

RESOLUTION NO. 15-41

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MALIBU, ADOPTING THE FINDINGS OF FACT REQUIRED BY THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, CERTIFYING ENVIRONMENTAL IMPACT REPORT NO. 11-001 AND ERRATUM NO. 1, AND ADOPTING A STATEMENT OF OVERRIDING CONSIDERATIONS AND A MITIGATION MONITORING AND REPORTING PROGRAM 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 (THE PARK AT CROSS CREEK, LLC)

The City Council 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 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 an agreement with Impact Sciences to initiate work on the preparation of the Draft 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), which 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 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 updated and resubmitted by the applicant.

L. On February 5, 2015, a Notice of Availability for a Draft 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, the Planning Commission held a public hearing 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 Planning Commission 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 Planning Commission 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. The Response to Comments on the Draft EIR was circulated to all who submitted comments as well as to interested parties.

S. On May 14, 2015, a revised Notice of Planning Commission 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. This revised notice clarified the list of entitlements being requested for the proposed project.

T. 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 on the Specific Plan, the Planning Commission acts in an advisory capacity on the amendments, the EIR and the entitlements, and the City Council will be the decision-maker for all. The project applicant has requested a special election and, in compliance with Measure R, the soonest available election is November 3, 2015.

U. On June 11, 2015, the Planning Commission held a duly noticed public hearing on Final EIR No. 11-001, General Plan Amendment (GPA) No. 11-001, Zoning Map Amendment (ZMA) No. 11-001, CDP No. 10-22, Lot Merger No. 10-004, Civic Center Northeast Specific Plan and adopted Planning Commission Resolution No. 15-57 recommending certification of Final EIR No. 11-001, adoption of the Mitigation Monitoring and Reporting Program, and adoption of a Statement of Overriding Considerations.

V. On June 18, 2015, a Notice of City Council Public Hearing was published in a newspaper of general circulation within the City of Malibu and was mailed to all property owners and occupants within a 500-foot radius of the subject property and to interested parties.

W. On July 10, 2015, the Draft Specific Plan was revised by City staff.

X. On July 13, 2015, the City Council continued the public hearing on the subject application to a Special City Council public hearing on July 20, 2015.

Y. On July 20, 2015, the City Council held a duly noticed public hearing on the subject application, reviewed and considered the staff report, reviewed and considered written reports, public testimony, and other information in the record.

## SECTION 2. Adoption of CEQA Findings.

The City Council 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 the project 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 serves 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.

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

The City Council 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 the following project-level impacts determined to be significant and mitigable to a less than significant level:

## 1. 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 nests 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 birds protected by the Migratory Bird Treaty Act and native trees protected under the City's Native Tree Protection Ordinance.

## 2. CULTURAL RESOURCES

Significant Impact: Record 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.

### 3. 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 cy 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.

#### 4. 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, and 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.

#### 5. OPERATIONAL NOISE

Significant Impact: The project's non-transportation noise sources would result in a permanent increase in ambient noise levels that would be considered potentially significant. 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: 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 3.10-8 through 3.10-10 will reduce the impact to a level less than significant.

#### 6. TRANSPORTATION AND TRAFFIC

Significant Impact: Using the criteria in the City's Transportation Impact Analysis (TIA) Guidelines prepared by the City's Public Works Department, 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 decibels (dBA) 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 dBA 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.

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 City Council 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 in the record, and upon studies and investigation made for the project, the City Council further finds that the Final EIR analyzes a reasonable range of project alternatives. The feasible alternatives in the Final EIR are discussed below.

- 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 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 ongoing maintenance that is currently occurring would continue, such as disking 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 square foot Whole Foods market, 13,876 square feet of retail/restaurant space or 4,800 square feet 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 square foot Whole Foods market, 13,876 square feet of retail/restaurant space or 4,800 square feet 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 square foot Whole Foods market, 13,876 square feet of retail/restaurant space or 4,800 square feet 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 square foot Whole Foods market, 13,876 square feet of retail/restaurant space or 4,800 square feet 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 City Council 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 square feet) and 129 parking spaces. Pursuant to the M.M.C. and the LCP, a total of 166,509 square feet 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

square feet. 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 square feet 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 and most of the project landscaping and open spaces would be located in the rear portions of the 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 square feet of local and visitor serving ancillary retail/restaurant structures and 4,800 square feet 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 may 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 square feet 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 due to most of the landscaping and open space being located in the rear.

*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 square feet of retail/restaurant space or 4,800 square feet 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 and physical configuration of the interior space of the proposed grocery store building would be more generic 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 proposed 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 square feet 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 square feet of retail/restaurant space or 4,800 square feet 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 City Council 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 a 38,425 square foot neighborhood shopping center designed to be anchored by a Whole Foods Market (24,549 square feet) and four smaller commercial spaces (3,015 square feet, 3,086 square feet, 3,592 square feet, and 4,183 square feet, respectively) located in two smaller outbuildings, and 220 parking spaces. Pursuant to the M.M.C. and the LCP, which require that 40 percent of the gross lot area constitute landscaped area, a total of 102,467 square feet 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 because more usable space would be provided within the southern portions of the site.

*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; therefore, 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 square feet 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 two, 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 applicant's 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 plus the Whole Foods Market 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 square feet 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 square feet of retail/restaurant space and 4,800 square feet 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 City Council 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, lower scale mix of commercial retail uses, more pedestrian friendly, 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, 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, Operation Noise and Solid Waste, 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 3.10-7.

Based on substantial evidence in the record, the City Council 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 City Council finds:

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

B. The City Council 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.

SECTION 6. Statement of Overriding Considerations.

Based upon the testimony and other evidence received, and upon studies and investigation conducted for the project, the City Council 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 effect 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 City Council'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 City Council 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 City Council 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 City Council determines that the adverse environmental effects are considered acceptable.

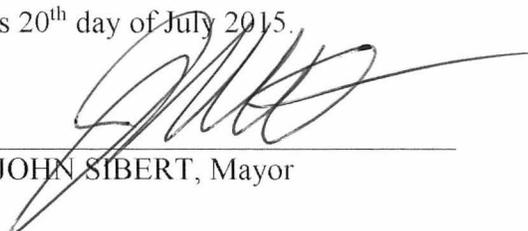
SECTION 8. The City Council hereby adopts the Statement of Overriding Considerations.

SECTION 9. The City Council hereby adopts the Mitigation Monitoring and Reporting Program attached hereto as “Exhibit A” and Erratum No. 1 attached hereto as “Exhibit “B” and made a part hereof.

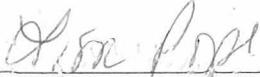
SECTION 10. The City Council hereby certifies the Final EIR for the Whole Foods and Park project.

SECTION 11. The City Clerk shall certify the passage and adoption of this resolution and enter it into the book of original resolutions.

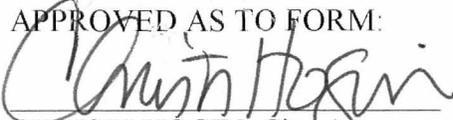
PASSED, APPROVED AND ADOPTED this 20<sup>th</sup> day of July 2015.

  
\_\_\_\_\_  
JOHN SIBERT, Mayor

ATTEST:

  
\_\_\_\_\_  
LISA POPE, City Clerk  
(seal)

APPROVED AS TO FORM:

  
\_\_\_\_\_  
CHRISTI HOGIN, City Attorney

I CERTIFY THAT THE FOREGOING RESOLUTION NO. 15-41 was passed and adopted by the City Council of the City of Malibu at the special meeting thereof held on the 20<sup>th</sup> day of July 2015 by the following vote:

AYES:	4	Councilmembers:	House, La Monte, Rosenthal, Sibert
NOES:	1	Councilmember:	Peak
ABSTAIN:	0		
ABSENT:	0		

  
\_\_\_\_\_  
LISA POPE, City Clerk  
(seal)

Exhibit A

Mitigation Monitoring and Reporting Program

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.

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.

Mitigation Measure	Action Required	Timing	Monitoring Responsibility
<b>Biological Resources</b>			
<p>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 foot area, including suitable habitat areas outside the project site.</p> <p>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:</p> <ul style="list-style-type: none"> <li>• 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.</li> <li>• Distance and amount of vegetation or other screening between the construction site and the nest.</li> <li>• Sensitivity of individual nesting species and behaviors of the nesting birds.</li> </ul> <p>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.</p>	<ul style="list-style-type: none"> <li>• Qualified biologist to prepare nesting bird survey reports</li> <li>• Review and approval of nesting bird survey reports.</li> <li>• Field verify that sufficient space is given to nesting birds (if necessary)</li> </ul>	<ul style="list-style-type: none"> <li>• Pre-Construction</li> <li>• During Construction</li> </ul>	<ul style="list-style-type: none"> <li>• City of Malibu Planning Department</li> <li>• City Biologist</li> <li>• Construction Manager</li> </ul>

Mitigation Measure	Action Required	Timing	Monitoring Responsibility
<b>Biological Resources (continued)</b>			
<p>3.3-1: (continued)</p> <p>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.</p>			
<p>3.3-2: 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.</p> <p>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.</p>	<ul style="list-style-type: none"> <li>• Qualified biologist to prepare annual replacement tree monitoring reports</li> <li>• Review and approval of replacement tree planting plan</li> <li>• Review and approval of annual replacement tree monitoring reports</li> </ul>	<ul style="list-style-type: none"> <li>• Prior to issuance of grading permit and coastal development permit</li> <li>• Annually for 10 years</li> </ul>	<ul style="list-style-type: none"> <li>• City of Malibu Planning Department</li> <li>• City Biologist</li> </ul>

Mitigation Measure	Action Required	Timing	Monitoring Responsibility
<b>Cultural Resources</b>			
<p><b>3.4-1:</b> 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.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>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:</p> <p style="padding-left: 40px;">South Central Coastal Information Center                  Department of Anthropology                  McCarthy Hall 477                  CSU Fullerton                  800 North State College Boulevard                  Fullerton, CA 92834</p> <p>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.</p>	<ul style="list-style-type: none"> <li>• Confirm measure is incorporated into project specifications.</li> <li>• Confirm that any cultural resources uncovered during construction are treated in accordance with recommendations from archaeologist and if applicable, a Native American cultural monitor.</li> <li>• Confirm that any cultural resource whose treatment is under dispute is treated in accordance with the recommendations of the Native American Heritage Commission.</li> <li>• Confirm that any human remains are uncovered during construction are handled in accordance with applicable regulations, as proscribed in this measure.</li> </ul>	<ul style="list-style-type: none"> <li>• Pre-Construction</li> <li>• During Construction</li> </ul>	<ul style="list-style-type: none"> <li>• City of Malibu Planning Department</li> <li>• Project Archaeologist</li> <li>• Construction Manager</li> </ul>

Mitigation Measure	Action Required	Timing	Monitoring Responsibility
<b>Cultural Resources (continued)</b>			
<p>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.</p> <p>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.</p> <p>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.</p>	<ul style="list-style-type: none"> <li>• Confirm that measure is incorporated into project specifications.</li> <li>• Verify that monitor has resources necessary to salvage fossils and sample sediments as they are unearthed.</li> <li>• Confirm that any specimens uncovered during construction are curated into a museum repository meeting the requirements stipulated in the measure.</li> <li>• Confirm receipt of report of findings and inventory of specimens.</li> </ul>	<ul style="list-style-type: none"> <li>• Pre-construction</li> <li>• During Construction</li> </ul>	<ul style="list-style-type: none"> <li>• City of Malibu Planning Department</li> <li>• Project Paleontologist</li> <li>• Construction Manager</li> </ul>

Mitigation Measure	Action Required	Timing	Monitoring Responsibility
<b>Cultural Resources (continued)</b>			
<p>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:</p> <ul style="list-style-type: none"> <li>• 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,</li> <li>• 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.</li> </ul> <p>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:</p> <ul style="list-style-type: none"> <li>• The Native American Heritage Commission is unable to identify a descendent.</li> <li>• The descendant identified fails to make a recommendation.</li> <li>• 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.</li> </ul>	<ul style="list-style-type: none"> <li>• Confirm measure is incorporated into project specifications.</li> <li>• Confirm that any human remains are uncovered during construction are handled in accordance with applicable regulations, as proscribed in this measure.</li> </ul>	<ul style="list-style-type: none"> <li>• Pre-Construction</li> <li>• During Construction</li> </ul>	<ul style="list-style-type: none"> <li>• City of Malibu Planning Department</li> <li>• Project Archaeologist</li> <li>• Construction Manager</li> </ul>

Mitigation Measure	Action Required	Timing	Monitoring Responsibility
<b>Geology and Soils</b>			
<p>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:</p> <p>The proposed structures may be supported on friction piles extending through the potentially liquefiable sands. The friction piles may be designed in two ways.</p> <p>Option 1:</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>Option 2:</p> <p>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.</p>	<ul style="list-style-type: none"> <li>• 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.</li> <li>• Verify that site preparation and earthwork is done as required in specifications.</li> </ul>	<ul style="list-style-type: none"> <li>• Design</li> <li>• Pre-Construction</li> <li>• During Construction</li> </ul>	<ul style="list-style-type: none"> <li>• City of Malibu Building and Safety Division</li> <li>• Construction Manager</li> </ul>

Mitigation Measure	Action Required	Timing	Monitoring Responsibility
<b>Geology and Soils (continued)</b>			
<p>3.5-1: (continued)</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>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</p>			
<b>Hydrology and Water Quality</b>			
<p>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.</p>	<ul style="list-style-type: none"> <li>• Confirm design and project specifications incorporate requirements of the NPDES permit.</li> <li>• Verify that construction activities comply with the SWPPP and state General Construction Permit requirements.</li> </ul>	<ul style="list-style-type: none"> <li>• Pre-Construction</li> <li>• During Construction</li> <li>• During Project Operation</li> </ul>	<ul style="list-style-type: none"> <li>• City of Malibu Public Works Department</li> <li>• Construction Manager</li> </ul>

Mitigation Measure	Action Required	Timing	Monitoring Responsibility
<b>Hydrology and Water Quality (continued)</b>			
<p>3.8-2: 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:</p> <ul style="list-style-type: none"> <li>• Site Design Best Management Practices (BMPs)</li> <li>• Source Control BMPs</li> <li>• 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 85<sup>th</sup> percentile, 24-hour storm event or the 0.75-inch, 24-hour storm event.</li> <li>• Drainage Improvements</li> <li>• A plan for the maintenance and monitoring of the proposed treatment BMPs for the expected life of the structure.</li> </ul> <p>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.</p> <p>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.</p> <p>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.</p>	<ul style="list-style-type: none"> <li>• Confirm design and project specifications incorporate requirements of the WQMP.</li> <li>• Verify that construction activities comply with the WQMP requirements.</li> <li>• Verify that construction is in compliance with BMPs.</li> </ul>	<ul style="list-style-type: none"> <li>• Pre-Construction</li> <li>• During Construction</li> <li>• During Project Operation</li> </ul>	<ul style="list-style-type: none"> <li>• City of Malibu Public Works Department</li> <li>• Construction Manager</li> </ul>

Mitigation Measure	Action Required	Timing	Monitoring Responsibility
<b>Noise</b>			
<p>3.10-1 All construction machinery and delivery trucks shall be maintained to the highest level of performance, and shall be outfitted with all noise reduction accessories, e.g., mufflers, enclosures, etc. that are offered by the equipment manufacturers.</p>	<ul style="list-style-type: none"> <li>• Confirm design and project specifications incorporate requirements of the mitigation measure.</li> <li>• Verify that construction activities comply with mitigation measure requirements.</li> </ul>	<ul style="list-style-type: none"> <li>• Pre-Construction</li> <li>• During Construction</li> </ul>	<ul style="list-style-type: none"> <li>• City of Malibu Public Works Department</li> <li>• Construction Manager</li> </ul>
<p>3.10-2 The contractor and all subcontractors shall be knowledgeable about the details of Chapter 8.24 NOISE of the Malibu Municipal Code, and shall conform to its requirements at all times.</p>	<ul style="list-style-type: none"> <li>• Confirm design and project specifications incorporate requirements of the mitigation measure.</li> <li>• Verify that construction activities comply with mitigation measure requirements.</li> </ul>	<ul style="list-style-type: none"> <li>• Pre-Construction</li> <li>• During Construction</li> </ul>	<ul style="list-style-type: none"> <li>• City of Malibu Public Works Department</li> <li>• Construction Manager</li> </ul>
<p>3.10-3 Construction activities shall occur only during the hours permitted by the Malibu Municipal Code – 7:00 AM until 7:00 PM on weekdays, and 8:00 AM until 5:00 PM on Saturdays. Construction activities are not permitted on Sundays and holidays.</p>	<ul style="list-style-type: none"> <li>• Confirm design and project specifications incorporate requirements of the mitigation measure.</li> <li>• Verify that construction activities comply with mitigation measure requirements.</li> </ul>	<ul style="list-style-type: none"> <li>• Pre-Construction</li> <li>• During Construction</li> </ul>	<ul style="list-style-type: none"> <li>• City of Malibu Public Works Department</li> <li>• Construction Manager</li> </ul>

Mitigation Measure	Action Required	Timing	Monitoring Responsibility
<b>Noise (continued)</b>			
<p>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.</p>	<ul style="list-style-type: none"> <li>• Confirm design and project specifications incorporate requirements of the mitigation measure.</li> <li>• Verify that construction activities comply with mitigation measure requirements.</li> </ul>	<ul style="list-style-type: none"> <li>• Pre-Construction</li> <li>• During Construction</li> </ul>	<ul style="list-style-type: none"> <li>• City of Malibu Public Works Department</li> <li>• Construction Manager</li> </ul>
<p>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.</p>	<ul style="list-style-type: none"> <li>• Confirm design and project specifications incorporate requirements of the mitigation measure.</li> <li>• Verify that construction contractor complies with mitigation measure requirements.</li> </ul>	<ul style="list-style-type: none"> <li>• Pre-Construction</li> <li>• During Construction</li> </ul>	<ul style="list-style-type: none"> <li>• City of Malibu Public Works Department</li> <li>• Construction Manager</li> </ul>
<p>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.</p>	<ul style="list-style-type: none"> <li>• Confirm design and project specifications incorporate requirements of the mitigation measure.</li> <li>• Verify that construction activities comply with mitigation measure requirements.</li> </ul>	<ul style="list-style-type: none"> <li>• Pre-Construction</li> <li>• During Construction</li> </ul>	<ul style="list-style-type: none"> <li>• City of Malibu Public Works Department</li> <li>• Construction Manager</li> </ul>

Mitigation Measure	Action Required	Timing	Monitoring Responsibility
<b>Noise (continued)</b>			
<p>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.</p>	<ul style="list-style-type: none"> <li>• Confirm design and project specifications incorporate requirements of the mitigation measure.</li> <li>• Field verify that wall construction complies with mitigation measure requirements.</li> </ul>	<ul style="list-style-type: none"> <li>• Pre-Construction</li> <li>• During Construction</li> </ul>	<ul style="list-style-type: none"> <li>• City of Malibu Planning Department</li> <li>• City of Malibu Public Works Department</li> <li>• Construction Manager</li> </ul>
<p>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.</p>	<ul style="list-style-type: none"> <li>• Confirm design and project specifications incorporate requirements of the mitigation measure.</li> <li>• Field verify that wall construction complies with mitigation measure requirements.</li> </ul>	<ul style="list-style-type: none"> <li>• Pre-Construction</li> <li>• During Construction</li> <li>• During Project Operation</li> </ul>	<ul style="list-style-type: none"> <li>• City of Malibu Planning Department</li> <li>• City of Malibu Public Works Department</li> <li>• Construction Manager</li> </ul>
<p>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.</p>	<ul style="list-style-type: none"> <li>• Confirm design and project specifications incorporate requirements of the mitigation measure.</li> <li>• Field verify that barrier screens comply with mitigation measure requirements.</li> </ul>	<ul style="list-style-type: none"> <li>• Pre-Construction</li> <li>• During Construction</li> <li>• During Project Operation</li> </ul>	<ul style="list-style-type: none"> <li>• City of Malibu Planning Department</li> <li>• City of Malibu Public Works Department</li> <li>• Construction Manager</li> </ul>

Mitigation Measure	Action Required	Timing	Monitoring Responsibility
<b>Noise (continued)</b>			
3.10-10 All truck deliveries and all maintenance operations shall occur between the hours of 7:00 AM and 7:00 PM.	<ul style="list-style-type: none"> <li>• Confirm design and project specifications incorporate requirements of the mitigation measure.</li> <li>• Field verify that project is in compliance with mitigation measure requirements.</li> </ul>	<ul style="list-style-type: none"> <li>• Pre-Construction</li> <li>• During Construction</li> <li>• During Project Operation</li> </ul>	<ul style="list-style-type: none"> <li>• City of Malibu Planning Department</li> <li>• City of Malibu Public Works Department</li> <li>• Construction Manager</li> <li>• Development Manager</li> </ul>

Mitigation Measure	Action Required	Timing	Monitoring Responsibility
<b>Transportation and Traffic</b>			
<p>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 undergong 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 &amp; 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 proposed 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> <p style="text-align: center;">P=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)</p> <p>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.</p>	<ul style="list-style-type: none"> <li>• Confirm design and specifications incorporate requirements of the mitigation measure.</li> <li>• Verify pro-rata share of the improvement costs have been received by the City of Malibu prior to the issuance of building permits.</li> <li>• Verify that the improvements have been constructed prior to final Planning Department inspection.</li> </ul>	<ul style="list-style-type: none"> <li>• Pre-Construction</li> <li>• Prior to the issuance of building permits</li> <li>• Prior to final Planning Department inspection</li> </ul>	<ul style="list-style-type: none"> <li>• City of Malibu Planning Department</li> <li>• City of Malibu Public Works Department</li> <li>• Construction Manager</li> </ul>

Mitigation Measure	Action Required	Timing	Monitoring Responsibility
<b>Transportation and Traffic (continued)</b>			
<p>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 &amp; 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 proposed 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> <p style="text-align: center;">P=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)</p> <p>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.</p>	<ul style="list-style-type: none"> <li>• Confirm design and specifications incorporate requirements of the mitigation measure.</li> <li>• Verify pro-rata share of the improvement costs have been received by the City of Malibu prior to the issuance of building permits.</li> <li>• Verify that the improvements have been constructed prior to final Planning Department inspection.</li> </ul>	<ul style="list-style-type: none"> <li>• Pre-Construction</li> <li>• Prior to the issuance of building permits</li> <li>• Prior to final Planning Department inspection</li> </ul>	<ul style="list-style-type: none"> <li>• City of Malibu Planning Department</li> <li>• City of Malibu Public Works Department</li> <li>• Construction Manager</li> </ul>

Mitigation Measure	Action Required	Timing	Monitoring Responsibility
<b>Transportation and Traffic (continued)</b>			
<p>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 "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> <p style="text-align: center;">P=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)</p> <p>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.</p>	<ul style="list-style-type: none"> <li>• Confirm design and specifications incorporate requirements of the mitigation measure.</li> <li>• Verify pro-rata share of the improvement costs have been received by the City of Malibu prior to the issuance of building permits.</li> <li>• Verify that the improvements have been constructed prior to final Planning Department inspection.</li> </ul>	<ul style="list-style-type: none"> <li>• Pre-Construction</li> <li>• Prior to the issuance of building permits</li> <li>• Prior to final Planning Department inspection</li> </ul>	<ul style="list-style-type: none"> <li>• City of Malibu Planning Department</li> <li>• City of Malibu Public Works Department</li> <li>• Construction Manager</li> </ul>

Mitigation Measure	Action Required	Timing	Monitoring Responsibility
<b>Solid Waste</b>			
<p><b>3.14.5-1:</b> 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.</p>	<ul style="list-style-type: none"> <li>• Confirm design and project specifications incorporate a Waste Reduction and Recycling Plan.</li> <li>• Review Summary Report and verify that project met the requirements of the Waste Reduction and Recycling Plan.</li> </ul>	<ul style="list-style-type: none"> <li>• Pre-Construction</li> <li>• During Construction</li> </ul>	<ul style="list-style-type: none"> <li>• City of Malibu Environmental Sustainability Department</li> <li>• Construction Manager</li> </ul>
<p><b>3.14.5-2:</b> 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.</p>	<ul style="list-style-type: none"> <li>• Confirm design and project specifications incorporate requirements of the City’s Integrated Waste Management Program.</li> <li>• Verify that project is operating in compliance with of the City’s Integrated Waste Management Program.</li> </ul>	<ul style="list-style-type: none"> <li>• Pre-Construction</li> <li>• Project Operations</li> </ul>	<ul style="list-style-type: none"> <li>• City of Malibu Public Works Department</li> <li>• Construction Manager</li> <li>• Development Manager</li> </ul>

Exhibit B

# Erratum No. 1 to the Final EIR

## WHOLE FOODS AND THE PARK PROJECT

### STATE CLEARINGHOUSE NO. 2012041087

**NOTE TO REVIEWER:**

This ERRATA includes minor edits provided for clarification purposes to the Final EIR for the proposed Whole Foods and the Park Project. Revisions herein do not result in new significant environmental impacts, do not constitute significant new information, nor do they alter the conclusions of the environmental analysis.

This ERRATA has been prepared in response to updated project information submitted as part of the Final EIR. Additional editorial changes that have been initiated by City staff are hereby incorporated. These clarifications and modifications are not considered to result in any new or greater impacts than identified and addressed in the Final EIR. Revisions to the Final EIR are shown below as excerpts from the Final EIR text. Added or modified text is underlined (example), while deleted text will have a strike out (~~example~~) through the text, and is included in a box, as the example below shows.

~~“Text from EIR”~~ Text from EIR

Changes are listed by page and, where appropriate, by paragraph.

In conformance with Section 15121 of the State CEQA Guidelines, the Final EIR, technical appendices and reports thereof, together with the ERRATA, are intended to serve as documents that will generally inform the decision-makers and the public of environmental effects of the project. This ERRATA, combined with the Final EIR released on May 14, 2015, Mitigation Monitoring and Reporting Program and Response to Comments comprise the Final EIR.

## **CHANGES INCORPORATED INTO THE FINAL EIR TEXT**

### **1.0 Introduction**

No changes or revisions to the Final EIR are necessary.

### **2.0 Responses to Comments**

Response B-1d-4 on page 2.0-52 was revised as follows:

As described in Section 3.14.3, Water Supply, the applicant has agreed to contribute its pro-rata share of \$342,812 towards the design and construction of all water related ~~property-specific~~ improvements including a 12-inch water main approximately 5,000 feet long, pump station upgrades, a regulating station, and an approximately 800,000 gallon water tank. These infrastructure improvements would be dedicated to County of Los Angeles Water Works District 29 (WWD 29) after construction is complete. These improvements are necessary in order for WWD 29 to provide the customary level of water service required by the Los Angeles County Fire Department and the commercial uses associated with the proposed project.

### **3.0 Corrections and Additions**

No changes or revisions to the Final EIR are necessary.

### **4.0 Mitigation Monitoring and Reporting Program**

No changes or revisions to the Final EIR are necessary.

## **CHANGES INCORPORATED INTO THE DRAFT EIR TEXT**

### **2.0 Project Description**

Table 2.0-2 on page 2.0-28 is revised as follows:

**Table 2.0-2  
Proposed Landscaping and Plantings**

<b>Feature</b>	<b>Area</b>
On-grade landscaping	32,849 square feet
Tree canopy	48,492 square feet
Green walls	22,000 square feet
<b>Total</b>	<b>103,341 square feet</b>

*Note: The City of Malibu only counts on grade landscaping toward the on site landscaping requirement, therefore a variance is requested. The Specific Plan includes landscaping development standards reflecting the above proposed functional landscape elements.*

The third paragraph on page 2.0-31 is revised as follows:

**Specific Plan No. 15-001:** In conformance with Measure R (Malibu Municipal Code Section 17.02.045), a Specific Plan has been prepared for the project. The Specific Plan also was prepared under the authority of Government Code Sections 65450-65457 and the State of California Guidelines for the preparation of Specific Plans. The Specific Plan is limited to the boundaries of the project site itself, and does not authorize any changes to, nor will it have any significant effect on, the environment beyond those that are contemplated by the project. Therefore, this EIR analyzes the environmental impacts of site development contemplated by both the project and the Specific Plan. The City of Malibu Local Coastal Plan (LCP) requires that 40 percent of the gross lot area constitutes Landscaped Area, or, in this case, 102,467 square feet. The Specific Plan prepared for the proposed project establishes site-specific landscaping standards, including a list of functional landscaping elements that can be counted toward the percentage of on-site landscaping. The ground based planter area included in the Landscaped Area calculations totals 32,849 square feet. In addition, with the inclusion of additional functional landscaped areas (planter areas, tree canopy coverage and green walls) the total landscaping would equal 103,341 square feet, or 40.3 percent of the gross lot area.

Beginning at the seventh paragraph on page 2.0-31, the following revisions are made:

**Conditional Use Permit No. 10-013:** A conditional use permit is required in the CV-1 District for commercial space greater than 500 square feet; 4,000 square feet of restaurant space and for on-and off-site alcohol sales. Two of the restaurant spaces may have on-site alcohol service and the market will sell alcoholic beverages for off-site consumption (Land Use Implementation Chapter 3, Appendix I, Table B Permitted Uses). However, the Specific Plan eliminates the need for the CUP. The exception is that a CUP application would still need to be submitted for certain uses in the future when specific tenants are known, such as restaurants proposing onsite sales of liquor.

**Site Plan Review (SPR) No. 10-042:** Grading volumes in excess of 1,000 cubic yards of soil are proposed to raise the building floors above the floodplain to meet Federal Emergency Management Agency (FEMA) requirements. (Land Use Implementation Plan Section 8.3(G)). Proposed grading breaks down as follows: 70 cubic yards of remedial cut and 5,321 cubic yards of remedial fill, 7612 cubic yards of removal and recompaction, and 4,516 cubic yards of exempt understructure fill. However, the Specific Plan prepared for the proposed project eliminates the need for the Site Plan Review request.

**SPR No. 10-043:** Portions of each of the proposed structures would exceed the 18-foot height limit, to a maximum of 24 feet above existing grade for flat roof areas and up to 28 feet above existing grade for pitched roof areas. This height increase above 18 feet is due, in part, to the fact that the building finish floors must be raised to meet FEMA requirements. However, the Specific Plan prepared for the proposed project eliminates the need for the Site Plan Review request.

**Minor Modification (MM):** As shown in the table below, the minor modification request addresses reduced side yard setbacks. However, the Specific Plan prepared for the proposed project eliminates the need for the minor modification request.

The text on page 2.0-32 has been revised as follows:

**Variance (VAR) No. 10-028.** The Specific Plan prepared for the proposed project establishes landscaping standards that would allow for the establishment of 103,341 square feet of landscaping and therefore eliminates the need for the variance request.

**Functional Landscaped Area:**

On-grade landscape:	32,849 sf
Tree Canopy (outside on-grade planters, open space and inside property lines):	48,492 sf
Green Walls:	<u>22,000 sf</u>
<b>Total:</b>	<b>103,341 sf</b>

*sf = square feet*

*Source: —Whole Foods and the Park, Variance Findings Reduction in Required Landscaped Area, Marny Randall, December 2014.*

Additionally, the project applicant proposes to install and maintain approximately 4,500 sf of landscape in the City's ROW contiguous to the property. This landscaping within the City's ROW has not been included in the code required Landscaped Area calculation.

**VAR 10-029:** The variance request would allow a wall height in the rear yard setback to exceed 6 feet (Land Use Implementation Section 3.5.3(A)(3)). A 12-foot sound wall is proposed for the rear property line. This is due in part to the irregular shape of the parcel, making the development layout difficult. More importantly, however, the property immediately north of the project site is used as a horse training facility. The owners of that property have expressed concern about the sensitivity of horses to sudden noise, and the purpose of the proposed wall is to respond to that concern. The Specific Plan establishes development standards that would permit the construction of a 12-foot sound wall and therefore eliminates the need for the variance request.

### **3.0 Environmental Impact Analysis Introduction**

No changes or revisions to this section of the Draft EIR are necessary.

#### **3.1 Aesthetics**

No changes or revisions to this section of the Draft EIR are necessary.

#### **3.2 Air Quality**

No changes or revisions to this section of the Draft EIR are necessary.

#### **3.3 Biological Resources**

No changes or revisions to this section of the Draft EIR are necessary.

#### **3.4 Cultural Resources**

No changes or revisions to this section of the Draft EIR are necessary.

#### **3.5 Geology and Soils**

No changes or revisions to this section of the Draft EIR are necessary.

#### **3.6 Hazards and Hazardous Materials**

No changes or revisions to this section of the Draft EIR are necessary.

#### **3.7 Hazards and Hazardous Materials**

No changes or revisions to this section of the Draft EIR are necessary.

### 3.8 Hydrology and Water Quality

No changes or revisions to this section of the Draft EIR are necessary.

### 3.9 Land Use and Planning

The third paragraph under the heading 'Height Limitations' on page 3.9-16 is revised as follows:

#### Height Limitations

According to Section 17.40.080 of the Malibu Municipal Code, the maximum height of commercial development in the City is 18 feet. As the maximum height of each of the proposed structures is 28 feet, the proposed project would exceed the City's height limitation for commercial uses. This height increase above the 18-foot allowable height is due in part to the fact that building finished floors must be raised by a minimum of 3 feet above the existing grade to meet Federal Emergency Management Agency (FEMA) requirements and MMC Floodplain Management Ordinance requirements (refer to **Section 3.8, Hydrology and Water Quality**, and is also necessary to provide a screen for the rooftop mechanical equipment required for commercial use. Existing buildings in the project vicinity include the two-story, approximately 35-foot-tall, Malibu Country Mart professional building directly across Civic Center Way from the proposed project site, as well as other nearby two-story commercial buildings further south on Cross Creek Road and to the west along Civic Center Way. Therefore the proposed project is within keeping of the existing visual character or quality of the project vicinity. ~~Site plan review (SPR) is required to~~ Specific Plan development standards are proposed to allow heights in excess of the maximum allowed height in the zone. ~~With the site plan review process (SPR No. 10-043),~~ Upon adoption of the Specific Plan, height limitations would be brought into conformance. Refer to **Section 3.1, Aesthetics**, for more information.

The first paragraph under the heading 'Setback Requirements' on page 3.9-17 is revised as follows:

#### Setback Requirements

According to Section 17.40.080 of the Malibu Municipal Code, front yard setbacks shall be at least 20 percent of the total depth of the lot, side yard setbacks shall be cumulatively at least 25 percent of the total width of the lot but, in no event, shall a single side yard setback be less than 10 percent of the width of the lot or 5 feet, whichever is greater, and rear yard setbacks shall be at least 15 percent of the lot depth or 15 feet whichever is greater. Based on these standards, with a lot depth of 717 feet, the proposed project would require a front yard setback of 143.4 feet and a rear yard setback of 107.55 feet. In addition, with a lot width of 422.46 feet, the proposed project would require one side yard setback to be at least 42.25 feet and the other side yard setback to be a maximum of 63.37 feet. However, as the proposed project would provide a front yard setback of 88 feet, a side yard setback (east) of 50.7 feet, a side yard setback (west) of 42.25 feet, and a rear yard setback of 86.04 feet, it would not conform to the yard setback requirements contained in the Malibu Municipal Code. ~~A Minor Modification (MM) is being requested~~ Specific Plan development standards are proposed to permit the reduced front, side (east) and rear setbacks.

The first paragraph on page 3.9-18 is revised as follows:

For clarification, because the MMC does not define "Landscaped Area," the Specific Plan prepared for the proposed project further interprets the permitted functional landscape elements, such as tree canopies and green walls, which could be included in the calculations. ~~Under alternative interpretation, Pursuant to the Specific Plan development standards,~~ the project would provide greater Landscaped Area than required. ~~However, should the decision makers determine that a more traditional interpretation of the landscape requirement is more appropriate for the site, a variance has been requested (Variance No. 10-028) for the reduced Landscaped Area.~~

The first paragraph on page 3.9-31 is revised as follows:

As the Specific Plan prepared for the proposed project demonstrates, following the granting of the requested discretionary approvals (Coastal Development Permit No. 10-022, General Plan Amendment No. 11-001, Zoning Map Amendment No. 11-001, and Lot Merger No. 10-004, ~~Conditional Use Permit No. 10-013, Site Plan Review No. 10-042, Site Plan Review No. 10-043, the Minor Modification request, Variance No. 10-028, and Variance No. 10-029~~) the proposed project would be consistent with applicable land use plans and zoning for the project site, the cumulative impact of the proposed project along with pending and approved projects would be less than significant.

### **3.10 Noise**

No changes or revisions to this section of the Draft EIR are necessary.

### **3.11 Public Services**

No changes or revisions to this section of the Draft EIR are necessary.

### **3.12 Recreation**

No changes or revisions to this section of the Draft EIR are necessary.

### **3.13 Transportation and Traffic**

No changes or revisions to this section of the Draft EIR are necessary.

### **3.14 Utilities and Service Systems**

#### **3.14.1 Electricity**

No changes or revisions to this section of the Draft EIR are necessary.

#### **3.14.2 Natural Gas**

No changes or revisions to this section of the Draft EIR are necessary.

### 3.14.3 Water Supply

The last paragraph on page 3.14.3-5 is revised as follows:

As mentioned above, the water supply and infrastructure system serving the project site includes a 12-inch water main along Civic Center Way and a 10-inch water main along Cross Creek Road. The applicant has also entered into an Agreement with WWD No. 29 by which is has agreed to contribute its pro-rata share of \$342,812 towards the design and construction of all water related property specific improvements including a 12-inch water main approximately 5,000 feet long, pump station upgrades, a regulating station, and an approximately 800,000 gallon water tank. These improvements are necessary in order for WWD No. 29 to provide the customary level of water service required by the Los Angeles County Fire Department and the commercial uses associated with the proposed project. Pursuant to the Agreement, the applicant paid \$342,812 to WWD No. 29, and on February 26, 2012, WWD No. 29 issued a Conditional Will-Serve Letter to provide water to the proposed project.

### 3.14.4 Wastewater

No changes or revisions to this section of the Draft EIR are necessary.

### 3.14.5 Solid Waste

No changes or revisions to this section of the Draft EIR are necessary.

## 4.0 Alternatives

The first two paragraphs on page 4.0-31 are revised as follows:

new tree canopy, the City has historically interpreted "on-grade" landscaping towards a project's total landscaped area. However, because the MMC does not define "Landscaped Area," the Specific Plan prepared for the proposed project proposes that functional landscape elements, such as tree canopies and green walls, be included in the landscaping calculations. Under these circumstances, the project would provide greater Landscaped Area than required. ~~However, should the decision makers determine that a more traditional interpretation of the landscape requirement is more appropriate for the site, the proposed project would be deficient by 50,352 sf (Local Implementation Plan Section 3.8(A)(5)(b)), and a variance would be required.~~

Under this alternative, 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, since there would be no reduction in grocery store, or retail/restaurant square footage. The additional space for landscaping/open space provided under this alternative would be approximately 9,335 sf. Therefore, this alternative would provide 61,450 sf of traditional on the ground landscaping/open space (including the children's parks, community garden, and public seating areas as proposed under the project), an increase over the proposed project, but still deficient by approximately 41,017 sf.

### **5.0 Other CEQA Considerations**

No changes or revisions to this section of the Draft EIR are necessary.

### **6.0 Effects Found not to Be Significant**

No changes or revisions to this section of the Draft EIR are necessary.

### **7.0 References**

No changes or revisions to this section of the Draft EIR are necessary.

### **8.0 List of Preparers**

No changes or revisions to this section of the Draft EIR are necessary.

### **Appendices**

No changes or revisions to this section of the Draft EIR are necessary.