclusion of the ten-year monitoring period documenting the success or failure of the mitigation. If performance standards are not met by the end of ten years, at the discretion of the City Planning Department the monitoring period shall be extended until the standards are met.

D. Scenic, Visual and Hillside Resource Protection Ordinance (LIP Chapter 6)

The Scenic, Visual and Hillside Resource Protection Ordinance 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. PCH and Malibu Canyon Road are designated as scenic roadways per the LCP. The project site is briefly visible from PCH, and is visible from a distance from a portion of Malibu Canyon Road. The site is also visible from existing single-family residences located north of Civic Center Way and west of Cross Creek Road. In addition, the site is visible from Legacy Park, which is a designated scenic area. The findings of LIP Section 6.4 are made below.

Finding D1. The project, as proposed, will have no significant adverse scenic or visual impacts due to project design, location on the site or other reasons.

Story poles were installed on the project site to depict the location, height and mass of the project. A visual analysis of the project’s visual impact from public viewing areas was conducted through site reconnaissance, a review of the story poles, architectural plans, visual simulations and an investigation of the character of the surrounding properties. Visual simulations and architectural renderings of the project site were prepared that incorporate extensive landscape screening and illustrate how the site is expected to look with mature landscaping. Refer to Section 3.1 of the Final EIR for a complete visual analysis, including site photos, visual simulations, and architectural renderings.

The project has been designed not to have significant adverse scenic or visual impacts. The project would introduce development to a site that is currently vacant. Therefore, the project would be visible from portions of City streets (e.g. Civic Center Way, Cross Creek Road and Malibu Canyon Road) as well as from various residential and/or commercial land uses located along these streets. Visibility of the site from designated scenic routes, including PCH and Malibu Canyon Road is highly limited and obscured by topography, vegetation, and existing commercial development in the Civic Center Area. The site is visible from Legacy Park but development on the site would not result in the obstruction of any significant public scenic views (e.g. ocean, coastline, or Santa Monica Mountains).
LUP Policy 6.20 and LIP Section 6.5.E.5 states, "New commercial development within the Civic Center shall be sited and designed to minimize obstructions to the maximum feasible extent of public views of the ridgelines and natural features of the Santa Monica Mountains through measures such as clustering development, and restricting height and bulk of structures."

The proposed development meets the goals of this policy by locating the shopping center development along the western and southern portions of the project site. This would maintain views of the Santa Monica Mountains from Legacy Park and from the Civic Center Way public realm. The proposed development has extensive landscaping proposed, the height and bulk is consistent or lower than development in the surrounding area and does not obstruct public views of any significant ridgeline or the Santa Monica Mountains.

The project, as proposed, will have no significant adverse scenic or visual impacts due to the design or location of buildings and/or improvements on the site.

_Finding D2. The project, as conditioned, will not have significant adverse scenic or visual impacts due to required project modifications, landscaping or other conditions._

As stated in Finding D1, the project will have no significant adverse scenic or visual impact. Conditions of approval require that colors and materials be used that blend with the natural environment, and site lighting is conditioned to be dark-sky compliant and minimized to the amount necessary for public safety.

_Finding D3. The project, as proposed or as conditioned, is the least environmentally damaging alternative._

As discussed in Finding A3, the project as conditioned is the least environmentally damaging feasible alternative.

_Finding D4. There are no feasible alternatives to development that would avoid or substantially lessen any significant adverse impacts on scenic and visual resources._

The proposed project does not pose any significant adverse impacts on scenic and visual resources. As discussed in Finding D1, the project will result in a less than significant impact on scenic and visual resources.

_Finding D5. 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 discussed in Finding D1, the project as conditioned will have no significant adverse scenic and visual impacts. With the incorporation of mitigation measures outlined in the MMRP (Exhibit A), potential impacts to sensitive resources (e.g., native tree protection) have been mitigated to a less than significant level.

E. **Transfer of Development Credits (LIP Chapter 7)**
LIP Chapter 7 applies to land division and/or multi-family residential development in the Multiple Family or Multi-Family Beachfront zoning districts. The project does not propose a land division and therefore, the findings of LIP Chapter 7 do not apply. The project proposes a lot merger, which would not create new parcels but would simply consolidate two existing properties into one 5.88 acre parcel.

F. 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 project was analyzed for the hazards listed in LIP Section 9.2(A). The required findings of LIP Chapter 9 are made as follows:

Finding F1. 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.

The applicant submitted the following documents/data, which are on file at the City:

- Geologic and Soils Engineering Investigation Report by Geosyntec Consultants, Inc. dated June 21, 1999
- Supplemental Report No. 1 dated April 22, 2010
- Supplemental Report No. 2 dated October 5, 2010
- Supplemental Report No. 3 dated November 5, 2010
- Supplemental Report No. 4 dated December 6, 2010
- Update Report dated June 8, 2011
- Addendum 1 Limited Geotechnical Response Report by EPD Consultants dated May 25, 2011

City Geotechnical staff and the Public Works Department reviewed the project plans and associated technical submittals. On June 22, 2011, the City Geologist issued an approval in concept for conformance with City geotechnical standards and LCP requirements. Standard conditions of approval will be included to require that all recommendations of the consulting Certified Engineering Geologist, Geotechnical Engineer and all the plan check stage comments of City Geotechnical staff shall be incorporated into all final design and construction plans, 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.

In these reports, site-specific conditions were evaluated and recommendations were provided to address any pertinent issues. Based on extensive review of the above-referenced information, it has been determined that:

1. The buildout project service area is not located within an Alquist-Priolo Earthquake Fault Zone; therefore, it is unlikely that the project site will be impacted by active faulting or ground rupture; however, the Civic Center area is located in an area of high seismicity, generally.
2. Much of the project site is in a liquefaction zone.
3. The project site is outside of the tsunami inundation zone.
4. Portions of the property are located within the Federal Emergency Management Agency’s (FEMA’s) 100 year flood zone.
5. The project site is in the vicinity of extreme fire hazard areas.

Ground-shaking / Seismicity — The project area is in a seismically active area of Southern California and may experience severe shaking in the future from the Malibu Coast Fault and other nearby faults. While it is impossible to totally prevent structural damage to buildings and loss of life as a result of seismic events, adherence to all applicable building codes and regulations and site-specific engineering specifications can reduce such impacts to less than significant levels. If engineering studies using state-of-the-practice techniques are employed, the impacts from ground rupture can be accounted for with setbacks and foundation designs to accommodate several inches of movement. Surface rupture potential is considered low to moderate, and the impacts are considered less than significant.

Liquefaction - Geotechnical studies identified potentially liquefiable soils within the project site. Liquefaction on the project site can be mitigated by reinforcing the buildings’ foundations and deriving support from the alluvial soils below the potentially liquefiable soils. Alternatively, removal or treatment of the liquefiable material could lead to denser sands which would reduce the project site’s liquefaction potential. Liquefaction is addressed in Section 3.5 — Geology and Soils; see Threshold 3.5-1. After compliance with Mitigation Measure 3.5-1, impacts will be less than significant.

Tsunami Inundation Zone — The proposed project site is outside of the projected tsunami inundation area.

Slope Instability — The project site and surrounding areas are topographically flat. The project site is not located in an area subject to slope instability.

FEMA Flood Hazard Zone — The project site is located within the Federal Emergency Management Agency’s (FEMA) flood designation Zone AO (Depth 2 feet). The project must comply with the City’s Floodplain Management Ordinance, which requires that all structures in Zone AO be elevated above the highest adjacent grade to a height equal to or exceeding the depth number specified in feet on the FEMA Flood Insurance Rate Map (FIRM) by at least 1 foot, or elevated at least 3 feet above the highest adjacent grade if no depth number is specified. The proposed project includes the construction of a commercial structures with the proposed building pads raised to meet FEMA and M.M.C Floodplain Management Ordinance requirements Therefore, impacts would be less than significant.

Fire Hazard - The entire City of Malibu is designated as a Very High Fire Hazard Severity Zone, a zone defined by a more destructive behavior of fire and a greater probability of flames and embers threatening buildings. The project design includes a fuel modification plan and protective building construction measures including fire-retardant roofing; and the installation of fire sprinkler systems in all five buildings, and the provision of fire-safe landscaping, including the provision of a “living wall” along the northern property line. The LACFD will review and approve a final fuel modification plan prior to issuance of grading/building permits. LACFD has also reviewed the project and

Planning Commission Resolution No. 15-60
Page 12 of 26
approved the project in concept for conformance with the Fire Code. The project complies with LIP Chapter 9 and the required findings can be made. Impacts associated with hazards will be less than significant and all of the required findings can be made as enumerated in this resolution.

Finding F2. 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 stated in Finding F1, the proposed project, as conditioned and approved by 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, flood or fire hazards due to project modifications, landscaping or other conditions.

Finding F3. The project, as proposed or as conditioned, is the least environmentally damaging alternative.

As stated in Finding A3, the proposed project is the least environmentally damaging alternative.

Finding F4. There are no alternatives to development that would avoid or substantially lessen impacts on site stability or structural integrity.

As stated in Finding F1, 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 of the proposed project.

Finding F5. 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 stated in Finding F1, the proposed project, as designed, conditioned, and approved by the City Geotechnical staff, City Biologist, City Public Works Department and the LACFD, will not have any significant adverse impacts on sensitive resources as enumerated by the LCP.

G. Shoreline and Bluff Development Ordinance (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 does not occur on a shoreline or bluff; therefore, the findings of LIP Chapter 10 do not apply.

H. Public Access Ordinance (LIP Chapter 12)

In accordance with LIP Section 12.6(B)(2), the project is exempt from providing public lateral, vertical, bluff top, trail or recreational access because the project will not impede existing public access ways. The project would maintain the existing 10 foot sidewalk along the north side of Civic Center Way as a continuation of the proposed Malibu Pacific Trail identified on the pending LCP Park Land and Trails System Map. In addition, the proposed project would establish a pedestrian
connection to the adjacent La Paz project site. The Final EIR evaluated potential impacts to recreational resources in Section 3.12 and determined that no impacts would occur. The project complies with LIP Chapter 12 and the required findings can be made.

I. Land Division (LIP Chapter 15)

LIP Chapter 15 applies to land divisions. The project proposes a voluntary lot merger of contiguous parcels under a common ownership. Therefore, the project must be consistent with LIP Section 15.4. On April 13, 2012, the Public Works Division issued an approval in concept for conformance with LCP requirements pertaining to the lot merger.

J. Onsite Wastewater Treatment Systems (LIP Chapter 18)

LIP Section 18.10, Water Systems/Wastewater Management, contains guidelines about expansion of water and wastewater systems of the City. The section emphasizes that the expansion of existing community sewer facilities (package wastewater treatment plants, dedicated sewer service systems, existing trunk lines, etc.) in existing developed areas shall be limited in capacity to the maximum level of development allowed by the LCP. According to LIP Section 18.10, a public sewer system may be designed and proposed where it is found to be the least environmentally damaging wastewater treatment alternative, where it is designed to serve a capacity of development that does not exceed the amount allowed by the LCP, and where it is found to be consistent with all other policies of the LCP. The design capacity of CCWTF is based on buildout conditions calculated based on the City’s General Plan and LCP, existing discharge records for other permitted treatment systems in the Civic Center area, and applications on file with the City. Therefore, the CCWTF is designed to serve a capacity of development that does not exceed that allowed by the LCP. The CCWTF was approved by the City and was found to be the least environmentally damaging wastewater treatment alternative and consistent with all other policies of the LCP.

The proposed project is located within Phase 1 of the State Water Board’s septic prohibition zone. Therefore, the project has been conditioned to connect to the CCWTF. Final occupancy for this project shall not be issued until the CCWTF is completed and operational and all on-site sewer connections to the new sewer laterals are completed. The project complies with LIP Chapter 18 and the required findings can be made.

Section 4. Planning Commission Denial

Based on the foregoing findings and evidence contained within the record, the Planning Commission hereby denies without prejudice Conditional Use Permit No. 10-013, Site Plan Review Nos. 10-042 and 10-043, Minor Modification No. 10-009, Variance No. 10-029, and Master Sign Program No. 10-020.

Section 5. Conditions of Approval

Based on the foregoing findings and evidence contained within the record, the Planning Commission hereby recommends that the City Council approve Coastal Development Permit No. 10-022 and Lot Merger No. 10-004 subject to the following conditions:
Standard Conditions

1. The applicants and property owners, and their successors in interest, shall indemnify, defend and hold harmless the City of Malibu and its elected and appointed officials, officers, employees and agents from and against any and all claims, actions, proceedings, liabilities and costs brought against the City and its elected and appointed officials, officers, employees and agents relating to the City’s actions concerning this project, including but not limited to any proceeding under CEQA. This indemnification shall include (without limitation) damages, fees, and/or costs awarded against the City, cost of suit, attorney’s fees, and 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 the property owners shall reimburse the City’s expenses incurred in its defense of any lawsuit challenging the City’s actions concerning this project and the City’s costs, fees, and damages that it incurs in enforcing the indemnification provisions set forth in this section.

2. The scope of work approved includes the construction of a 38,42 sf commercial shopping center, including a 24,549 sf Whole Foods Market and 13,876 sf of additional commercial retail space and other infrastructure improvements as follows:
   a. Grading and site preparation including up to 3,875 cubic yards of cut, 13,643 cubic yards of fill, 9,767 cubic yards of imported soil and up to 5,391 cubic yards of remedial grading (70 cubic yards of cut and 5,321 cubic yards of fill).
   b. Construction of five commercial buildings of the following sizes:
      i. Building 1: 3,015 square feet up to 28 feet in height with a pitched roof
      ii. Building 2: 3,086 square feet up to 28 feet in height with a pitched roof
      iii. Building 4: 4,183 square feet up to 28 feet in height with a pitched roof
      iv. Building 5: 38,425 square feet up to 28 feet in height with a pitched roof
   c. Construction of landscaping improvements consisting of the following:
      i. 32,849 sf of on-grade landscaping
      ii. 48,492 sf of tree canopy throughout the site
      iii. 20,000 sf of vertical green wall landscaping
      iv. 4,514 sf of off-site landscaping along Civic Center Way
      v. 6,200 sf of fully accessible park space
      vi. 3,000 sf of sensory garden space
      vii. 2,500 sf learning garden space
      viii. 4,800 sf of outdoor seating area
      ix. Various building mounted and wall mounted signage
   d. Construction of above at-grade and below-ground infrastructure facilities, including:
      i. New 44 ft. wide driveway and associated sidewalk improvements intersecting with Civic Center Way
      ii. 26 ft. wide private driveway, fire lane, and parking lot area
      iii. 26 ft. wide private driveway and fire lane intersecting with Cross Creek Road
      iv. Various free standing and retaining walls not exceeding six feet in height, except for the wall along the northern property line not exceeding 12 feet in height
      v. Various stormwater treatment and drainage improvements including catch basins, grassy swales, area drains, trench drains, and bioretention facilities
vi. Various wastewater, water, and drainage pipelines

3. Subsequent submittals for this project shall be in substantial compliance with the plans on file, dated **December 8, 2014** with the Planning Department. The project shall comply with all conditions of approval stipulated in the referral sheets attached to the agenda report for this project. In the event the project plans conflict with any condition of approval, the condition shall take precedence.

4. Pursuant to Local Coastal Program (LCP) Local Implementation Plan (LIP) Section 13.18.2, this permit and rights conferred in this approval shall not be effective until the property owner signs and returns the Acceptance of Conditions Affidavit accepting the conditions set forth herein. The applicant shall file this form with the Planning Department within 10 days of the City Council's approval of the resolution and/or prior to issuance of any development permits.

5. The property owner / applicant or their successor shall submit three (3) complete sets of plans to the Planning Department for consistency review and approval 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 Environmental Sustainability Department for plan check, and the City Public Works Department for an encroachment permit (as applicable).

7. The CDP and Lot Merger shall be expire if the project has not commenced within three (3) years after issuance of the permit. 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.

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 structures shall conform to requirements of the City of Malibu Building and Safety Division, City Geologist, City Biologist, City Public Works Department, Los Angeles County Water District No. 29, the Los Angeles County Fire Department (LACFD), the Los Angeles County Sheriff’s Department, and any other responsible or trustee agency 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 (M.M.C) and the LCP. Revised plans reflecting the minor changes and additional fees shall be required.

11. 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.
12. 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.

Special Conditions

13. The hours of operation for all commercial shopping center tenants shall be between 7:00 AM and 11:00 PM.

14. No amplified music shall be allowed on the project site, unless authorized by a TUP.

15. Large truck (three-axel or larger) deliveries to the supermarket and any other on-site tenant shall only occur during non-peak hours (e.g. 9:00 AM and 4:00 PM).

16. All delivery trucks shall access the project site using only Webb Way and Civic Center Way, and the primary entrance driveway on Civic Center Way. Truck deliveries for the project site shall be prohibited from using Cross Creek Road.

17. All construction vehicles shall access the project site using only Webb Way and Civic Center Way, and the primary entrance driveway on Civic Center Way. Construction traffic for the project shall at all times be prohibited from using Cross Creek Road.

18. The property owner shall prohibit all delivery trucks from loading and/or unloading any goods on any portion of Cross Creek Road or Civic Center Way at all times. The property owner or property owner’s agent shall incorporate this restriction into all tenant lease agreements and shall provide the City Planning Department a copy of the relevant portions of the executed lease agreement containing this restriction prior to the final inspection and tenant occupancy.

Cultural Resources

19. 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 M.M.C Section 17.54.040(D)(4)(b) shall be followed.

20. 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.

Construction and Demolition

21. The property owner / applicant or their successor 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. Prior to the issuance of a building/demolition permit, a Waste reduction and Recycling Plan (WRRP) shall be submitted to the Environmental Sustainability Department for review and approval. The WRRP shall indicate means and measures for a minimum of 50 percent diversion goal.

22. 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.

23. 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 will be rinsed off prior to leaving the property.

Colors and Materials

24. The project shall incorporate colors and exterior materials that are compatible with the surrounding landscape.
   a. Colors shall be compatible with the surrounding environment (earth tones) including shades of green, brown and gray, with no white or light shades and no bright tones.
   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.

25. All driveways shall be a neutral color that blends with the surrounding landforms and vegetation. The color shall be reviewed and approved by the Planning Director and clearly indicated on all grading, improvement and/or building plans.

26. Retaining walls shall incorporate veneers, texturing and/or colors that blend with the surrounding earth materials or landscape. The color and material of all retaining walls shall be reviewed and approved by the Planning Director and clearly indicated on all grading, improvement and/or building plans.

Lighting

27. Night lighting from exterior and interior sources shall be minimized to that necessary for public safety. All exterior lighting shall be dark sky compliant and shall avoid lighting of natural habitat areas.

Biology/Landscaping

28. The applicant shall obtain any and all state and federal regulatory agency permits/agreements for any portion of the project (including infrastructure) should final project plans indicate that
development may encroach into any of those agencies’ jurisdiction.

29. Invasive plant species, as determined by the City of Malibu, are prohibited.

30. Vegetation shall be situated on the property so as not to significantly obstruct the primary view from private property at any given time (given consideration of its future growth).

31. Vegetation forming a view impermeable condition (hedge), serving the same function as a fence or wall, occurring within the side or front yard setback shall be maintained at or below six (6) feet in height. The 12-foot vegetated sound wall located along a portion of the northern property line shall not be considered a hedge and thus shall not be subject to this limitation.

32. The use of building materials treated with toxic compounds such as copper arsenate shall be prohibited.

33. The use of anti-coagulant rodenticides for use in pest control shall be prohibited on the project site. The applicant shall submit an Integrated Pest Management Plan for review and approval by the City Biologist prior to completion of the final site inspection.

34. Grading, excavation or other site preparation activities associated with the project scheduled between February 1 and August 30 will require nesting bird surveys by a qualified biologist prior to initiation of those 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 nesting bird surveys shall be submitted to the City Biologist prior to any vegetation removal on site.

35. Construction fencing shall be placed outside of required native tree protection zones and indicated on the site plans approved for grading permit issuance. Construction fencing shall be installed prior to the beginning of any construction and shall be maintained throughout the construction period to protect the site’s sensitive habitat areas.

36. The project will require the removal of eight protected western sycamore trees. Pursuant to LIP Chapter 5, projects that support one or more western sycamore trees (*Plantanus racemosa*) trees must include a native tree protection plan. A native tree protection plan shall be prepared and submitted for this project for review and approval which addresses impacts to protected native trees. Required mitigation shall include the planting of 80 western sycamore mitigation trees on-site as shown on the final approved landscaping plan. The size of the 80 western sycamore mitigation trees shall be a minimum size of 48-inch box and their locations shall be reviewed and approved by the City Biologist prior to approval of the final landscaping plan.

37. For a period of not less than 10 years, a qualified arborist, biologist, or resource specialist shall conduct annual monitoring of each of the 80 sycamore trees planted on site. The monitor shall evaluate the overall health of each tree annually and provide a detailed report no later than December 30 each year describing the current condition of each tree and any recommended actions to correct deficiencies in the successful establishment and growth of any mitigation trees. Should any of the mitigation trees die or show indications of failing...
health, those trees shall be replaced on a 1:1 basis. If at the end of 10 years one or more of the trees are unhealthy or have died, additional monitoring may be required to ensure successful growth.

38. Prior to final inspection and occupancy, the City Biologist shall inspect the project site and determine that all planning conditions and/or mitigation measures to protect natural resources are in compliance with the approved plans and/or operational procedures.

Geology

39. All recommendations of the consulting Certified Engineering Geologist or Geotechnical Engineer and the City Geotechnical staff (June 22, 2011 review sheet) shall be incorporated into all final design and construction. Final plans shall be reviewed and approved by the City Geologist prior to the issuance of a grading permit.

40. Final plans approved by the City Geologist shall be in substantial conformance with the approved CDP relative to construction, grading and drainage. Any substantial changes may require amendment of the CDP or a new coastal development permit.

Public Works

41. The project shall contribute its pro-rata share of funding towards traffic mitigation improvements planned at the intersections of Pacific Coast Highway/Cross Creek Road, Pacific Coast Highway/Malibu Canyon Road, and Pacific Coast Highway and Webb Way, as described in Final EIR Mitigation Measures 3.13-1 through 3.13-3. The City shall verify that all pro-rata funds have been received for the improvements prior to issuance of building permits. Additionally, the City shall verify that the improvements have been constructed prior to final Planning Department inspection.

42. This project proposes to construct improvements within the City’s Civic Center Way right-of-way. The proposed improvement plans shall be reviewed and approved by the Public Works Department prior to the issuance of a building permit. All improvements shall be constructed in accordance with the City’s standards and shall match the existing improvements. Prior to the commencement of any construction within the right-of-way, the applicant shall obtain encroachment permits from the Public Works Department.

43. The location of the Civic Center driveway entrance shall be approved by the Public Works Department.

44. The project proposes to modify the City’s Civic Center Stormwater Treatment Facility (CCSTF) building. The modifications shall be limited to repainting the structure and replacing any fencing located on the east side of the building. The modifications shall be reviewed and approved by the Public Works Department prior to the issuance of building permits.

45. Existing control panels and other equipment located adjacent to the CCSTF within the City’s property shall be relocated. The applicant shall relocate these facilities near the CCSTF to the satisfaction of the Public Works Department.
46. The applicant shall install new landscaping and irrigation within the City’s property near the CCSTF as shown on the landscape plan. The new landscaping shall match the planting palette used for Legacy Park. It shall be the responsibility of the applicant to maintain the landscaping and irrigation systems in this area. A covenant, reviewed and approved by the Public Works Department, shall be recorded against the property for the maintenance of the landscaping in this area.

47. 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. A note shall be placed on the project plans to this effect.

48. The Total Grading Yardage Verification Certificate for the project site shall be provided with or on the cover sheet of the grading plans submitted for the project.

49. Grading permits shall not be issued between November 1 and March 31 each year. Projects approved for grading shall not receive grading permit unless the project can be rough-graded before November 1. A note shall be placed on the plans that addresses this condition.

50. A Grading and Drainage Plan is required, and shall be submitted to the City Public Works Department for review and approval, prior to the issuance of grading permits for the project. The following elements shall be included in this plan:
   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);
   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 grading limits shall include the temporary cuts made for retaining walls, buttresses, and over excavations for fill slopes and shall be shown on the plan.
   e. Private storm drain systems shall be shown on the plan. Systems greater than 12 inch diameter shall also have a plan and profile for the system included in the grading plan.
   f. Private storm drain inlets shall have trash excluders or equivalent devices and shall be labeled with the City standard “no dumping” message.
   g. Public storm drain modifications shown on the grading plan shall be approved by the Public Works Department prior to the issuance of a grading permit.

51. A digital drawing (AutoCAD) of the project’s private storm drain system and post-construction BMPs shall be submitted to the Public Works Department prior to final approval. 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 streets, and any drainage easements.

52. The applicant shall improve the existing storm drain catch basins located at the intersection of Cross Creek and Civic Center Way.
53. A Local Storm Water Pollution Prevention Plan shall be provided prior to the issuance of the Grading permits for the project. This plan shall include:
   a. Dust Control plan for the management of fugitive dust during extended periods without rain;
   b. Designated areas for the storage of construction materials that do not disrupt drainage patterns or subject the material to erosion by site runoff;
   c. Designated area for the construction of portable toilets that separates them from stormwater runoff and limits the potential for upset;
   d. Designated areas for the disposal and recycling facilities for solid waste separated from the site drainage system to prevent discharge of runoff through the waste; and
   e. The SWPPP shall meet the requirements of the City’s Stormwater and Urban Runoff Discharge Permit (MS4 Permit).

54. A State Construction Activity Permit is required for this project due to the disturbance of more than one acre of land for development. Provide a copy of the letter from the State Water Quality Control Board containing the WDID number prior to the issuance of grading or building permits.

55. 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 Storm 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 onsite the stormwater quality design volume (SWQDV). Or where it is technically infeasible to retain onsite, the project must biofiltrate 1.5 times the SWQDV that is not retained onsite;
   d. Drainage improvements;
   e. A plan for the maintenance and monitoring of the proposed treatment BMPs for the expected life of the structure;
   f. Prior to the issuance of grading or building permits, 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; and
   g. The WQMP shall be submitted to the Building Safety Public Counter 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 approval 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 BMPS, 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 issuance of the certificate of occupancy.
56. Proposed improvements are located within the Special Flood Hazard Area (SFHA). An Elevation Certificate based on construction drawings is required for any building located within the SFHA. A separate certificate is required for flood proofing, if applicable. A survey map shall be attached to this certificate showing the location of the proposed building in relation to the property lines and to the street center line. The survey map shall delineate the boundary of the SFHA zone(s) based on the FIRM flood maps in effect and provide the information for the benchmark utilized, the vertical datum, and any datum conversion. A post construction Elevation Certificate will be required to certify building elevations, when the construction is complete, and shall be provided to the Public Works Department prior to final approval of the construction.

57. 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 Developers Consulting Engineer shall sign the final plans prior to the issuance of permits.

58. All commercial developments shall be designed to control the runoff of pollutants from structures, parking and loading docks. Proper design of loading and unloading docks shall provide the following:
   a. Cover loading/unloading dock areas or design drainage to minimize run-on and runoff of storm water; and
   b. Direct connections to storm drains from depressed loading/unloading docks are prohibited.

59. Parking lots (5,000 square feet of impervious surface or 25 parking spaces) shall be design to:
   a. Minimize impervious surfacing for parking area;
   b. Infiltrate runoff before it reaches a storm drain system;
   c. Treat to remove oil and petroleum hydrocarbons at parking lots that are heavily used; and
   d. Ensure adequate operation and maintenance of treatment systems particularly sludge and oil removal and system fouling and plugging prevention control.

60. Properly design restaurant equipment/accessory wash areas:
   a. Install self-contained wash area, equipped with grease trap, and properly connected to Sanitary Sewer; and
   b. If the sash area is located outdoors, it must be covered, paved, the area must have secondary containment and it shall be connected to the sanitary sewer.

61. Outdoor material storage:
   a. Materials with the potential to contaminate storm water must be: (1) placed in an enclosure such as a cabinet, shed, or similar structure that prevents contact with runoff or spillage to the storm water conveyance system; or (2) protected by secondary containment structures such as berms, dikes or curbs;
   b. The storage areas must be paved and sufficiently impervious to contain leaks and spills; and
   c. The storage area must have a roof or awning to minimize collection of storm water within the secondary containment area.
62. Trash storage areas and trash receptacles:
   a. Trash container areas must have drainage from adjoining roofs and pavement diverted around the area;
   b. Trash container areas must be screened or walled to prevent off-site transport of trash; and
   c. Trash receptacles or equivalent trash capturing devices shall be covered to prevent trash overflow.

63. The City of Malibu is required by AB 939 to reduce the flow of wastes to the landfills of Los Angeles and Ventura Counties by 50%. The applicant shall comply with the Construction and Demolition Debris Recycling Program.
   a. 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. Prior to the issuance of a building/demolition permit, an Affidavit and Certification to implement a Waste Reduction and Recycling Plan (WRRP) shall be signed by the Owner or Contractor. The WRRP shall indicate the agreement of the applicant to divert at least 50% of all construction waste generated by the project; and
   b. Prior to Final Building inspection, the applicant shall provide the Public Works Department with a Final Waste Reduction and Recycling Summary Report (Summary Report). The Final Summary Report shall designate all material that were land filled or recycled, broken down by material types. The Public Works Department shall approve the final Summary Report.

64. The Certificate of Compliance for Lot Merger shall be recorded prior to the issuance of building and or grading permits for this project. The recorded instrument shall contain a legal description of the contiguous parcels prior to the merger, and the new parcel that results after the merger. The instrument must be reviewed and approved by the City Planning Department and City Engineer prior to recordation. The applicant shall provide a certified copy of the recorded document to the City Public Works Department prior to the issuance of building and or grading permits.

65. This project is located within Phase 1 of the State Water Board’s septic prohibition zone. In 2017, the project will be required to connect into the City’s sewer system. Final occupancy for this project will not be issued until the Civic Center Wastewater Treatment Facility is completed and operational and all on-site sewer connections to the new sewer laterals are completed.

66. All on-site sanitary sewer mains and appurtenances shall be a private sewer system, owned and maintained by the property owner. Connection to the City sewer system shall be made at existing sewer laterals. Point of connection to the City sewer system shall be made only to existing sewer laterals or sewer mains as approved by the Public Works Department. If a new sewer lateral is required, the applicant shall prepare improvement plans designed by a Registered Civil Engineer and pay the associated new sewer lateral connection fees. The new sewer lateral shall be constructed in accordance with APWA Standard Plan 222-1. When new sewer laterals are to be connected to an existing sewer main, the contractor shall call for such protections as is necessary to prevent construction debris from being washed into the active sewers.
67. Prior to the issuance of any permits, the applicant shall pay the applicable sewer connection fee to the Public Works Department.

68. There shall be no trees planted within 10 feet of any sewer lateral.

69. All new sewer infrastructures shall be isolated with a physical barrier until the Public Works Department approves the new system, the Civic Center Wastewater Treatment Facility is completed and operational, and the development is ready for actual occupancy.

Fire Safety

70. Access shall comply with Section 503 of the Fire Code, which requires all weather access. All weather access may require paving.

71. Private driveways shall be indicated on the final map as "Private Driveway and Firelane" with the widths clearly depicted and shall be maintained in accordance with the Fire Code. All required fire hydrants shall be installed, tested and accepted prior to construction.

72. Vehicular access must be provided and maintained serviceable throughout construction to all required fire hydrants. All required fire hydrants shall be installed, tested and accepted prior to construction.

73. The project requires LACFD approval of a Final Fuel Modification Plan prior to the issuance of grading or building permits.

74. The project requires LACFD plan review and approval of all proposed fire water service improvements and prior to the issuance of building permits. The improvements shall be designed and constructed in accordance with the water service and fire access plan review requirements provided by the LACFD in their correspondence dated March 28, 2011.

75. Provide Fire Department or City approved street signs and building access numbers prior to occupancy.

Water Service

76. 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 indicating the ability of the property to receive adequate water service.

Prior to the Issuance of Certificate of Occupancy

77. Prior to the issuance of the Certificate of Occupancy, the property owner / applicant or their successor shall provide the Environmental Sustainability Department with a Final Waste Reduction and Recycling Report. This report shall designate all materials that were land filled and recycled, broken down into material types. The final report shall be approved by the Environmental Sustainability Department.
78. The applicant shall request a final Planning inspection prior to final inspection by the City of Malibu Environmental and Sustainability Department. A Certificate of Occupancy shall not be issued until the Planning Department has determined that the project complies with this CDP. 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.

Fixed Conditions

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

80. 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. Certification.

The Planning Commission shall certify the adoption of this Resolution.

PASSED, APPROVED AND ADOPTED this 11th day of June 2015.

ATTEST:

DAVID BROTMAN, Planning Commission Chair

KATHLEEN STECKO, Recording Secretary

I CERTIFY THAT THE FOREGOING RESOLUTION NO. 15-60 was passed and adopted by the Planning Commission of the City of Malibu at the regular meeting thereof held on the 11th day of June 2015, by the following vote:

AYES: 3 Commissioners: Brotman, Jennings, Stack
NOES: 2 Commissioners: Mazza, Pierson
ABSTAIN: 0
ABSENT: 0

KATHLEEN STECKO, Recording Secretary