



# Supplemental Commission Agenda Report

Planning Commission  
Meeting  
06-05-17

**Item  
3.A.1.**

To: Chair Pierson and Members of the Planning Commission

Prepared by: Adrian Fernandez, Senior Planner *a.f.*

Reviewed: Bonnie Blue, Planning Director

Date prepared: May 31, 2017

Meeting date: June 5, 2017

Subject: Malibu Memorial Park Project – Initial Study No. 16-002 and Mitigated Negative Declaration No. 16-001, Coastal Development Permit No. 15-028, Variance No. 16-016, Site Plan Review No. 16-009, Minor Modification No. 16-010, Conditional Use Permit No. 15-011, Lot Merger No 16-001 for construction of a new memorial park and chapel and associated development (Continued from May 15, 2017)

Location: 4000 Malibu Canyon Road, not within the appealable coastal zone

APNs: 4452-028-015, 4458-028-019, and 4458-030-007

Owner: Green Acres, LLC

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**RECOMMENDED ACTION:** Adopt Planning Commission Resolution No. 17-17 (Attachment 1) adopting Initial Study No. 16-002 and Mitigated Negative Declaration No. 16-001, and approving Coastal Development Permit No. 15-028 to allow the construction of a new memorial park, including a new 6,000 square foot chapel with 673 square feet of ancillary spaces, 8,002 square foot subterranean parking lot and 1,346 square foot basement, 47 mausoleum structures with a maximum area of 200 square feet each for a total maximum of 9,400 square feet, approximately 28,265 in-ground burial plot spaces intermittently located throughout the property, approximately 3,644 interments in above grade wall crypt structures, a circular driveway, parking lot, entry gates, grading, landscaping and exterior lighting, including Variance No. 16-016 for non-exempt grading, Site Plan Review No. 16-009 for height over 18 feet but less than 28 feet for the sloped roof of the chapel, Minor Modification No. 16-010 for mausoleums not to exceed a 50 percent front yard setback reduction, Conditional Use Permit No. 15-011 for the proposed memorial park and chapel in the subject zoning district, and Lot Merger No. 16-001 for consolidation of the three existing legal lots into one legal lot in the Commercial Visitor

Serving-Two (CV-2) zoning district located at 4000 Malibu Canyon Road (Green Acres, LLC).

DISCUSSION: On April 17, 2017, the Planning Commission held a public hearing on the Malibu Memorial Park project. The Commission closed the public comment portion of the hearing, deliberated on the project, and directed staff to return with additional information and a revised resolution reflecting modified conditions of approval. The additional information requested focused on a design for the right turn lane on Pacific Coast Highway to Malibu Canyon Road that does not require a variance for construction on slopes or retaining wall height, cost-sharing for those improvements, and placement of decorative objects on the project site. The applicant submitted a revised turn lane design and new design for the crypt walls and landscape in the area that will be capped for archaeological sensitivity. Staff also provided information on requirements for cultural resource protection, colors and materials for onsite project trails, and a new design proposed by the applicant for the crypt walls and landscape in the area that will be capped for archaeological sensitivity. The item was presented at the May 1, 2017 Regular Planning Commission meeting.

On May 1, 2017, the Commission re-opened the public hearing and considered the additional information and revised resolution. The Commission closed the hearing, deliberated and directed staff to prepare a revised resolution with amended conditions of approval (Attachment 1). Changes to the resolution are shown in a redline version of the document included in Attachment 2, and summarized in a table included as Attachment 3. As noted in the table, some of the changes were proposed by staff to clarify or make corrections where a need was identified.

ATTACHMENTS:

1. Planning Commission Resolution No. 17-17
2. Redline Version of Planning Commission Resolution No. 17-17
3. Summary Table of Changes from the May 1, 2017 Draft of Resolution No. 17-17

CITY OF MALIBU PLANNING COMMISSION  
RESOLUTION NO. 17-17

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MALIBU, ADOPTING INITIAL STUDY NO. 16-002 AND MITIGATED NEGATIVE DECLARATION NO. 16-001 AND APPROVING COASTAL DEVELOPMENT PERMIT NO. 15-028 TO ALLOW THE CONSTRUCTION OF A NEW MEMORIAL PARK, INCLUDING A NEW 6,000 SQUARE FOOT CHAPEL, 673 SQUARE FEET OF ANCILLARY SPACES, 8,002 SQUARE FOOT SUBTERRANEAN PARKING LOT AND 1,346 SQUARE FOOT BASEMENT, 47 MAUSOLEUM STRUCTURES WITH A MAXIMUM AREA OF 200 SQUARE FEET EACH FOR A TOTAL MAXIMUM OF 9,400 SQUARE FEET, APPROXIMATELY 28,265 IN-GROUND BURIAL PLOT SPACES INTERMITTENTLY LOCATED THROUGHOUT THE PROPERTY, APPROXIMATELY 3,644 INTERMENTS IN ABOVE GRADE WALL CRYPT STRUCTURES, A CIRCULAR DRIVEWAY, PARKING LOT, ENTRY GATES, GRADING, LANDSCAPING AND EXTERIOR LIGHTING, INCLUDING VARIANCE NO. 16-016 FOR NON-EXEMPT GRADING, SITE PLAN REVIEW NO. 16-009 FOR HEIGHT OVER 18 FEET BUT LESS THAN 28 FEET FOR THE SLOPED ROOF OF THE CHAPEL, MINOR MODIFICATION NO. 16-010 FOR MAUSOLEUMS NOT TO EXCEED A 50 PERCENT FRONT YARD SETBACK REDUCTION, CONDITIONAL USE PERMIT NO. 15-011 FOR THE PROPOSED MEMORIAL PARK AND CHAPEL IN THE SUBJECT ZONING DISTRICT, AND LOT MERGER NO. 16-001 FOR CONSOLIDATION OF THE THREE EXISTING LEGAL LOTS INTO ONE LEGAL LOT IN THE COMMERCIAL VISITOR SERVING-2 ZONING DISTRICT LOCATED AT 4000 MALIBU CANYON ROAD (GREEN ACRES, LLC)

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

SECTION 1. Recitals.

A. On April 13, 2015, Schmitz and Associates, Inc. submitted a request for determination of use pursuant to Malibu Municipal Code (MMC) Section 17.04.050 because the proposed memorial park (cemetery plus chapel) is not a use specifically listed in the Commercial Visitor Serving-2 (CV-2) zone. MMC Section 17.04.050 provides a mechanism by which the Planning Commission may consider whether a use not listed is “similar to and not more objectionable than the uses listed,” following a recommendation by the Planning Director and a public hearing.

B. On April 28, 2015, applicant Bruce McBride submitted a letter requesting to withdraw an application for the construction of a hotel and associated development on the subject property and submitted an application for the proposed memorial park and chapel.

C. On September 21, 2015, the Planning Commission adopted Planning Commission Resolution No. 15-89 determining that a cemetery/memorial park with an assembly structure is a conditionally permitted use in the CV-2 zoning district.

D. On April 1, 2016, a notice of CDP application sign was posted on the property.

E. On April 11, 2016, story poles were placed on the subject property representing the location, height, mass and bulk of the proposed chapel and a sample of the proposed mausoleums. The

placement of the story poles was certified by a professional land surveyor.

F. In November 2016, revised plans were submitted that relocate the mausoleums along Pacific Coast Highway (PCH) further from the top of the adjacent slope to minimize visual impacts.

G. On November 10, 2016, a Notice of Intent to Adopt a Mitigated Negative Declaration was published in a newspaper of general circulation within the City of Malibu. The 30-day public review period ran from November 14, 2016 to December 14, 2016. On November 18, 2016, the Governor's Office of Planning and Research distributed the Mitigated Negative Declaration to responsible agencies for a 30-day public review period, from November 18, 2016 to December 19, 2016 (State Clearinghouse No. 2016111054).

H. On December 7, 2016, the Environmental Review Board reviewed the project and Initial Study/Mitigated Negative Declaration (IS/MND) and provided recommendations.

I. On March 23, 2017, a Notice of 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-radius of the subject property.

J. On April 17, 2017, the Planning Commission held a duly noticed public hearing on the subject application, closed the public comment portion of the public hearing, reviewed and considered the staff report, reviewed and considered written reports, public testimony, and other information in the record, and directed staff to provide additional information and return with a resolution incorporating the Commission's recommendations.

K. On May 1, 2017, the Planning Commission re-opened the public hearing to receive public comment, reviewed and considered the staff report, reviewed and considered other information in the record. At the conclusion of the hearing, the Commission directed staff to return to the Regular Planning Commission meeting of May 15, 2017, with an updated resolution to approve the project that reflects its findings pertaining to the right turn lane improvements, and the conditions of approval identified in the hearing.

L. On May 15, 2017, the Planning Commission continued the item to the June 5, 2017, Regular Planning Commission meeting.

M. On June 5, 2017, having reviewed the updated resolution and considered the testimony and materials in the record, the Planning Commission adopted Resolution No. 17-17.

## SECTION 2. Adoption of Mitigated Negative Declaration.

Pursuant to the authority and criteria contained in the California Environmental Quality Act (CEQA), the Planning Commission has analyzed the proposed project. The Planning Department prepared an initial study (Initial Study No. 16-002) pursuant to CEQA Guidelines Section 15300.2(c). The initial study analyzed the proposed memorial park with chapel project and determined that with mitigation measures and standard conditions of approval, the proposed project will not have a significant impact on the environment; subsequently, Mitigated Negative Declaration No. 16-001 was prepared and

circulated pursuant to CEQA Guidelines Section 15070.

On November 14, 2016, the City made Initial Study No. 16-002 and Mitigated Negative Declaration No. 16-001 available to the public for the required 30-day circulation period, which concluded on December 14, 2016. The State Clearinghouse closed its review period on December 19, 2016. A total of 19 pieces of correspondence were received during the public comment period, which were discussed in a Response to Comments (Section 2.0) added to the Final IS/MND. To make minor clarifications and corrections to the document, the Final IS/MND has also been updated with Section 3.0, Corrections and Additions.

Subsequently, the applicant introduced a right turn lane configuration on Pacific Coast Highway to Malibu Canyon Road that utilizes a vegetated transition slope and small retaining wall at the top of the slope rather than a single large retaining wall. The Commission also added and revised other project conditions of approval. The slope affected by the right turn lane is currently a manufactured slope created by Caltrans that is steeper than currently allowed by City code and vegetated primarily with non-native species. The Commission determined that these changes to the project are not required by CEQA, do not create significant environmental effects, and are not necessary to mitigate an avoidable significant environmental effect. The Commission further determined that these project revisions are in response to comments on the project's effects where the effects at issue are not new significant avoidable effects.

Pursuant to CEQA Guidelines Section 15073.5, the IS/MND is not required to be recirculated as long as the document has not been substantially revised. A "substantial revision" occurs when a new avoidable significant effect is identified and mitigation measures or project revisions must be added to reduce the effect to insignificance, or the City determines the measures will not reduce the effect to insignificance and new measures or revisions are required. No substantial revision has been made to the project.

The Planning Commission has considered MND No. 16-001 together with the comments received during the public review process. MND No. 16-001 reflects the independent judgment of the Planning Commission, and has been completed in compliance with CEQA, and is adequate for this project. The Planning Commission finds that the proposed project does not have the potential to significantly degrade the quality of the environment, nor does it have impacts which are individually limited but cumulatively considerable.

The Planning Commission further finds that through feasible conditions placed on the project, less than significant impacts on the environment are expected. Based on the record as a whole, there is no substantial evidence that the project, as conditioned, will have a significant effect on the environment.

### SECTION 3. Coastal Development Permit Findings.

Based on substantial evidence contained within the record and pursuant to Local Implementation Plan (LIP) Sections 13.7(B) and 13.9, the Planning Commission adopts the analysis in the agenda report, incorporated herein, the findings of fact below, and approves Coastal Development Permit (CDP) No. 15-026, Variance (VAR) No. 16-016, Site Plan Review (SPR) No. 16-009, Minor Modification (MM) No. 16-010, Conditional Use Permit (CUP) No. 15-011 and Lot Merger (LM) No. 16-001 to allow the

construction of a new memorial park, including a new 6,000 square foot chapel with 673 square feet of ancillary spaces, 8,002 square foot subterranean parking lot and 1,346 square foot basement, 47 mausoleum structures with a maximum area of 200 square feet each for a total maximum of 9,400 square feet, approximately 28,265 in-ground burial plot spaces intermittently located throughout the property, 3,644 interments in above grade wall crypt structures, a circular driveway, parking lot, entry gates, grading, landscaping and exterior lighting, including VAR No. 16-016 for non-exempt grading, SPR No. 16-009 for height over 18 feet but less than 28 feet for the sloped roof of the chapel, MM No. 16-010 for mausoleums not to exceed a 50 percent front yard setback reduction, CUP No. 15-011 for the proposed memorial park and chapel in the subject zoning district, and LM No. 16-001 for consolidation of the three existing legal lots into one legal lot in the CV-2 zoning district located at 4000 Malibu Canyon Road (Green Acres, LLC).

The project is consistent with the LCP's zoning, grading, cultural resources, water quality, and onsite wastewater treatment requirements. With the inclusion of the proposed variances, the project, as conditioned, has been determined to be consistent with all applicable LCP codes, standards, goals, and policies. The required findings are made herein.

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

1. The project consists of construction of a memorial park and chapel in the CV-2 zoning district. The project has been reviewed by Planning Department staff, City Biologist, City Environmental Health Administrator, City geotechnical staff, Los Angeles County Fire Department (LACFD) and City Public Works Department. Based on submitted reports, project plans, visual analysis and detailed site investigation, the proposed project, as mitigated and conditioned, conforms to the LCP in that it meets all applicable commercial development standards, inclusive of the discretionary requests.

2. Evidence in the record demonstrates that as conditioned and with implementation of the mitigation measures, the project will not result in significant adverse impacts on sensitive biological, scenic or cultural resources. There is no evidence that an alternative project would substantially lessen any potential significant adverse impacts of the development on the environment.

3. Evidence in the record demonstrates that the project will not impact the nearby monarch butterfly habitat. Therefore, the planting of new trees within the public right-of-way is not a necessary mitigation measure. The project has been designed to conform with the recommendations of the Environmental Review Board to the maximum extent feasible.

**B. Variance Findings for Grading (LIP Section 13.26.5)**

1. Exceptional circumstances apply to the property in that it contains a sensitive archaeological area that is recommended for protection. Denial of the variance would preclude the applicant from implementing feasible mitigation that protects cultural resources while allowing use of the site, and making necessary improvements to the right turn lane on Pacific Coast Highway.

2. The variance will allow for the placement of a three-foot deep cap over an archaeologically sensitive area and creation of a vegetated cut slope that will accommodate the right

turn lane improvements. The project will not be injurious to the property or improvements in the vicinity in that the grading plan for the project allows protection of a sensitive archaeological site and standard conditions of approval have been included to address soil export which address disposal of the material and a construction management plan, including a traffic control plan for haul trips, to be approved by the Public Works Department prior to permit issuance.

3. Evidence in the record demonstrates that the additional grading allowed by the variance will not constitute a special privilege to the applicant or property owner, in particular, the additional grading is necessary to protect cultural and archaeological resource areas.

4. The analysis presented in the agenda report demonstrates that the variance supports the general purposes and intent of LIP Chapter 13, as well as the goals objectives and policies of the LCP, the MMC and the General Plan.

5. The proposed use of a memorial park and chapel on the site is allowed pursuant to a conditional use permit approved by the Planning Commission, based on its determination in Planning Commission Resolution No. 15-89 made in accordance with MMC Section 17.04.050, that such use is similar to and not more objectionable than other conditionally permitted uses in the CV-2 zone.

6. The archaeologically sensitive resource conditions and needed right turn lane improvements of the site justify the grading variance, which will prevent adverse impacts to any onsite cultural or archaeological resources by capping of the sensitive area with three feet of soil and creating a vegetated slope rather than a tall retaining wall. With proper grading and engineering techniques, and the conditions of approval, the site will be physically suitable for the additional grading associated with capping the sensitive resources and constructing the vegetated slope.

7. Implementation of the proposed grading design and the overall project plans will comply with all building code requirements and will incorporate all recommendations from applicable City departments, consistent with State and local law.

### **C. Site Plan Review Findings (LIP Section 13.27.5(A))**

1. The project consists of construction of a memorial park and chapel in the CV-2 zoning district. The project has been reviewed by Planning Department staff, City Biologist, City Environmental Health Administrator, City geotechnical staff, LACFD and City Public Works Department. Based on submitted reports, project plans, visual analysis and detailed site investigation, the proposed project, as mitigated and conditioned, conforms to the LCP in that it meets all applicable commercial development standards, inclusive of the proposed discretionary requests.

2. The visual analysis for the project demonstrates views of the chapel from scenic areas will be partially obstructed by topography, and existing and proposed landscaping. Overall, the project site is expected to have a park-like character similar to nearby Pepperdine Alumni Park and Malibu Bluffs Park, and be consistent with community character in that it will consist primarily of areas landscaped with native vegetation, with few structures.

3. No significant public views will be obstructed by the project. As conditioned and with implementation of the mitigation measures, the project provides maximum feasible protection to

significant public views.

4. The project complies with all applicable requirements of State and local law.

5. The proposed chapel is sited on the flattest portion of the subject property in the interior of the site, 300 feet away from the nearest property line, and would not significantly alter the site's topographic features. The project is consistent with the General Plan and LCP.

6. There is no evidence that the proposed chapel roof height of up to 28 feet will have any adverse impacts on primary views from the main viewing area of any affected principal residence.

**D. Minor Modification Findings (LIP Section 13.27.5(B))**

1. As designed, conditioned and mitigated, the project is consistent with the LCP.

2. The minor modification of the front yard setback will not adversely affect neighborhood character in that all the mausoleums along Malibu Canyon Road will be at least 130 feet from the property line, and will be partially or completely obscured by landscaping and topography.

3. The proposed project will comply with all building code requirements and will incorporate all recommendations from applicable City departments, consistent with state and local law.

**E. Scenic, Visual and Hillside Resource Protection (LIP Chapter 6)**

1. The tallest structure, the chapel, is sited in the interior of the site on the flattest part of the property where it is least visible from surrounding roads, and the mausoleums along PCH have been set back from the edge of the slope. The project is required to use colors and materials that blend with the surrounding natural environment, and to minimize exterior lighting, using low intensity features that are shielded and concealed to the maximum extent feasible. As designed and conditioned, the project will not have significant adverse scenic or visual impacts.

2. Mitigation measures require that the 47 mausoleums be processed with administrative plan reviews, including installation of story poles to ensure they will not be visible from PCH adjacent to the site or block bluewater views from Malibu Canyon Road. The visual analysis conducted by the IS/MND concluded that with mitigation, the project has less than significant effects on aesthetics.

3. The project, as conditioned, is the least environmentally feasible alternative.

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

5. As conditioned and mitigated, development on the site will not have significant adverse impacts on scenic and visual resources.

**F. Hazards (LIP Chapter 9)**

1. The project, as conditioned, will incorporate all recommendations of the City geotechnical staff, City Public Works Department and LACFD. Therefore, the project, as proposed and

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

2. The project as designed, conditioned, and approved by the City Geologist, LACFD and the City Public Works Department, does not have any significant adverse impacts on the site stability or structural integrity from geologic, flood or fire hazards due to the project design and conditions.

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

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

5. No significant adverse impacts to sensitive resources are expected.

**G. Land Division (LIP Chapter 15)**

A. All three parcels are under common ownership and the application proposes a voluntary merger that has been initiated by the property owner. The analysis in the agenda report demonstrates that the proposed merger is not inconsistent with any policy or standard of the LCP that protects sensitive resources, hillsides and visual resources of the coastal zone.

B. Section 5 of this Resolution requires the recordation of a legal description as required by the LIP. Upon submittal, the document shall be reviewed and approved by the City Engineer and recorded with the Los Angeles County Recorder's office.

**H. Conditional Use Permit (MMC Section 17.66.080)**

1. The project has been conditioned to comply with all applicable provisions of the MMC. The project includes trails, benches, scenic vistas and contemplation areas that are available to visitors.

2. The cemetery / memorial park is visitor-serving, for both visitors and residents, and also respects the rural character and natural environmental setting of Malibu consistent with MMC Section 17.28.010.

3. The subject site is suitable for the proposed use. No development will occur within the riparian ESHA and its associated buffer in the southeasterly corner of the site. The chapel has been sited so that required fuel modification will not encroach into sensitive biological resources, and construction avoids steep and unstable slopes, and the landslide area of the site. The project geotechnical consultant's recommendations will be incorporated to ensure site stability. A three-foot layer of soil will provide a cap to protect the sensitive archaeological area and ensure no crypt wall or mausoleum footings penetrate into native soils. With the project design and conditions of approval, the project site is physically suitable for the type of land use being proposed.

4. Overall, the project site is expected to have a park-like character similar to nearby Pepperdine Alumni Park and Bluffs Park, consisting primarily of areas landscaped with native vegetation, with few structures. Lighting will be aimed downward and fully shielded. Conditions of approval prohibit any activities on the site that are not related to memorial services, interments, and

public visitation consistent with the operation of a private memorial park. Also, outdoor amplified music and onsite consumption of alcohol are prohibited, except pursuant to a temporary use permit (TUP). TUPs are limited to six per year. Furthermore, the cultural resources conditions and mitigation measures protect the sensitive archaeological area of the site and any remaining subsurface resources. The project, as conditioned, is expected to be compatible with the surrounding neighborhood, and land uses presently on the site.

5. The proposed memorial park with chapel is similar to other uses allowed in the CV-2 district by right, such as equestrian/hiking trails, amphitheaters, and charitable/philanthropic activities within enclosed buildings, and by a conditional use permit, such as cultural and artistic uses, including performing arts venues, and parks, beaches and playgrounds. Conditions of approval control traffic circulation and parking, only allow one funeral or burial at a time, and restrict special events to those related to memorial services and interments, with approval of a TUP. The proposed use will be compatible with the existing and future land uses within the zone district and surrounding area.

6. The analysis provided in the agenda report demonstrates that adequate provisions for water, sanitation, public utilities and services will be available to ensure the proposed use would not be detrimental to public health, safety and welfare, solar access and existing public and private views.

7. The project includes extensive improvements to the surrounding road network to enhance access and circulation, including the addition of trails and bike lanes, and a pedestrian refuge at PCH and Malibu Canyon Road. Conditions have also been included to manage traffic associated with heavily attended funerals or holidays, and funeral processions. The project operator will be required to monitor and log vehicular and visitor attendance and to report the information to the Planning Department. Should staff determine the use is exceeding the parking/traffic generation estimates, a review shall be scheduled before the Planning Commission. As conditioned and mitigated, there would be adequate provisions for public access to serve the project.

8. The memorial park and chapel is a lower intensity commercial use that is consistent with the City's goals of maintaining a rural character. The project is expected to generate fewer impacts on the environment and fewer visual impacts and obstructions and to use fewer resources in its development and operation than other commercial uses. The proposed use is consistent with the goals, objectives and policies of the General Plan.

9. The resolution includes conditions of approval to require the project to be operated in accordance with all aspects of state law pertaining to cemeteries. Implementation of the project plans will comply with all building code requirements and will incorporate all recommendations from applicable City agencies, consistent with state and local law.

10. As conditioned, the proposed use will not be detrimental to the public interest, health, safety, convenience or welfare, and will provide a cemetery in the community where none currently exists, while also enhancing community and visitor access to scenic vistas and trails on the property. By State law, the project is required to have an endowment to fund ongoing property maintenance and upkeep.

11. City geotechnical staff have reviewed and approved the project, subject to conditions

requiring implementation of the engineering design specifications included in the California Building Code and approved geotechnical report. As designed and conditioned, the proposed development will not be at risk from liquefaction, earth movement or flooding.

SECTION 4. Planning Commission Action.

Based on the foregoing findings and evidence contained within the record, the Planning Commission hereby adopts Initial Study No. 16-002 and Mitigated Negative Declaration No. 16-001 and approves CDP No. 15-026, VAR No. 16-016, SPR No. 16-009, MM No. 16-010, CUP No. 15-011 and LM No. 16-001, subject to the following conditions.

SECTION 5. Conditions of Approval.

1. The property owners, and their successors in interest, shall indemnify and defend the City of Malibu and its officers, employees and agents from and against all liability and costs relating to the City's actions concerning this project, including (without limitation) any award of litigation expenses in favor of any person or entity who seeks to challenge the validity of any of the City's actions or decisions in connection with this project. The City shall have the sole right to choose its counsel and property owners shall reimburse the City's expenses incurred in its defense of any lawsuit challenging the City's actions concerning this project.
2. Approval of this application is to allow for the following:
  - a. Lot merger to merge three lots into one;
  - b. 6,000 square foot chapel/assembly structure plus 673 square feet consisting of a kitchen and family grieving room, 28 feet in height, with an 8,002 square foot, 19-stall subterranean garage and a 1,346 square foot basement with restrooms, storage and equipment rooms, and a casket lift to the main floor;
  - c. 47 freestanding mausoleum structures, each a maximum of 200 square feet, for a total of 9,400 square feet, and ranging in height from 12 to 14 feet, and a footprint of approximately 14 feet by 14 feet, located primarily in the south and east portions of the site;
  - d. Public mausoleum constructed below grade and open to the sky, located directly behind the chapel (does not consist of enclosed area or floor area);
  - e. Approximately 28,265 in-ground burial plot spaces ("lawn crypts") intermittently located throughout the property, consisting of single and double plots, lined with concrete vaults, designed to accommodate both people and pets;
  - f. Approximately 3,644 interments in above grade wall crypt structures not to exceed 8.5 feet in height, accommodating urns and caskets;
  - g. Driveway and surface parking for 157 vehicles and bicycle racks;
  - h. Divided driveway entrance with water features and lawn crypts;
  - i. Water features;
  - j. Walking trails and golf cart paths providing access to mausoleums and burial plots, benches and contemplation areas;
  - k. Landscaping;
  - l. Lighting;
  - m. Grading;

- n. VAR No. 16-015 for non-exempt grading;
  - o. SPR No. 16-009 for construction of the chapel higher up to 28 feet with a sloped roof and 24 feet for flat portions of roof;
  - p. MM No. 16-010 to reduce the front yard setback from Malibu Canyon Road for the private mausoleums; and
  - q. CUP No. 15-026 for cemetery and memorial park/chapel use.
3. Subsequent submittals for this project shall be in substantial compliance with plans on-file with the Planning Department, date-stamped **April 7, 2017, including the conceptual Right Turn Lane Improvement Plan dated April 17, 2017, and the revised Landscape and Crypt Wall Design Plans date-stamped April 21, 2017 (Sheets L-2.0 and C5.0)**. In the event the project plans conflict with any condition of approval, the condition shall take precedence.
  4. Pursuant to LIP Section 13.18.2, this permit and rights conferred in this approval shall not be effective until the property owner signs and returns the Acceptance of Conditions Affidavit accepting the conditions set forth herein. Pursuant to MMC Section 17.66.100(A), the conditional use permit shall not become effective until the executed affidavit has been recorded with the county recorder. Once recorded, the applicant shall file this form with the Planning Department within prior to issuance of any development permits.
  5. The applicant shall submit three (3) complete sets of plans to the Planning Department for consistency review and approval prior to plan check and again prior to the issuance of any building or development permits.
  6. This resolution, signed Acceptance of Conditions Affidavit and all Department Review Sheets attached to the April 17, 2017 Planning Commission agenda report for this project shall be copied in their entirety and placed directly onto a separate plan sheet behind the cover sheet of the development plans submitted to the City of Malibu Environmental Sustainability Department for plan check.
  7. This CDP shall expire if the project has not commenced within three (3) years after issuance of the permit. *Recordation of the Lot Merger shall not constitute commencement of development for purposes of CDP expiration.* Extension of the permit may be granted by the approving authority for due cause. Extensions shall be requested in writing by the applicant or authorized agent prior to expiration of the three-year period and shall set forth the reasons for the request.
  8. Any questions of intent or interpretation of any condition of approval will be resolved by the Planning Director upon written request of such interpretation.
  9. All development shall conform to requirements of the City of Malibu Environmental Sustainability Department, City Geologist, City Biologist, City Public Works Department, and City Environmental Health Administrator, as applicable. Notwithstanding this review, all required permits shall be secured.
  10. Minor changes to the approved plans or the conditions of approval may be approved by the Planning Director, provided such changes achieve substantially the same results and the project

is still in compliance with the MMC and the LCP. Revised plans reflecting the minor changes and additional fees shall be required.

11. Pursuant to LIP Section 13.20, development pursuant to an approved CDP shall not commence until the CDP is effective. The CDP is not effective until all appeals have been exhausted.
12. The applicant must submit payment for any outstanding fees payable to the City prior to issuance of any building or grading permit.

*Mitigation Monitoring and Reporting Program*

13. The project shall comply with all the mitigation measures included in the MMRP (Exhibit A) of the Initial Study/Mitigated Negative Declaration.

*Site-Specific Conditions*

14. The most northerly mausoleum along Malibu Canyon Road shall not be located closer than 130 feet to the property line, consistent with Minor Modification No 16-010.
15. The project plans shall include bicycle racks as required by MMC Section 17.50.030(B)(2)(c).
16. The onsite circulation shall be modified to provide a connection between the two sections of the divided driveway so drivers can circulate between them without having to exit the site.
17. The applicant shall submit engineered plans that demonstrate that the slope improvements associated with the right turn lane described in Condition No. 80 are feasible without requiring variances for construction on slopes or for retaining wall height, and that the slope improvements incorporate native vegetation and retaining wall materials with veneers, texturing and/or colors that blend with the surrounding earth materials and landscape as specified in LIP Chapter 6.
18. A construction management plan, including a traffic control plan and construction parking plan, shall be submitted for review and approval by the Public Works Department and the Planning Department prior to the issuance of a demolition, grading or building permits.
19. No signage is approved as part of this project (except as specified in the next condition). A separate sign permit shall be submitted in accordance with MMC Chapter 17.52 prior to installation of any sign.
20. Signage shall be posted for northbound drivers on Malibu Canyon Road to indicate that no U-Turn is allowed at the intersection with Seaver Drive.
21. Signage shall be posted on the project site to advise drivers of the appropriate route to use to reach PCH.
22. Perimeter fencing, including hedges, shall be a split rail or other design approved by the City

Biologist that allows the passage of wildlife.

23. The 392 seats in the main chapel shall be affixed to the floor in order to maintain consistency with the parking standards of LIP Section 3.14.3 for chapels and funeral homes.

*Wastewater Treatment System and Recycled Water Conditions*

24. The project shall not operate without a connection to the Civic Center Wastewater Treatment Facility (CCWTF). Prior to grading permit issuance, the applicant shall negotiate an agreement with the City to allow connection to Phase 1 of the CCWTF, if feasible based on studies performed by the CCWTF design and assessment engineers, and pay all required fees. If capacity is not available to join Phase 1, the project shall connect in Phase 2.
25. Prior to issuance of a grading permit, the applicant shall submit to the Planning Department an executed agreement with the City allowing connection to Phase 1 of the CCWTF, or it shall have obtained approval for connection to Phase 2 of the CCWTF.
26. Prior to issuance of a grading permit, the applicant shall obtain approval from the Public Works Department for connection to the CCWTF.
27. Pursuant to LIP Section 18.10(C), the project shall install all necessary plumbing and other improvements to allow the development to connect to reclaimed water lines when they are available and make the maximum feasible use of reclaimed water.
28. No certificate of occupancy shall be issued until the project has successfully connected to the CCWTF.

*Operations*

29. The grounds of the property, including the landscaped areas, walking trails and mausoleums, shall be open only between the hours of 7:00 a.m. to 6:00 p.m. or sunset, whichever is later, daily. The chapel building shall only be open from 7:00 a.m. to 9:00 p.m. daily.
30. Interior and exterior lighting shall be consistent with Conditions 62 and 63, and shall be extinguished after close of business, except for after-hours custodial/maintenance needs and minimal security lighting needed for public safety.
31. The grounds, including parking, shall be made available to the public at no charge during the hours of operation identified in this resolution. Use of the grounds shall be consistent with the operation of a private memorial park.
32. To minimize traffic impacts, all funeral processions shall be led by one or more licensed funeral escorts. The funeral escort shall manage procession route to expedite getting the procession off the streets efficiently and safely while minimizing disruption to local traffic. A funeral procession is a group of 12 vehicles or more organized to leave a different site, whether in or outside the City, to travel to the subject property. The funeral escort shall be licensed by the

- County of Los Angeles. At least one escort shall be provided for each 12 vehicles, with a minimum of two escorts.
33. All required parking for the use, including visitors and employees, shall be accommodated onsite, unless pursuant to a TUP.
  34. In order to maximize available onsite parking, free onsite valet parking shall be provided on Memorial Day, and on other days when more than 176 vehicles are expected based on the monitoring described below or as required by other conditions of this resolution.
  35. Funeral processions involving more than 12 vehicles may only be scheduled between 10:00 a.m. and 2:00 p.m., Monday through Friday, or on weekends. During the summer months, weekend funeral processions with more than 12 vehicles shall only occur between 9:00 a.m. and 12:00 noon. All funeral processions shall be scheduled a minimum of 30 minutes apart. No funeral processions shall be scheduled on the 4<sup>th</sup> of July holiday, Memorial Day weekend or Labor Day weekend.
  36. If a service scheduled for a set time or a funeral procession will involve more than 100 cars, the applicant shall first obtain approval of a Transportation Management Plan from the Planning Director, Public Works Department and Los Angeles County Sheriff which shall specify conditions for the safe and orderly flow of traffic, pedestrian movement and parking, and may include, but not be limited to, an evaluation of site access, parking, valet staging, temporary onsite parking, usage of shuttles, routing information, a traffic control plan and traffic control/security personnel.
  37. Events, services and activities at the project site, other than public use of trails and contemplation areas, shall not overlap.
  38. The chapel building and grounds shall not be used for uses other than memorial service uses, interments and public visitation consistent with the operation of a private memorial park.
  39. Memorial service uses consistent with the operation of a private memorial park that would occur outside the normal operating hours listed above, or would include lighting in excess of the lighting conditions of this resolution, music or noise, or would otherwise meet the definition of a temporary use under MMC Chapter 17.68, shall require the property owner to obtain a TUP. No more than six TUPs per year are allowed for the property.
  40. No amplified outdoor music and no consumption of alcohol shall be allowed on the property, except pursuant to a TUP.
  41. The applicant shall make undeveloped flat portions of the property available to emergency responders for staging during emergencies.
  42. At all times, the property shall be operated in accordance with state statutes and regulations pertaining to cemeteries.

43. Prior to final project sign off and start of operations, the applicant shall provide to the Planning Director proof of satisfying state endowment requirements.
44. Prior to final project sign off, the applicant shall record a burial plot map with the County of Los Angeles.
45. The covenant, conditions and restrictions (CC&Rs) required by the property owner for the sale of burial plots and interment spaces shall include an acknowledgement by the buyer that the property grounds will be open to the public as a visitor-serving space for public visitation and the conditions of this resolution.
46. The use of any rodenticides on the property shall be prohibited. The applicant may install raptor poles up to 18 feet in height, as long as the location(s) and number of poles are approved by the City Biologist.

#### *Monitoring*

47. In order to determine if the conditions of approval, particularly for parking and traffic management, are working effectively, the property owner/operator shall monitor and keep record of the number of visitors to the chapel and the grounds, the number of vehicles, the number of services in the chapel and people onsite for each (employees and all attendees), staffing levels, the number of interments that occur on the site, number of processions (dates, times, number of vehicles) for each day of the year. Monitoring shall be ongoing and conducted in a format approved by the Planning Director.
48. The property owner/operator shall submit the monitoring log to the City on at least a quarterly basis for review of the use's parking operations and traffic generation. Should staff determine that the use is exceeding the anticipated parking/traffic generation estimates of 176 daily trips on weekdays and 213 daily trips on weekend days, a review shall be scheduled before the Planning Commission.
49. The Planning Director shall report to the Planning Commission when the property has required approval of 12 or more Transportation Management Plans within a 12-month period.

#### *Cultural Resources*

50. In lieu of the standard conditions of approval for cultural resources protection, the mitigation measures of the MMRP shall apply.
51. If human bone is discovered, the procedures described in Section 7050.5 of the California Health and Safety Code shall be followed. These require notification of the coroner. If the coroner determines that the remains are those of a Native American, the applicant shall notify the Native American Heritage Commission by phone within 24 hours. Following notification of the Native American Heritage Commission, the procedures described in Section 5097.94 and Section 5097.98 of the California Public Resources Code shall be followed.

*Private Mausoleums*

52. Each private mausoleum shall be processed as an administrative plan review pursuant to MMC Section 17.62.030 and shall require installation of story poles and siting as described in MM LP-1 and LP-2.

*Colors and Materials*

53. The project is visible from scenic roads or public viewing areas and shall incorporate colors and materials that are compatible with the surrounding landscape.
- a. Acceptable colors shall be limited to colors compatible with the surrounding environment (earth tones) including shades of green, brown and gray, with no white or light shades and no bright tones. Natural stone of any color may be used if not visible from a scenic or public viewing area. Colors shall be reviewed and approved by the Planning Director and clearly indicated on the building plans.
  - b. The use of highly reflective materials shall be prohibited except for solar energy panels or cells, which shall be placed to minimize significant adverse impacts to public views to the maximum extent feasible.
  - c. All windows shall be comprised of non-glare glass.
54. Retaining walls visible from beaches or public viewing areas shall incorporate veneers, texturing and/or colors to blend with the surrounding earth materials. The colors shall be reviewed and approved by the Planning Director and clearly indicated on the grading and building plans.
55. Driveways that are visible from a scenic highway, a public viewing area, or public hiking trail shall be a neutral color that blends with the surrounding landforms and vegetation.
56. Onsite pathways and trails shall be earth tone and shall be permeable.
57. Up to 30 decorative objects, such as art and statuary, may be placed on the property; half of these shall not exceed a height of 10 feet above finished grade, and half may not exceed a height of 14 feet above finished grade. All such objects shall abide by the setback requirements of the LCP and MMC, and the color and materials requirements of this resolution.
58. Any headstones shall be flush with the ground.

*Water Features*

59. Onsite noise, including that which emanates from pool, spa and air conditioning equipment, shall be limited as described in MMC Chapter 8.24 (Noise).
60. The discharge of swimming pool, spa and decorative fountain water and filter backwash, including water containing bacteria, detergents, wastes, algacides or other chemicals is

prohibited. Swimming pool, spa, and decorative fountain water may be used as landscape irrigation only if the following items are met:

- a. The discharge water is dechlorinated, debrominated or if the water is disinfected using ozonation;
- b. There are sufficient BMPs in place to prevent soil erosion; and
- c. The discharge does not reach into the MS4 or to the ASBS (including tributaries).

Discharges not meeting the above-mentioned methods must be trucked to a Publicly Owned Wastewater Treatment Works.

The applicant shall also provide a construction note on the plans that directs the contractor to install a new sign stating "It is illegal to discharge pool, spa or water feature waters to a street, drainage course or storm drain per MMC Section 13.04.060(D)(5)." The new sign shall be posted in the filtration and/or pumping equipment area for the property. Prior to the issuance of any permits, the applicant shall indicate the method of disinfection and the method of discharging.

61. All mechanical equipment installed above-grade shall be a minimum of three feet from all property lines and screened from view by a solid wall or fence on all four sides in conformance with the maximum fence/wall heights if within the required setbacks.

### *Lighting*

62. The applicant shall submit a modified lighting plan for approval by the Planning Director that is consistent with the requirements of the Model Lighting Ordinance Lighting Zone-0 for the grounds and Lighting Zone-1 for the building. The plan may include motion-activated pathway lighting that is fully shielded. After operations begin, if the motion sensors are excessively reactive, the Planning Director may require that the sensitivity of the motion sensors be adjusted.
63. Exterior lighting shall be minimized and restricted to low intensity features, shielded, and concealed so that no light source is directly visible from public viewing areas. Permitted lighting shall conform to the following standards, or those of Condition 62, whichever are more restrictive:
  - a. Lighting for walkways shall be limited to fixtures that do not exceed two feet in height and are directed downward, and limited to 850 lumens (equivalent to a 60 watt incandescent bulb);
  - b. Security lighting controlled by motion detectors may be attached to the chapel provided it is directed downward and is limited to 850 lumens;
  - c. Driveway lighting shall be limited to the minimum lighting necessary for safe vehicular use. The lighting shall be limited to 850 lumens;
  - d. Lights at entrances as required by the Building Code shall be permitted provided that such lighting does not exceed 850 lumens;
  - e. Site perimeter lighting shall be prohibited; and
  - f. Outdoor decorative lighting for aesthetic purposes and the up-lighting of landscaping is prohibited.

64. No permanently installed lighting shall blink, flash, or be of usually high intensity or brightness. Lighting levels on any nearby property from artificial light sources on the subject property shall not produce an illumination level greater than one foot candle.
65. Night lighting from exterior and interior sources shall be minimized. All exterior lighting shall be low intensity and shielded so it is directed downward and inward so that there is no offsite glare or lighting.

*Environmental Review Board*

66. The landscaping plan shall be revised to remove non-native plants such as *Myoporum parvifolium* and native vegetation such as deer grass and giant wild rye should be used instead. The plantings shall be verified to be Argentine ant-free before they are transported to the site.
67. The landscaping and irrigation plans shall be revised to provide a 10 to 20-foot wide transitional area between the irrigated landscaping and the natural vegetation to remain onsite to minimize adverse impacts to wildlife species and to reduce the potential impacts of Argentine ants.
68. In addition to a qualified archaeologist, the Native American monitor shall be involved in the training of construction personnel prior to the start of ground-disturbing activities. A pre-ground disturbance meeting shall be conducted to allow the monitors and archaeologist time to review the cultural resources reports for the property. *(Incorporated into MMRP)*
69. The developer shall designate an area onsite for the potential relocation of human remains, should any be found within the development area during the construction phase of the project, where in place preservation is not feasible. *(Incorporated into MMRP)*
70. The developer shall plant 6 to 12 oak trees along the northerly property line (Civic Center Way) as a wildfire abatement measure while avoiding adverse impacts to onsite sensitive habitats.
71. The developer shall conduct a nesting bird survey before eucalyptus and other tree removal. *(See MM BIO-5)*

*Biology/Landscaping*

72. Pursuant to MMC Section 9.22.090(B):
  - a. Irrigation systems shall be designed, constructed and managed to maximize overall irrigation efficiency, and to meet the MAWA.
  - b. Irrigation systems shall be designed to prevent runoff, overspray, low-head drainage, and other similar conditions where irrigation water flows or sprays on to areas not intended for irrigation and not part of the parcel's landscape area, such as walkways, driveways, roadways, neighboring properties or the public right-of-way.
  - c. Irrigation systems (valve systems, piping and pressure regulators) shall be designed to deliver water to hydrozones based on the moisture requirements of the plant grouping.
  - d. An automatic irrigation system is required and shall include a weather-based irrigation controller, including a rain shut-off sensor.

- e. Areas less than eight feet wide shall be irrigated with appropriately selected equipment that provides the proper amount of water coverage without causing overspray onto adjacent surfaces.
  - f. All sprinklers shall have matched precipitation rates within each valve and circuit. All irrigation systems shall be designed to include optimum distribution uniformity, head to head spacing, and setbacks from walkways and pavement. Overhead sprays shall be set back a minimum of twenty-four (24) inches from non-pervious surfaces.
  - g. All irrigation systems shall provide check valves at the low end of irrigation lines to prevent unwanted draining of irrigation lines.
  - h. Pressure regulators may be required on the irrigation system as determined by the Los Angeles County Waterworks District No. 29.
  - i. Installation of a separate landscape water meter is encouraged where feasible to facilitate water management.
  - j. Nonpotable and Recycled Water. The irrigation system shall be designed, installed and operated in compliance with state and local laws, requirements and regulations applicable to the nonpotable water use. The local water agency shall provide the customer with applicable conditions for the use of nonpotable water within its jurisdiction.
73. Prior to installation of any landscaping, the applicant shall obtain a plumbing permit for the proposed irrigation system from the Building Safety Division.
74. Prior to or at the time of a Planning final inspection, the property owner/applicant shall submit to the case planner a copy of the plumbing permit for the irrigation system installation that has been signed off by the Building Safety Division.
75. Vegetation forming a view impermeable condition (hedge), serving the same function as a fence or wall, occurring within the side or rear yard setback shall be maintained at or below six feet in height. View impermeable hedges occurring within the front yard setback serving the same function as a fence or wall shall be maintained at or below 42 inches in height.
76. Invasive plant species, as determined by the City of Malibu, are prohibited.
77. Vegetation shall be situated on the property so as not to obstruct the primary view from private property at any given time (given consideration of its future growth).
78. The landscape plan shall prohibit the use of building materials treated with toxic compounds such as creosote and copper arsenate.
79. Grading should be scheduled only during the dry season from April 1 through October 31. If it becomes necessary to conduct grading activities from November 1 through March 31, a comprehensive erosion control plan shall be submitted for approval prior to issuance of a grading permit and implemented prior to initiation of vegetation removal and/or grading activities.
80. Grading/excavation/vegetation removal scheduled between February 1 and September 15 will require nesting bird surveys by a qualified biologist prior to initiation of such activities. Surveys

shall be completed no more than 5 days from proposed initiation of site preparation activities. Should active nests be identified, a buffer area no less than 150 feet (300 feet for raptors) shall be fenced off until it is determined by a qualified biologist that the nest is no longer active. A report discussing the results of the surveys shall be turned in to the City within two business days of completion of surveys.

81. All street frontage trees and shrubs over 36 inches in height shall be limited to species native to the Santa Monica Mountains. This will result in the removal, move or change to native species of three camphor trees, three magnolia trees and four proposed topiaris.
82. The landscape plan shall be revised to relocate all trees outside the capped archaeologically sensitive area.
83. Prior to building grading permit issuance, the applicant shall provide a detailed landscape plan illustrating all of the required changes.

#### *Geology*

84. All recommendations of the consulting certified engineering geologist or geotechnical engineer and/or the City Geologist shall be incorporated into all final design and construction including foundations, grading, sewage disposal, and drainage. Final plans shall be reviewed and approved by the City Geologist prior to the issuance of a grading permit.
85. Final plans approved by the City Geologist shall be in substantial conformance with the approved CDP relative to construction, grading, sewage disposal and drainage. Any substantial changes may require amendment of the CDP or a new CDP.

#### *Public Works – Street Improvements*

86. This project proposes to construct improvements within the City's right-of-way. Prior to the Public Works Department's approval of the grading or building permit, the applicant shall obtain encroachment permits from the Public Works Department for the proposed work within the City's right-of-way.
87. This project proposes to construct a new driveway within the City's right-of-way. Prior to the Public Works Department's approval of the grading or building permit, the applicant shall obtain encroachment permits from the Public Works Department for the proposed driveway. The driveway shall be constructed of either 6-inches of concrete over 4-inch of aggregate base, or 4-inches of asphalt concrete over 6-inches of aggregate base. The driveway shall be flush with the existing grades with no curbs.
88. The applicant shall improve PCH and Malibu Canyon Road with the following items (unless any components are reduced in scope by Caltrans):
  - a. The proposed right turn lane (PCH and Malibu Canyon Road) shall be 640 feet long with a 120-foot transition. The improvements shall include a 4-foot bike lane and a 4-foot shoulder.

- b. Construct a new Caltrans refuge area at the existing crosswalk at the intersection of PCH & Malibu Canyon Road.
- c. Dedicate a minimum of 13 feet at this location for these improvements. Applicant shall coordinate the amount of dedication from Caltrans.
- d. The improvements shall also consist of installing a new curb per the Caltrans Standard Plans No. A87B. The new pavement section shall be in accordance with Caltrans Design Manual or recommended by a soil engineer.

The improvement plans must be approved by Caltrans prior to the issuance of any permits; however, if Caltrans has not approved plans within two years of the CDP becoming final, the City may issue development permits for the project. The improvements must be completed prior to the issuance of occupancy or final acceptance, or the applicant shall post a bond and any related required documents in a form and amount approved by the Public Works Department to ensure completion of the improvements.

89. The applicant shall improve PCH and Webb Way with the following items:

- a. Install dual eastbound left turn lanes on PCH and Webb Way per Caltrans Standards.

The improvement plans must be approved by Caltrans prior to the issuance of any permits; however, if Caltrans has not approved plans within two years of the CDP becoming final, the City may issue development permits for the project. The improvements must be completed prior to the issuance of occupancy or final acceptance, or the applicant shall post a bond and any related required documents in a form and amount approved by the Public Works Department to ensure completion of the improvements.

90. The applicant shall improve Malibu Canyon Road with the following items:

- a. Modifying the existing northbound traffic lanes to provide two northbound 12-foot travel lanes, Class 2, 6-foot bike lane, and 10-foot parking.
- b. Modifying the existing southbound traffic lanes to provide two southbound 12-foot travel lanes, Class 2, 6-foot bike lane, and 10-foot parking.
- c. Proposed left turn lane southbound on Malibu Canyon Road shall be 12 feet minimum. The proposed left turn lane shall be designed in conformance with the Caltrans Design Standards.
- d. Install a 5-foot meandering concrete sidewalk. The concrete sidewalk shall be 4 inches (520-C-2500) with 4 inches of fill with sand equivalent 20 or higher compacted to 90%. Alternatively, a permeable paver sidewalk design may be approved by Public Works.
- e. The existing southbound left turn lane onto PCH shall at minimum maintain the existing pocket length.
- f. The existing southbound left-through lane and right turn lane onto PCH shall at minimum maintain the existing striping length(s).
- g. The existing and proposed left turn lane transition median lengths shall be designed to conform to Caltrans Design Standards. The existing and proposed center median shall be raised.
- h. The proposed driveway entrance and exit centerline shall be relocated 40 feet north of

- the proposed location.
- i. If applicable, new asphalt concrete shall be placed to match the existing slopes and grades. The asphalt concrete structural section shall match existing plus one inch.
  - j. Provide a safe access to PCH when vehicles are exiting the project site.
91. Install a U-turn (“Michigan turn”) on Malibu Canyon Road north of the project entrance driveway using a design approved by the Public Works Department, unless Public Works determines it to be infeasible.
92. All improvements within the City’s right-of-way including street improvements must be approved and in place prior to the issuance of any Building permits.
93. The applicant shall improve Civic Center Way with the following items:
- a. Modifying the existing traffic lanes to provide two 12-foot travel lanes, and 6-foot bike lane.
  - b. Install new concrete curb and gutter per APWA Std. Plan 120-1, Case A2.
  - c. Install an 8-foot concrete sidewalk. The concrete sidewalk shall be 4 inches (520-C-2500) with 4 inches of fill with sand equivalent 20 or higher compacted to 90%.
  - d. New curb return at the intersection of Malibu Canyon Road Civic Center Way along with new curb ramp(s) per APWA Std. Plan 111-3.

The improvement plans must be approved prior to the issuance of any permits. The improvements must be completed prior to the issuance of occupancy or final acceptance.

94. The improvements in Condition Nos. 88, 89, 90 and 93 shall be considered by the City for future fair share contributions by other relevant projects.

*Public Works - Grading and Drainage*

95. Prior to final approval of the grading permit, the applicant shall demonstrate to the satisfaction of the Planning Director that the spoils from the unpermitted dumping that occurred on the site have been removed.
96. Grading permits shall not be issued between November 1 and March 31 of each year per LIP Section 8.4 and Section 17.2.1. Projects approved for grading shall not receive grading permits unless the project can be rough graded before November 1. A note shall be placed on the project plans that address this condition.
97. A grading and drainage plan containing the following information shall be submitted to the Public Works Department for approval, prior to the issuance of grading permits for the project:
- a. Public Works Department General Notes;
  - b. The existing and proposed square footage of impervious coverage on the property (including separate areas for buildings, driveways, walkways, parking, as applicable);
  - c. The limits of land to be disturbed during project development shall be delineated, and a

- total area, to include areas disturbed by grading equipment beyond the limits of grading, areas disturbed for the installation of the septic system, and areas disturbed for installation of the detention system, as applicable;
- d. Grading limits, including the temporary cuts made for retaining walls, buttresses and over-excavations for fill slopes;
  - e. If the property contains trees that are to be protected they shall be highlighted on the grading plan.
  - f. If the property contains rare and endangered species as identified in the Resources study the grading plan shall contain a prominent note identifying the areas to be protected (to be left undisturbed). Fencing of these areas shall be delineated on the grading plan if required by the City Biologist.
  - g. Private storm drain systems, with systems greater than 12 inch diameter to include a plan and profile; and
  - h. Public storm drain modifications, which shall be approved by the Public Works Department prior to the issuance of the grading permit.
98. A digital drawing (AutoCAD) of the project's private storm drain system, public storm drain system within 250 feet of the property limits and post-construction BMPs shall be submitted to the Public Works Department prior to grading or building permit issuance. The digital drawing shall adequately show all storm drain lines, inlets, outlet, post-construction BMPs and other applicable facilities. The digital drawing shall also show the subject property, public street and any drainage easements.
99. The applicant shall label all City/County storm drain inlets within 250 feet of each property lien per the City of Malibu's standard label template. A note shall be placed on the project plans to address this condition.
100. During project operations, stockpiles from burial site excavation shall not be maintained permanently onsite, but shall be periodically exported from the site to ensure the contours on the final approved grading plan are maintained. The stockpiles shall be screened from view from scenic roads and public viewing areas and shall be covered or otherwise maintained to be protected from wind and erosion.

*Public Works – Stormwater*

101. Prior to the approval of any permits and prior to the applicant submitting the required Construction General Permit documents to the State Water Quality Control Board, the applicant shall submit to the Public Works Department for review and approval an Erosion and Sediment Control Plan (ESCP). The ESCP shall contain appropriate site-specific construction site BMPs and developed and certified by a Qualified SWPPP Developer (QWD). All structural BMPs must be designed by a licensed California Engineer. The ESCP must address the following elements:
- a. Methods to minimize the footprint of the disturbed area and to prevent soil compaction outside the disturbed area.
  - b. Methods used to protect native vegetation and trees.

- c. Sediment/Erosion Control.
- d. Controls to prevent tracking on and off the site.
- e. Non-stormwater controls.
- f. Material management (delivery and storage).
- g. Spill Prevention and Control.
- h. Waste Management
- i. Identification of site Risk Level as identified per the requirements in Appendix 1 of the Construction General Permit.
- j. Landowner must sign the following statement on the ESCP:

“I certify that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to ensure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, to the best of my knowledge and belief, the information submitted is true, accurate and complete. I am aware that submitting false and/or inaccurate information, failing to update the ESCP to reflect current conditions, or failing to properly and/or adequately implement the ESCP may result in revocation of grading and/or other permits or other sanctions provided by law.”

- 102. A State Construction activity permit is required for this project due to the disturbance of more than one acre of land for development. A copy of the letter from the State Water Quality Control Board containing the Waste Discharge Identification (WDID) number shall be provided prior to the issuance of grading or building permits.
- 103. A Storm Water Management Plan (SWMP) is required for this project. Storm drainage improvements are required to mitigate increased runoff generated by property development. The applicant shall have the choice of one method specified within LIP Section 17.3.2(B)(2). The SWMP shall be supported by a hydrology and hydraulic study that identifies all areas contributory to the property and an analysis of the predevelopment and post development drainage of the site. The SWMP shall identify the Site design and Source control BMPs that have been implemented in the design of the project (See LIP Section 17, Appendix A). The SWMP shall be reviewed and approved by the Public Works Department prior to the issuance of the Grading/Building permits for this project.
- 104. A Water Quality Mitigation Plan (WQMP) is required for this project. The WQMP shall be supported by a hydrology and hydraulic study that identifies all areas contributory to the property and an analysis of the predevelopment and post development drainage of the site. The WQMP shall meet all the requirements of the City’s current Municipal Separate Stormwater Sewer System (MS4) permit. The following elements shall be included within the WQMP:
  - a. Site Design Best Management Practices (BMPs)
  - b. Source Control BMPs
  - c. Treatment Control BMPs that retains on-site the Stormwater Quality Design Volume (SWQDv). Or where it is technical infeasible to retain on-site, the project must biofiltrate 1.5 times the SWQDv that is not retained on-site.
  - d. Drainage Improvements

- e. A plan for the maintenance and monitoring of the proposed treatment BMPs for the expected life of the structure.
  - f. A copy of the WQMP shall be filed against the property to provide constructive notice to future property owners of their obligation to maintain the water quality measures installed during construction prior to the issuance of grading or building permits.
  - g. The WQMP shall be submitted to Public Works and the fee applicable at time of submittal for the review of the WQMP shall be paid prior to the start of the technical review. The WQMP shall be approved prior to the Public Works Department's approval of the grading and drainage plan and or building plans. The Public Works Department will tentatively approve the plan and will keep a copy until the completion of the project. Once the project is completed, the applicant shall verify the installation of the BMPs, make any revisions to the WQMP, and resubmit to the Public Works Department for approval. The original signed and notarized document shall be recorded with the County Recorder. A certified copy of the WQMP shall be submitted to the Public Works Department prior to the certificate of occupancy.
105. All commercial developments shall be designed to control the runoff of pollutants from structures, parking and loading docks. The following minimum measures shall be implemented to minimize the impacts of commercial developments on water quality:
- a. Properly designed Parking lots (5,000 square feet of impervious surface or 25 parking spaces.)
    - i. Minimize impervious surfacing for parking area.
    - ii. Infiltrate runoff before it reaches a storm drain system.
    - iii. Treat to remove oil and petroleum hydrocarbons at parking lots that are heavily used.
    - iv. Ensure adequate operation and maintenance of treatment systems particularly sludge and oil removal and system fouling and plugging prevention control.
106. The developer's consulting engineer shall sign the final plans prior to the issuance of permits.

*Fire Department*

107. The project requires LACFD plan review and approval prior to the issuance of grading permits.
108. A final Fuel Modification Plan approval is required prior to final Fire Department approval.

*Water Service*

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

*Deed Restrictions and Recorded Documents*

110. Prior to final Planning approval, the property owner is required to execute and record a deed

restriction which shall indemnify and hold harmless the City, its officers, agents, and employees against any and all claims, demands, damages, costs and expenses of liability arising out of the acquisition, design, construction, operation, maintenance, existence or failure of the permitted project in an area where an extraordinary potential for damage or destruction from wildfire exists as an inherent risk to life and property. The property owner shall provide a copy of the recorded document to Planning Department staff prior to final Planning approval.

111. Prior to final Planning approval, the applicant is required to execute and record a deed restriction reflecting lighting requirements set forth in the *Lighting* conditions listed above. The applicant shall provide a copy of the recorded document to Planning Department staff prior to final Planning approval.
112. A certificate of compliance evidencing completion of the lot merger shall be recorded and a copy submitted to the Planning Director prior to issuance of a grading permit.

#### *Construction / Framing*

113. The applicant/property owner shall contract with a City approved hauler to facilitate the recycling of all recoverable/recyclable material. Recoverable material shall include but shall not be limited to: asphalt, dirt and earthen material, lumber, concrete, glass, metals, and drywall.
114. Prior to issuance of a building/demolition permit, an Affidavit and Certification to implement a Waste Reduction and Recycling Plan (WRRP) shall be signed by the Owner or Contractor and submitted to the Environmental Sustainability Department. The WRRP shall indicate the agreement of the applicant to divert at least 50 percent of all construction generated by the project.
115. Prior to final building inspection, the applicant shall provide the Environmental Sustainability Department with a WRRP Final Summary Report. The Final Summary Report shall designate all materials that were landfilled or recycled, broken down by material types. The Environmental Sustainability Department shall approve the Final Summary Report.
116. Construction hours shall be limited to Monday through Friday from 7:00 a.m. to 7:00 p.m. and Saturdays from 8:00 a.m. to 5:00 p.m. No construction activities shall be permitted on Sundays or City-designated holidays.
117. Construction management techniques, including minimizing the amount of equipment used simultaneously and increasing the distance between emission sources, shall be employed as feasible and appropriate. All trucks leaving the construction site shall adhere to the California Vehicle Code. In addition, construction vehicles shall be covered when necessary; and their tires will be rinsed off prior to leaving the property.
118. When framing of the chapel structure is complete, a site survey shall be prepared by a licensed civil engineer or architect that states the finished ground level elevation and the highest roof member elevation. Prior to the further construction activities, said document shall be submitted to the assigned Building Inspector and Planning Department for review and sign off on framing.

*Prior to Final Sign-Off*

119. Prior to final approval, the City Biologist shall inspect the project site and determine that all planning conditions have been implemented to protect natural resources in compliance with approved plans and this resolution.
120. The applicant shall request a final Planning Department inspection prior to final inspection by the City of Malibu Environmental and Sustainability Department. A final approval shall not be issued until the Planning Department has determined that the project complies with this CDP.
121. Any construction trailer, storage equipment or similar temporary equipment not permitted as part of the approved scope of work shall be removed prior to final inspection and approval, and if applicable, the issuance of the certificate of occupancy.

*Fixed Conditions*

122. Pursuant to MMC Section 17.66.100(C)(3), the conditions under which this conditional use permit was approved may be modified by the City without the consent of the property owner, tenant or operator if the Planning Commission finds that the use is creating a nuisance.
123. Pursuant to MMC Sections 17.66.100(C)(1) and (2), this conditional use permit shall become subject to revocation if the Planning Commission has cause to believe that grounds for revocation or modification may exist. The Planning Commission shall hold a public hearing upon the question of modification or revocation of this conditional use permit pursuant to MMC Section 17.66.100(C). The conditional use permit may be revoked if the Planning Commission finds that one or more of the following conditions exists:
  - a. The conditional use permit was obtained in a fraudulent manner.
  - b. One or more of the conditions found within this resolution have not been substantially met.
124. This coastal development permit shall run with the land and bind all future owners of the property.
125. Violation of any of the conditions of this approval may be cause for revocation of this permit and termination of all rights granted there under.

*Additional Site-Specific Conditions*

126. The area identified by an oval over the roots of the tree-shaped crypt wall shown on the Revised Crypt Wall Plan dated April 21, 2017 (Sheet L-2.0) shall be restricted to an appropriate memorial to the Chumash and burial or reburial of Chumash Native Americans as determined by the operator of the memorial park.

127. Exported soil from the site shall be taken to the County Landfill or to a site with an active grading permit and the ability to accept the material in compliance with LIP Section 8.3. A note shall be placed on the project plans that addresses this condition.
128. A construction management plan, including a traffic control plan for haul trips, shall be submitted for review and approval by the Public Works Department prior to the approval of the Grading and Drainage Plan for the right turn lane improvements on PCH.

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

PASSED, APPROVED AND ADOPTED this 5<sup>th</sup> day of June 2017.

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MIKKE PIERSON, Planning Commission Chair

ATTEST:

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KATHLEEN STECKO, Recording Secretary

LOCAL APPEAL - Pursuant to Local Coastal Program LIP Section 13.20.1 (Local Appeals) a decision made by the Planning Commission may be appealed to the City Council by an aggrieved person by written statement setting forth the grounds for appeal. An appeal shall be filed with the City Clerk within 10 days and shall be accompanied by an appeal form and filing fee, as specified by the City Council. Appeal forms may be found online at [www.malibucity.org](http://www.malibucity.org), in person at City Hall, or by calling (310) 456-2489, ext. 245.

I CERTIFY THAT THE FOREGOING RESOLUTION NO. 17-17 was passed and adopted by the Planning Commission of the City of Malibu at the Regular meeting held on the 5<sup>th</sup> day of June 2017 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

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KATHLEEN STECKO, Recording Secretary

## EXHIBIT A

# MALIBU MEMORIAL PARK MITIGATION MONITORING AND REPORTING PROGRAM

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### PURPOSE

This section of the Mitigated Negative Declaration provides the Mitigation Monitoring and Reporting Program (MMRP) that would be used to monitor the implementation of the mitigation measures adopted for the Malibu Memorial Park project.

### INTRODUCTION

The California Environmental Quality Act (CEQA) requires the adoption of feasible mitigation measures to reduce the severity and magnitude of potentially significant environmental impacts associated with development projects. However, simply adopting these measures is not adequate under state law. Lead agencies are also required to adopt a program that will be used to ensure that the mitigation measures are, in fact, implemented. The requirements for mitigation monitoring or reporting are codified in Section 15097 of the *State CEQA Guidelines*.

The Final IS/MND for the Malibu Memorial Park project identifies project-specific mitigation measures to reduce the potentially significant impacts of the project as proposed. Following adoption of the Final IS/MND and approval of this MMRP by the City of Malibu, the project-specific mitigation measures identified in the Final IS/MND would be implemented and monitored as described in this MMRP.

### LIST OF MITIGATION MEASURES

The mitigation measures adopted for the Malibu Memorial Park project are listed in the following table along with the action required, the timing for implementation of each measure, the parties responsible for monitoring the mitigation measure and the parties responsible for implementing the mitigation measure.

**Malibu Memorial Park  
Mitigation Monitoring and Reporting Program Matrix**

Mitigation Measure	Action Required	Timing	Monitoring Responsibility
<b>Biological Resources</b>			
<p><b>BIO-1</b> All new development shall include mitigation for proposed impacts to the dense, intact coastal sage scrub and foothill needlegrass patches as identified on the Updated Biological Inventory Report, dated November 18, 2015, including the removal, conversion, or modification of these natural habitats for new development and required fuel modification.</p> <p>The Deed of Conservation Easement for Wildlife Habitat and Open Space Resources document recorded with the Los Angeles County Recorder's office on June 7, 2001 as Instrument No. 01-0985737 for the off-site conservation easement on the Francisco property must remain in place to offset the adverse impacts to sensitive habitat areas.</p>	<ul style="list-style-type: none"> <li>• Confirm design and project specifications incorporate requirements of the mitigation measure.</li> <li>• A qualified biologist shall prepare a detailed habitat restoration plan, subject to the approval of the City Biologist and the City Planning Director</li> <li align="center">- or -</li> <li>• The project applicant shall provide evidence or guarantee that compensatory mitigation in the form of an in lieu fee has been paid to mitigate habitat impacts subject to the approval of the City Biologist and the City of Malibu Planning Director</li> </ul>	<ul style="list-style-type: none"> <li>• Prior to issuance of grading permit and coastal development permit</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>Biological Resources (continued)</b>			
<p><b>BIO-2</b> Prior to vegetation clearance / ground disturbance, a qualified botanist must conduct seasonal plant surveys. Surveys should be conducted during the blooming periods of special-status species with the potential to occur on-site (typically up to three surveys between March and July). Rare plant surveys shall be conducted in accordance with CNPS and CDFW protocol.</p>	<ul style="list-style-type: none"> <li>• Confirm design and project specifications incorporate requirements of the mitigation measure.</li> <li>• A qualified botanist shall conduct seasonal plant surveys in accordance with CNPS and CDFW protocol and prepare a detailed report, subject to the approval of the City Biologist and the City of Malibu Planning Director</li> </ul>	<ul style="list-style-type: none"> <li>• Prior to issuance of grading permit and coastal development permit</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
<p><b>BIO-3</b> Should rare or special status plant species be discovered during the surveys, a recovery/transplant and revegetation plan shall be prepared and implemented in the event site design could not avoided as determined by the Planning Director. Otherwise, such area should be fenced off and protected. Alternatively, in lieu fees for conserved habitat in the Santa Monica Mountains suitable for the species found may be provided at a mitigation ratio of 5 to 1 for the on-site occupied habitat.</p>	<ul style="list-style-type: none"> <li>• Confirm design and project specifications incorporate requirements of the mitigation measure.</li> <li>• A qualified botanist shall prepare a detailed recovery /transplant and revegetation plan, subject to the approval of the City Biologist and the City Planning Director</li> <li style="text-align: center;">- or -</li> <li>• The project applicant shall provide evidence or guarantee that compensatory mitigation in the form of an in lieu fee has been paid to mitigate impacts subject to the approval of the City Biologist and the City of Malibu Planning Director</li> </ul>	<ul style="list-style-type: none"> <li>• Prior to issuance of grading permit and coastal development permit</li> <li>• During Project Construction</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>Biological Resources (continued)</b>			
<p><b>BIO-4</b> Grading and fuel modification scheduled between February 1 and August 30 would require nesting bird surveys by a qualified biologist five (5) days prior to initiation of these activities. Should active nests be identified, a buffer area no less than 300 feet (500 feet for raptors) shall be fenced off until it is determined by a qualified biologist that the nest is no longer active. A report discussing the results of nesting bird surveys shall be submitted to the City Biologist prior to any vegetation removal or demolition on the site.</p>	<ul style="list-style-type: none"> <li>• Confirm design and project specifications incorporate requirements of the mitigation measure.</li> <li>• A qualified biologist shall 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><b>BIO-5</b> A qualified biologist (with a valid Scientific Collecting Permit) shall conduct focused surveys for any special-status wildlife species present on-site prior to any site disturbance. The focused surveys shall be conducted five (5) days prior to any activity on-site requiring grading, vegetation removal, etc. Should any resident special-status wildlife species be detected on-site, the surveying biologist, with concurrence from California Department of Fish and Wildlife (CDFW), shall make every effort to capture the animal and relocate it away from the project area and to any predetermined suitable habitat directed by CDFW.</p>	<ul style="list-style-type: none"> <li>• Confirm design and project specifications incorporate requirements of the mitigation measure.</li> <li>• A qualified biologist shall conduct focused surveys for any special-status wildlife species in accordance with CDFW protocol and prepare a detailed report, subject to the approval of the City Biologist and the City of Malibu Planning Director.</li> <li>• Should any resident special-status wildlife species be detected on-site, the surveying biologist, with concurrence from CDFW, shall make every effort to capture the animal and relocate it away from the project area and to any predetermined suitable habitat directed by CDFW.</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><b>BIO-6</b> Before the commencement of any clearing, grading, or other construction activities, protective fencing shall be used around limits of special habitat and special status plant species within or adjacent to the construction area that may be disturbed during construction or grading activities. Fencing shall be maintained in place for the duration of all construction. No construction, grading, staging, or materials storage shall be allowed within the fenced exclusion areas.</p>	<ul style="list-style-type: none"> <li>• Confirm design and project specifications incorporate requirements of the mitigation measure.</li> <li>• Protective fencing shall be installed around limits of special habitat and special status plant species within or adjacent to the construction area that may be disturbed during construction or grading activities.</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>
<b>Cultural Resources</b>			
<p><b>CR-1:</b> Prior to the issuance of a grading permit and the start of ground-disturbing activities, the project applicant shall retain a qualified archaeologist (Qualified Archaeologist) meeting the Secretary of the Interior's Professional Qualifications Standards for archaeology (U.S. Department of the Interior 2008) who is also qualified to evaluate the types of resources that may be encountered, and a Native American Monitor, approved by the City and the project applicant, to carry out all mitigation described in CR-3 through CR-7.</p>	<ul style="list-style-type: none"> <li>• Confirm design and project specifications incorporate requirements of the mitigation measure.</li> <li>• The project Applicant shall retain a qualified archaeologist, and a Native American Monitor, subject to approved by the City Planning Director</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> </ul>

Mitigation Measure	Action Required	Timing	Monitoring Responsibility
<b>Cultural Resources (continued)</b>			
<p>CR-2: Prior to the start of ground-disturbing activities, the Qualified Archaeologist shall conduct cultural resources sensitivity training for all construction personnel. Construction personnel shall be informed of the types of archaeological resources that may be encountered, and of the proper procedures to be enacted in the event of an inadvertent discovery of archaeological resources or human remains. The training shall also include safety procedures for working with archaeological and Native American monitors. The project applicant shall ensure that all construction personnel are made available for and attend the training, and shall retain documentation demonstrating attendance.</p>	<ul style="list-style-type: none"> <li>• Confirm design and project specifications incorporate requirements of the mitigation measure.</li> <li>• The Qualified Archaeologist shall conduct cultural resources sensitivity training for all construction personnel.</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>• Qualified Archaeologist</li> <li>• Construction Manager</li> </ul>
<p>CR-3: The entire CA-LAN-266 area identified as sensitive (see Ehringer and Vader, 2016) must be capped with a layer of fill soil of sufficient depth to accommodate the footings of the proposed private mausoleums and above grade crypt structures plus an additional foot of clearance. No other development that would impact the subsurface portions of this area below the capped soil is permitted. Soil capping performed within this area must be monitored by a qualified archaeologist and Native American monitor to ensure that the subsurface soils are not disturbed.</p>	<ul style="list-style-type: none"> <li>• Confirm design and project specifications incorporate requirements of the mitigation measure.</li> <li>• The entire CA-LAN-266 area shall be capped with a layer of fill soil.</li> <li>• Soil capping operations shall be monitored by a qualified archaeologist and Native American monitor.</li> </ul>	<ul style="list-style-type: none"> <li>• During Construction</li> </ul>	<ul style="list-style-type: none"> <li>• City of Malibu Planning Department</li> <li>• Qualified Archaeologist</li> <li>• Native American Monitor</li> <li>• Construction Manager</li> </ul>

Mitigation Measure	Action Required	Timing	Monitoring Responsibility
<p><b>CR-4:</b> Archaeological and Native American monitoring shall be conducted for all ground-disturbing activities for all ground disturbances at all depths across the project area. The monitors shall observe the ground-disturbing activities and shall have the authority to redirect such activity to investigate potential archaeological resources discoveries. In the event that evidence indicating the presence of a potentially significant archaeological resource is discovered, and subsequent ground disturbances would impact the resource, the provisions of <b>CR-6</b> (Inadvertent Discoveries) shall apply. The archaeological monitor, in coordination with the Qualified Archaeologist, may recommend that monitoring be reduced or discontinued in certain portions of the project site other than in site CA-LAN-266, if observations of soil conditions indicate a low likelihood of encountering archaeological resources. The archaeological monitor shall keep daily logs detailing the types of activities and soils observed, and any discoveries made. After monitoring has been completed, a monitoring report shall be prepared by a qualified expert that details the results of monitoring (including monitoring conducted as part of <b>CR-3</b>) and an accompanying sensitivity map that documents: (1) areas where soil excavations have exceeded the maximum depth of future burial plots; (2) areas where the Qualified Archaeologist has determined that, based on observations during monitoring, there is a low likelihood of encountering archaeological resources; and (3) areas where there is the potential for subsurface archaeological resources. The map shall be used as a tool by which to guide the need for monitoring during ground disturbance associated with plot preparation as described in <b>CR-5</b> (Archaeological Monitoring During Plot Preparation). The report and accompanying sensitivity map shall be submitted to the City, the project applicant, the South Central Coastal Information Center (SCCIC), and any Native American groups who request a copy, as directed by the City.</p>	<ul style="list-style-type: none"> <li>• Confirm design and project specifications incorporate requirements of the mitigation measure.</li> <li>• On-going ground disturbing operations shall be monitored by a qualified archaeologist and Native American monitor.</li> <li>• Preparation of daily logs and an accompanying sensitivity map that identify locations where the monitoring took place and a description of observations. The logs shall be kept on file with the City and the project applicant.</li> </ul>	<ul style="list-style-type: none"> <li>• During Construction</li> <li>• During Project Operation during all ground disturbing activities.</li> </ul>	<ul style="list-style-type: none"> <li>• City of Malibu Planning Department</li> <li>• Qualified Archaeologist</li> <li>• Native American Monitor</li> <li>• Construction Manager</li> </ul>

Mitigation Measure	Action Required	Timing	Monitoring Responsibility
<b>Cultural Resources (continued)</b>			
<p>CR-5: During the operations phase of the project, archaeological and Native American monitoring shall occur during excavation of all burial plots and any other ground disturbing activities occurring in those areas identified on the sensitivity map (being prepared as described in CR-4) as remaining sensitive for the potential for subsurface archaeological resources to be encountered. No monitoring would occur in areas where ground disturbance during the construction phase of the project has exceeded the maximum depth of the planned burial plot or other planned ground disturbance; or where during the construction phase of the project the Qualified Archaeologist determined soils of low likelihood for encountering archaeological resources with the exception of site CA-LAN-266. The archaeological monitor shall inspect the soil and shall have the authority to halt ground disturbing activities to investigate potential archaeological resource discoveries during plot preparation. In the event that evidence indicating the presence of a potentially significant archaeological resource is discovered, and subsequent excavation would impact the resource, excavation shall be redirected and the provisions of CR-6 (Inadvertent Discoveries) shall apply. Following the monitoring of each burial plot excavation or other planned ground disturbance, the Qualified Archaeologist shall prepare a brief memorandum that identifies the location where the monitoring took place and a description of observations. The memoranda shall be kept on file with the City and the project applicant.</p> <p>Participation of a Native American monitor during ground disturbing activities associated with plot preparation shall be determined through consultation amongst the City, qualified tribal representatives as documented on listings provided by the Native American Heritage Commission, and the project applicant.</p>	<ul style="list-style-type: none"> <li>• Confirm design and project specifications incorporate requirements of the mitigation measure.</li> <li>• On-going monitoring of each burial plot excavation or other planned ground disturbance.</li> <li>• Preparation of brief memoranda that identify locations where the monitoring took place and a description of observations. The memoranda shall be kept on file with the City and the project applicant.</li> </ul>	<ul style="list-style-type: none"> <li>• During Project Operation during excavation of all burial plots and any other ground disturbing activities occurring in those areas identified on the sensitivity map.</li> </ul>	<ul style="list-style-type: none"> <li>• City of Malibu Planning Department</li> <li>• Qualified Archaeologist</li> <li>• Native American Monitor</li> </ul>

Mitigation Measure	Action Required	Timing	Monitoring Responsibility
<b>Cultural Resources (continued)</b>			
<p>CR-6 In the event of the discovery of potentially significant archaeological resources, in any circumstance including those outlined in CR-3, CR-4, and CR-6, the project applicant shall immediately cease all work activities in the area (within approximately 50 feet) of the discovery until an Archaeological Resources Testing Plan (Testing Plan) is developed by the Qualified Archaeologist in consultation with the project applicant, the qualified tribal representatives, and the City. The Testing Plan shall be completed within 48 hours of the discovery, shall be approved by the City, and shall address the methods of determining the extent and contents of the resource, and a research context in which the resource's significance would be evaluated. Potentially significant archaeological resources shall be avoided until the Testing Plan is implemented and completed and until such a time when a course of action on whether the resource does or does not require further treatment is developed and agreed to by the project applicant, the City, and the qualified tribal representatives, in coordination with the Qualified Archaeologist. A reduction in the buffer zone may also be considered, if agreed to by these same parties.</p> <p>If it is determined that the discovered archaeological resource constitutes a historical resource or unique archaeological resource under CEQA, avoidance and preservation in place is the preferred manner of mitigation. If preservation in place is determined to be a feasible method by which to mitigate impacts to the resource, an Archaeological Resources Preservation Plan shall be developed in coordination with the qualified archaeologist, the project applicant, the qualified tribal representatives, and approved by the City. To ensure future work does not impact the resource, appropriate measures shall be taken that may include permit conditions.</p> <p>In the event that preservation in place is demonstrated to be infeasible, the capping as outlined in CR-3 may be used to protect the resource, provided such project change is consistent with applicable design and development standards. The Applicant shall bear the cost of this mitigation.</p>	<ul style="list-style-type: none"> <li>• Confirm design and project specifications incorporate requirements of the mitigation measure.</li> <li>• Confirm that any cultural resources uncovered during construction or operation of the project are evaluated and treated in accordance with recommendations of the Qualified Archaeologist and Native American Monitor.</li> </ul>	<ul style="list-style-type: none"> <li>• During Construction and Project Operation during excavation of all burial plots and any other ground disturbing activities.</li> </ul>	<ul style="list-style-type: none"> <li>• City of Malibu Planning Department</li> <li>• Qualified Archaeologist</li> <li>• Native American Monitor</li> <li>• Construction Manager</li> </ul>

Mitigation Measure	Action Required	Timing	Monitoring Responsibility
<b>Cultural Resources (continued)</b>			
<p><b>CR-7</b> If human remains are encountered, the project applicant shall halt work in the vicinity (within 100 feet) of the find and contact the Los Angeles County Coroner in accordance with Public Resources Code Section 5097.98 and Health and Safety Code Section 7050.5. If the County Coroner determines that the remains are Native American, the California Native American Heritage Commission (NAHC) shall be notified in accordance with Health and Safety Code Section 7050.5, subdivision (c), and Public Resources Code Section 5097.98 (as amended by AB 2641). The NAHC shall designate a Most Likely Descendant (MLD) for the remains per Public Resources Code Section 5097.98. Until the landowner has conferred with the MLD, the project applicant shall ensure that the immediate vicinity where the discovery occurred is not disturbed by further activity, is adequately protected according to generally accepted cultural or archaeological standards or practices, and that further activities take into account the possibility of multiple burials. Relocation of the burials following consultations with the designated MLD may be an alternative action. In all instances Native American concerns and subsequent treatment of any human remains shall be handled with the utmost respect, with the understanding that these remains are sacred.</p>	<ul style="list-style-type: none"> <li>• Confirm design and project specifications incorporate requirements of the mitigation measure.</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>• During Construction and Project Operation during excavation of all burial plots and any other ground disturbing activities.</li> </ul>	<ul style="list-style-type: none"> <li>• City of Malibu Planning Department</li> <li>• Qualified Archaeologist</li> <li>• Native American Monitor</li> <li>• Construction Manager</li> </ul>
<b>Land Use and Planning</b>			
<p><b>LP-1:</b> Prior to the issuance of a building permit for any of the mausoleums located within 100 feet from the top of the slope adjacent to Pacific Coast Highway, the property owner/applicant must install story poles representing the height and location of the mausoleum and the mausoleums must be sited to avoid visibility from motorists traveling on Pacific Coast Highway from any vantage point immediately adjacent to the subject property to the satisfaction of the Planning Director.</p>	<ul style="list-style-type: none"> <li>• Confirm design and project specifications incorporate the required restrictions</li> <li>• Install story poles on the subject property to the satisfaction of the Planning Director.</li> </ul>	<ul style="list-style-type: none"> <li>• Design</li> <li>• Pre-Construction</li> </ul>	<ul style="list-style-type: none"> <li>• City of Malibu Planning Department</li> <li>• City of Malibu Building Department</li> <li>• City of Malibu Public Works Department</li> <li>• Construction Manager</li> </ul>
<p><b>LP-2</b> Prior to the issuance of a building permit for any of the mausoleums, the property owner/applicant must install story poles representing the height and location of the mausoleum and the mausoleums must be sited to avoid any obstruction to bluewater views from motorists traveling on Malibu Canyon Road from any vantage point along Malibu Canyon Road to the satisfaction of the Planning Director.</p>	<ul style="list-style-type: none"> <li>• Confirm design and project specifications incorporate the required restrictions</li> <li>• Install story poles on the subject property to the satisfaction of the Planning Director.</li> </ul>	<ul style="list-style-type: none"> <li>• Design</li> <li>• Pre-Construction</li> </ul>	<ul style="list-style-type: none"> <li>• City of Malibu Planning Department</li> <li>• City of Malibu Building Department</li> <li>• City of Malibu Public Works Department</li> <li>• Construction Manager</li> </ul>

4.0 Mitigation Monitoring and Reporting Program

Mitigation Measure	Action Required	Timing	Monitoring Responsibility
<b>Noise</b>			
<p><b>NOI-1</b> Heavy duty trucks accessing the project site, including refrigerator, refuse, recycling, and street cleaning vehicles shall be restricted to daytime and evening operating hours (7:00 AM to 10:00 PM).</p>	<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>
<p><b>NOI-2</b> In accordance with the Malibu Noise Ordinance (Chapter 8.24, Section 8.24.050-G, the use of backhoes and other heavy construction equipment on-site during the operation of the proposed project shall be restricted to daytime and evening hours (7:00 AM to 7:00 PM). Such activity shall be prohibited during nighttime hours (7:00 PM to 7:00 AM).</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><b>NOI-3</b> The project contractor shall use demolition and construction methods not involving impact, where possible. The following shall be included as notes on the project plans:</p> <ul style="list-style-type: none"> <li>• Pile drivers, packers, clam shovel drops, hydromills, vibratory rollers, and other major sources of vibration should not be used during construction of the proposed project.</li> <li>• When feasible, non-impact demolition and construction methods, such as saw or torch cutting and removal for off-site demolition, chemical splitting, and hydraulic jack splitting, shall be used instead of high impact methods.</li> <li>• Construction activities that produce vibration (e.g., demolition, excavation, earthmoving and ground impacting), shall be sequenced so that the vibration sources do not operate simultaneously.</li> <li>• Rubber-tired construction equipment shall be in used in place of steel-track equipment whenever possible.</li> </ul>	<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>NOI-4 The construction contractor shall avoid using high vibration construction equipment (e.g., large bulldozers) within eight feet of the eastern property line, whenever possible.</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>
<b>Public Services – Sheriff Protection</b>			
<p>PS-1 Prior to issuance of a grading permit, the applicant shall submit to the County Sheriff for review and approval project plans including site design, landscaping, building access and visibility, street circulation, building design and defensible space.</p>	<ul style="list-style-type: none"> <li>• Confirm design and project specifications incorporate requirements of the mitigation measure.</li> <li>• Submit project plans to the County Sheriff for review and approval</li> </ul>	<ul style="list-style-type: none"> <li>• Pre-Construction</li> </ul>	<ul style="list-style-type: none"> <li>• City of Malibu Planning Department</li> <li>• County Sheriff's Department</li> </ul>

Mitigation Measure	Action Required	Timing	Monitoring Responsibility
<b>Transportation and Traffic</b>			
<p><b>TR-1:</b> The project applicant shall fund the construction of dual eastbound left-turn lanes at the eastbound approach to the intersection of PCH and Webb Way. Prior to construction, all applicable permits shall be obtained from Caltrans. <b>Figure 13, Conceptual Traffic Mitigation, Webb Way &amp; Pacific Coast Highway</b>, illustrates the design of the PCH 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 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 of the project site. Alternatively, should the design exception not be approved, the project applicant shall provide sufficient, proportional funds to Caltrans to widen the southern side of PCH at this intersection. In the event of this occurrence, the applicant would be required to obtain separate permits and undergo a separate environmental review for the highway widening.</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>
<p><b>TR-2:</b> The property owner and/or operator shall implement the following measures during the ongoing operation of the memorial park:</p> <ol style="list-style-type: none"> <li>1. Schedule truck trips for the export of soil related to the burials during off-peak traffic hours;</li> <li>2. Stockpiles shall be limited to locations that will be pre-determined by the Planning Director where it would avoid visual impacts; and</li> <li>3. Dust control measures must be in place for the stockpiles.</li> </ol>	<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>• 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>• Development Manager</li> </ul>

CITY OF MALIBU PLANNING COMMISSION  
RESOLUTION NO. 17-17

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MALIBU, ADOPTING INITIAL STUDY NO. 16-002 AND MITIGATED NEGATIVE DECLARATION NO. 16-001 AND APPROVING COASTAL DEVELOPMENT PERMIT NO. 15-028 TO ALLOW THE CONSTRUCTION OF A NEW MEMORIAL PARK, INCLUDING A NEW 6,000 SQUARE FOOT CHAPEL, 673 SQUARE FEET OF ANCILLARY SPACES, 8,002 SQUARE FOOT SUBTERRANEAN PARKING LOT AND 1,346 SQUARE FOOT BASEMENT, 47 MAUSOLEUM STRUCTURES WITH A MAXIMUM AREA OF 200 SQUARE FEET EACH FOR A TOTAL MAXIMUM OF 9,400 SQUARE FEET, APPROXIMATELY 28,265 IN-GROUND BURIAL PLOT SPACES INTERMITTENTLY LOCATED THROUGHOUT THE PROPERTY, APPROXIMATELY 3,644 INTERMENTS IN ABOVE GRADE WALL CRYPT STRUCTURES, A CIRCULAR DRIVEWAY, PARKING LOT, ENTRY GATES, GRADING, LANDSCAPING AND EXTERIOR LIGHTING, INCLUDING VARIANCE NO. 16-016 FOR NON-EXEMPT GRADING, SITE PLAN REVIEW NO. 16-009 FOR HEIGHT OVER 18 FEET BUT LESS THAN 28 FEET FOR THE SLOPED ROOF OF THE CHAPEL, MINOR MODIFICATION NO. 16-010 FOR MAUSOLEUMS NOT TO EXCEED A 50 PERCENT FRONT YARD SETBACK REDUCTION, CONDITIONAL USE PERMIT NO. 15-011 FOR THE PROPOSED MEMORIAL PARK AND CHAPEL IN THE SUBJECT ZONING DISTRICT, AND LOT MERGER NO. 16-001 FOR CONSOLIDATION OF THE THREE EXISTING LEGAL LOTS INTO ONE LEGAL LOT IN THE COMMERCIAL VISITOR SERVING-2 ZONING DISTRICT LOCATED AT 4000 MALIBU CANYON ROAD (GREEN ACRES, LLC)

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

SECTION 1. Recitals.

A. On April 13, 2015, Schmitz and Associates, Inc. submitted a request for determination of use pursuant to Malibu Municipal Code (MMC) Section 17.04.050 because the proposed memorial park (cemetery plus chapel) is not a use specifically listed in the Commercial Visitor Serving-2 (CV-2) zone. MMC Section 17.04.050 provides a mechanism by which the Planning Commission may consider whether a use not listed is “similar to and not more objectionable than the uses listed,” following a recommendation by the Planning Director and a public hearing.

B. On April 28, 2015, applicant Bruce McBride submitted a letter requesting to withdraw an application for the construction of a hotel and associated development on the subject property and submitted an application for the proposed memorial park and chapel.

C. On September 21, 2015, the Planning Commission adopted Planning Commission Resolution No. 15-89 determining that a cemetery/memorial park with an assembly structure is a conditionally permitted use in the CV-2 zoning district.

D. On April 1, 2016, a notice of CDP application sign was posted on the property.

E. On April 11, 2016, story poles were placed on the subject property representing the location, height, mass and bulk of the proposed chapel and a sample of the proposed mausoleums. The

placement of the story poles was certified by a professional land surveyor.

F. In November 2016, revised plans were submitted that relocate the mausoleums along Pacific Coast Highway (PCH) further from the top of the adjacent slope to minimize visual impacts.

G. On November 10, 2016, a Notice of Intent to Adopt a Mitigated Negative Declaration was published in a newspaper of general circulation within the City of Malibu. The 30-day public review period ~~began~~ ran from November 14, 2016 to December 14, 2016. On November 18, 2016, the Governor's Office of Planning and Research distributed the Mitigated Negative Declaration to responsible agencies for a 30-day public review period, from November 18, 2016 to December 19, 2016 (State Clearinghouse No. 2016111054).

H. On December 7, 2016, the Environmental Review Board reviewed the project and Initial Study/Mitigated Negative Declaration (IS/MND) and provided recommendations.

I. On March 23, 2017, a Notice of 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-radius of the subject property.

J. On April 17, 2017, the Planning Commission held a duly noticed public hearing on the subject application, closed the public comment portion of the public hearing, reviewed and considered the staff report, reviewed and considered written reports, public testimony, and other information in the record, and directed staff to provide additional information and return with a resolution incorporating the Commission's recommendations.

K. On May 1, 2017, the Planning Commission re-opened the public hearing to receive public comment, reviewed and considered the staff report, reviewed and considered other information in the record. At the conclusion of the hearing, the Commission directed staff to return to the Regular Planning Commission meeting of May 15, 2017, with an updated resolution to approve the project that reflects its findings pertaining to the right turn lane improvements, and the conditions of approval identified in the hearing.

L. On May 15, 2017, the Planning Commission continued the item to the June 5, 2017, Regular Planning Commission meeting.

K.M. On June 5, 2017, having reviewed the updated resolution and considered the testimony and materials in the record, the Planning Commission adopted Resolution No. 17-17.

## SECTION 2. Adoption of Mitigated Negative Declaration.

Pursuant to the authority and criteria contained in the California Environmental Quality Act (CEQA), the Planning Commission has analyzed the proposed project. The Planning Department prepared an initial study (Initial Study No. 16-002) pursuant to CEQA Guidelines Section 15300.2(c). The initial study analyzed the proposed memorial park with chapel project and determined that with mitigation measures and standard conditions of approval, the proposed project will not have a significant impact on the environment; subsequently, Mitigated Negative Declaration No. 16-001 was prepared and

circulated pursuant to CEQA Guidelines Section 15070.

On November 14, 2016, the City made Initial Study No. 16-002 and Mitigated Negative Declaration No. 16-001 available to the public for the required 30-day circulation period, which concluded on December 14, 2016. The State Clearinghouse closed its review period on December 19, 2016. A total of 19 pieces of correspondence were received during the public comment period, which were discussed in a Response to Comments (Section 2.0) added to the Final IS/MND. To make minor clarifications and corrections to the document, the Final IS/MND has also been updated with Section 3.0, Corrections and Additions.

Subsequently, the applicant introduced a right turn lane configuration on Pacific Coast Highway to Malibu Canyon Road that utilizes a vegetated transition slope and small retaining wall at the top of the slope rather than a single large retaining wall. The Commission also added and revised other project conditions of approval. The slope affected by the right turn lane is currently a manufactured slope created by Caltrans that is steeper than currently allowed by City code and vegetated primarily with non-native species. The Commission determined that these changes to the project are not required by CEQA, do not create significant environmental effects, and are not necessary to mitigate an avoidable significant environmental effect. The Commission further determined that these project revisions are in response to comments on the project's effects where the effects at issue are not new significant avoidable effects.

Pursuant to CEQA Guidelines Section 15073.5, the IS/MND is not required to be recirculated as long as the document has not been substantially revised. A "substantial revision" occurs when a new avoidable significant effect is identified and mitigation measures or project revisions must be added to reduce the effect to insignificance, or the City determines the measures will not reduce the effect to insignificance and new measures or revisions are required. No substantial revision has been made to the project.

The Planning Commission has considered MND No. 16-001 together with the comments received during the public review process. MND No. 16-001 reflects the independent judgment of the Planning Commission, and has been completed in compliance with CEQA, and is adequate for this project. The Planning Commission finds that the proposed project does not have the potential to significantly degrade the quality of the environment, nor does it have impacts which are individually limited but cumulatively considerable.

The Planning Commission further finds that through feasible conditions placed on the project, less than significant impacts on the environment are expected. Based on the record as a whole, there is no substantial evidence that the project, as conditioned, will have a significant effect on the environment.

### SECTION 3. Coastal Development Permit Findings.

Based on substantial evidence contained within the record and pursuant to Local Implementation Plan (LIP) Sections 13.7(B) and 13.9, the Planning Commission adopts the analysis in the agenda report, incorporated herein, the findings of fact below, and approves Coastal Development Permit (CDP) No. 15-026, Variance (VAR) No. 16-016, Site Plan Review (SPR) No. 16-009, Minor Modification (MM) No. 16-010, Conditional Use Permit (CUP) No. 15-011 and Lot Merger (LM) No. 16-001 to allow the

construction of a new memorial park, including a new 6,000 square foot chapel with 673 square feet of ancillary spaces, 8,002 square foot subterranean parking lot and 1,346 square foot basement, 47 mausoleum structures with a maximum area of 200 square feet each for a total maximum of 9,400 square feet, approximately 28,265 in-ground burial plot spaces intermittently located throughout the property, 3,644 interments in above grade wall crypt structures, a circular driveway, parking lot, entry gates, grading, landscaping and exterior lighting, including VAR No. 16-016 for non-exempt grading, SPR No. 16-009 for height over 18 feet but less than 28 feet for the sloped roof of the chapel, MM No. 16-010 for mausoleums not to exceed a 50 percent front yard setback reduction, CUP No. 15-011 for the proposed memorial park and chapel in the subject zoning district, and LM No. 16-001 for consolidation of the three existing legal lots into one legal lot in the CV-2 zoning district located at 4000 Malibu Canyon Road (Green Acres, LLC).

The project is consistent with the LCP's zoning, grading, cultural resources, water quality, and onsite wastewater treatment requirements. With the inclusion of the proposed variances, the project, as conditioned, has been determined to be consistent with all applicable LCP codes, standards, goals, and policies. The required findings are made herein.

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

1. The project consists of construction of a memorial park and chapel in the CV-2 zoning district. The project has been reviewed by Planning Department staff, City Biologist, City Environmental Health Administrator, City geotechnical staff, [Los Angeles County Fire Department \(LACFD\)](#) and City Public Works Department. Based on submitted reports, project plans, visual analysis and detailed site investigation, the proposed project, as mitigated and conditioned, conforms to the LCP in that it meets all applicable commercial development standards, inclusive of the discretionary requests.

2. Evidence in the record demonstrates that as conditioned and with implementation of the mitigation measures, the project will not result in significant adverse impacts on sensitive biological, scenic or cultural resources. There is no evidence that an alternative project would substantially lessen any potential significant adverse impacts of the development on the environment.

3. Evidence in the record demonstrates that the project will not impact the nearby monarch butterfly habitat. Therefore, the planting of new trees within the public right-of-way is not a necessary mitigation measure. The project has been designed to conform with the recommendations of the [Environmental Review Board ERB](#) to the maximum extent feasible.

#### **B. Variance Findings for Grading (LIP Section 13.26.5)**

1. Exceptional circumstances apply to the property in that it contains a sensitive archaeological area that is recommended for protection. Denial of the variance would preclude the applicant from implementing feasible mitigation that protects cultural resources while allowing use of the site, and making necessary improvements to the right turn lane on Pacific Coast Highway.

2. The variance will allow for the placement of a three-foot deep cap over an archaeologically sensitive area and creation of a vegetated cut slope that will accommodate the right

turn lane improvements. The project will not be injurious to the property or improvements in the vicinity in that the grading plan for the project ~~is balanced and avoids truck trips and~~ allows protection of a sensitive archaeological site and standard conditions of approval have been included to address soil export which address disposal of the material and a construction management plan, including a traffic control plan for haul trips, to be approved by the Public Works Department prior to permit issuance.

3. Evidence in the record demonstrates that the additional grading allowed by the variance will not constitute a special privilege to the applicant or property owner, in particular, the additional grading is necessary to protect cultural and archaeological resource areas.

4. The analysis presented in the agenda report demonstrates that the variance supports the general purposes and intent of LIP Chapter 13, as well as the goals objectives and policies of the LCP, the MMC and the General Plan.

5. The proposed use of a memorial park and chapel on the site is allowed pursuant to a conditional use permit approved by the Planning Commission, based on its determination in Planning Commission Resolution No. 15-89 made in accordance with MMC Section 17.04.050, that such use is similar to and not more objectionable than other conditionally permitted uses in the CV-2 zone.

6. The archaeologically sensitive resource conditions and needed right turn lane improvements of the site justify the grading variance, which will prevent adverse impacts to any onsite cultural or archaeological resources by capping of the sensitive area with three feet of soil and creating a vegetated slope rather than a tall retaining wall. With proper grading and engineering techniques, and the conditions of approval, the site will be physically suitable for the additional grading associated with capping the sensitive resources and constructing the vegetated slope.

7. Implementation of the proposed grading design and the overall project plans will comply with all building code requirements and will incorporate all recommendations from applicable City departments, consistent with State and local law.

### **C. Site Plan Review Findings (LIP Section 13.27.5(A))**

1. The project consists of construction of a memorial park and chapel in the CV-2 zoning district. The project has been reviewed by Planning Department staff, City Biologist, City Environmental Health Administrator, City geotechnical staff, LACFD and City Public Works Department. Based on submitted reports, project plans, visual analysis and detailed site investigation, the proposed project, as mitigated and conditioned, conforms to the LCP in that it meets all applicable commercial development standards, inclusive of the proposed discretionary requests.

2. The visual analysis for the project demonstrates views of the chapel from scenic areas will be partially obstructed by topography, and existing and proposed landscaping. Overall, the project site is expected to have a park-like character similar to nearby Pepperdine Alumni Park and Malibu Bluffs Park, and be consistent with community character in that it will consist primarily of areas landscaped with native vegetation, with few structures.

3. No significant public views will be obstructed by the project. As conditioned and with

implementation of the mitigation measures, the project provides maximum feasible protection to significant public views.

4. The project complies with all applicable requirements of State and local law.

5. The proposed chapel is sited on the flattest portion of the subject property in the interior of the site, 300 feet away from the nearest property line, and would not significantly alter the site's topographic features. The project is consistent with the General Plan and LCP.

6. There is no evidence that the proposed chapel roof height of up to 28 feet will have any adverse impacts on primary views from the main viewing area of any affected principal residence.

**D. Minor Modification Findings (LIP Section 13.27.5(B))**

1. As designed, conditioned and mitigated, the project is consistent with the LCP.

2. The minor modification of the front yard setback will not adversely affect neighborhood character in that all the mausoleums along Malibu Canyon Road will be at least 130 feet from the property line, and will be partially or completely obscured by landscaping and topography.

3. The proposed project will comply with all building code requirements and will incorporate all recommendations from applicable City departments, consistent with state and local law.

**E. Scenic, Visual and Hillside Resource Protection (LIP Chapter 6)**

1. The tallest structure, the chapel, is sited in the interior of the site on the flattest part of the property where it is least visible from surrounding roads, and the mausoleums along PCH have been set back from the edge of the slope. The project is required to use colors and materials that blend with the surrounding natural environment, and to minimize exterior lighting, using low intensity features that are shielded and concealed to the maximum extent feasible. As designed and conditioned, the project will not have significant adverse scenic or visual impacts.

2. Mitigation measures require that the 47 mausoleums be processed with administrative plan reviews, including installation of story poles to ensure they will not be visible from PCH adjacent to the site or block bluewater views from Malibu Canyon Road. The visual analysis conducted by the IS/MND concluded that with mitigation, the project has less than significant effects on aesthetics.

3. The project, as conditioned, is the least environmentally feasible alternative.

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

5. As conditioned and mitigated, development on the site will not have significant adverse impacts on scenic and visual resources.

**F. Hazards (LIP Chapter 9)**

1. The project, as conditioned, will incorporate all recommendations of the City

geotechnical staff, City Public Works Department and LACFD. Therefore, the project, as proposed and conditioned, will neither be subject to nor increase instability of the site or structural integrity from geologic, flood, or fire hazards due to project design, location on the site or other reasons.

2. The project as designed, conditioned, and approved by the City Geologist, LACFD and the City Public Works Department, does not have any significant adverse impacts on the site stability or structural integrity from geologic, flood or fire hazards due to the project design and conditions.

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

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

5. No significant adverse impacts to sensitive resources are expected.

#### **G. Land Division (LIP Chapter 15)**

A. All three parcels are under common ownership and the application proposes a voluntary merger that has been initiated by the property owner. The analysis in the agenda report demonstrates that the proposed merger is not inconsistent with any policy or standard of the LCP that protects sensitive resources, hillsides and visual resources of the coastal zone.

B. Section 5 of this Resolution requires the recordation of a legal description as required by the LIP. Upon submittal, the document shall be reviewed and approved by the City Engineer and recorded with the Los Angeles County Recorder's office.

#### **H. Conditional Use Permit (MMC Section 17.66.080)**

1. The project has been conditioned to comply with all applicable provisions of the MMC. The project includes trails, benches, scenic vistas and contemplation areas that are available to visitors.

2. The cemetery / memorial park is visitor-serving, for both visitors and residents, and also respects the rural character and natural environmental setting of Malibu consistent with MMC Section 17.28.010.

3. The subject site is suitable for the proposed use. No development will occur within the riparian ESHA and its associated buffer in the southeasterly corner of the site. The chapel has been sited so that required fuel modification will not encroach into sensitive biological resources, and construction avoids steep and unstable slopes, and the landslide area of the site. The project geotechnical consultant's recommendations will be incorporated to ensure site stability. A three-foot layer of soil will provide a cap to protect the sensitive archaeological area and ensure no crypt wall or mausoleum footings penetrate into native soils. With the project design and conditions of approval, the project site is physically suitable for the type of land use being proposed.

4. Overall, the project site is expected to have a park-like character similar to nearby Pepperdine Alumni Park and Bluffs Park, consisting primarily of areas landscaped with native vegetation, with few structures. Lighting will be aimed downward and fully shielded. Conditions of

approval prohibit any activities on the site that are not related to memorial services, interments, and ~~passive recreation~~ public visitation consistent with the operation of a private memorial park setting. Also, outdoor amplified music and onsite consumption of alcohol are prohibited, except pursuant to a temporary use permit (TUP). TUPs are limited to six per year. Furthermore, the cultural resources conditions and mitigation measures protect the sensitive archaeological area of the site and any remaining subsurface resources. The project, as conditioned, is expected to be compatible with the surrounding neighborhood, and land uses presently on the site.

5. The proposed memorial park with chapel is similar to other uses allowed in the CV-2 district by right, such as equestrian/hiking trails, amphitheaters, and charitable/philanthropic activities within enclosed buildings, and by a conditional use permit, such as cultural and artistic uses, including performing arts venues, and parks, beaches and playgrounds. Conditions of approval control traffic circulation and parking, only allow one funeral or burial at a time, and restrict special events to those related to memorial services and interments, with approval of a TUP. The proposed use will be compatible with the existing and future land uses within the zone district and surrounding area.

6. The analysis provided in the agenda report demonstrates that adequate provisions for water, sanitation, public utilities and services will be available to ensure the proposed use would not be detrimental to public health, safety and welfare, solar access and existing public and private views.

7. The project includes extensive improvements to the surrounding road network to enhance access and circulation, including the addition of trails and bike lanes, and a pedestrian refuge at PCH and Malibu Canyon Road. Conditions have also been included to manage traffic associated with heavily attended funerals or holidays, and funeral processions. The project operator will be required to monitor and log vehicular and visitor attendance and to report the information to the Planning Department. Should staff determine the use is exceeding the parking/traffic generation estimates, a review shall be scheduled before the Planning Commission. As conditioned and mitigated, there would be adequate provisions for public access to serve the project.

8. The memorial park and chapel is a lower intensity commercial use that is consistent with the City's goals of maintaining a rural character. The project is expected to generate fewer impacts on the environment and fewer visual impacts and obstructions and to use fewer resources in its development and operation than other commercial uses. The proposed use is consistent with the goals, objectives and policies of the General Plan.

9. The resolution includes conditions of approval to require the project to be operated in accordance with all aspects of state law pertaining to cemeteries. Implementation of the project plans will comply with all building code requirements and will incorporate all recommendations from applicable City agencies, consistent with state and local law.

10. As conditioned, the proposed use will not be detrimental to the public interest, health, safety, convenience or welfare, and will provide a cemetery in the community where none currently exists, while also enhancing community and visitor access to scenic vistas and trails on the property. By State law, the project is required to have an endowment to fund ongoing property maintenance and upkeep.

11. City geotechnical staff have reviewed and approved the project, subject to conditions requiring implementation of the engineering design specifications included in the California Building Code and approved geotechnical report. As designed and conditioned, the proposed development will not be at risk from liquefaction, earth movement or flooding.

SECTION 4. Planning Commission Action.

Based on the foregoing findings and evidence contained within the record, the Planning Commission hereby adopts Initial Study No. 16-002 and Mitigated Negative Declaration No. 16-001 and approves CDP No. 15-026, VAR No. 16-016, SPR No. 16-009, MM No. 16-010, CUP No. 15-011 and LM No. 16-001, subject to the following conditions.

SECTION 5. Conditions of Approval.

1. The property owners, and their successors in interest, shall indemnify and defend the City of Malibu and its officers, employees and agents from and against all liability and costs relating to the City's actions concerning this project, including (without limitation) any award of litigation expenses in favor of any person or entity who seeks to challenge the validity of any of the City's actions or decisions in connection with this project. The City shall have the sole right to choose its counsel and property owners shall reimburse the City's expenses incurred in its defense of any lawsuit challenging the City's actions concerning this project.
2. Approval of this application is to allow for the following:
  - a. Lot merger to merge three lots into one;
  - b. 6,000 square foot chapel/assembly structure plus 673 square feet consisting of a kitchen and family grieving room, 28 feet in height, with an 8,002 square foot, 19-stall subterranean garage and a 1,346 square foot basement with restrooms, storage and equipment rooms, and a casket lift to the main floor;
  - c. 47 freestanding mausoleum structures, each a maximum of 200 square feet, for a total of 9,400 square feet, and ranging in height from 12 to 14 feet, and a footprint of approximately 14 feet by 14 feet, located primarily in the south and east portions of the site;
  - d. Public mausoleum constructed below grade and open to the sky, located directly behind the chapel (does not consist of enclosed area or floor area);
  - e. Approximately 28,265 in-ground burial plot spaces ("lawn crypts") intermittently located throughout the property, consisting of single and double plots, lined with concrete vaults, designed to accommodate both people and pets;
  - f. Approximately 3,644 interments in above grade wall crypt structures not to exceed 8.5 feet in height, accommodating urns and caskets;
  - g. Driveway and surface parking for 157 vehicles and bicycle racks;
  - h. Divided driveway entrance with water features and lawn crypts;
  - i. Water features;
  - j. Walking trails and golf cart paths providing access to mausoleums and burial plots, benches and contemplation areas;
  - k. Landscaping;
  - l. Lighting;

- m. Grading;
  - n. VAR No. 16-015 for non-exempt grading;
  - o. SPR No. 16-009 for construction of the chapel higher up to 28 feet with a sloped roof and 24 feet for flat portions of roof;
  - p. MM No. 16-010 to reduce the front yard setback from Malibu Canyon Road for the private mausoleums; and
  - q. CUP No. 15-026 for cemetery and memorial park/chapel use.
3. Subsequent submittals for this project shall be in substantial compliance with plans on-file with the Planning Department, date-stamped **April 7, 2017, including the conceptual Right Turn Lane Improvement Plan dated April 17, 2017, and the revised Landscape and Crypt Wall Design Plans date-stamped April 21, 2017 (Sheets L-2.0 and C5.0)**. In the event the project plans conflict with any condition of approval, the condition shall take precedence.
  4. Pursuant to LIP Section 13.18.2, this permit and rights conferred in this approval shall not be effective until the property owner signs and returns the Acceptance of Conditions Affidavit accepting the conditions set forth herein. Pursuant to MMC Section 17.66.100(A), the conditional use permit shall not become effective until the executed affidavit has been recorded with the county recorder. Once recorded, the applicant shall file this form with the Planning Department within prior to issuance of any development permits.
  5. The applicant shall submit three (3) complete sets of plans to the Planning Department for consistency review and approval prior to plan check and again prior to the issuance of any building or development permits.
  6. This resolution, signed Acceptance of Conditions Affidavit and all Department Review Sheets attached to the April 17, 2017 Planning Commission agenda report for this project shall be copied in their entirety and placed directly onto a separate plan sheet behind the cover sheet of the development plans submitted to the City of Malibu Environmental Sustainability Department for plan check.
  7. This CDP shall expire if the project has not commenced within three (3) years after issuance of the permit. *Recordation of the Lot Merger shall not constitute commencement of development for purposes of CDP expiration.* Extension of the permit may be granted by the approving authority for due cause. Extensions shall be requested in writing by the applicant or authorized agent prior to expiration of the three-year period and shall set forth the reasons for the request.
  8. Any questions of intent or interpretation of any condition of approval will be resolved by the Planning Director upon written request of such interpretation.
  9. All development shall conform to requirements of the City of Malibu Environmental Sustainability Department, City Geologist, City Biologist, City Public Works Department, and City Environmental Health Administrator, as applicable. Notwithstanding this review, all required permits shall be secured.
  10. Minor changes to the approved plans or the conditions of approval may be approved by the

Planning Director, provided such changes achieve substantially the same results and the project is still in compliance with the MMC and the LCP. Revised plans reflecting the minor changes and additional fees shall be required.

11. Pursuant to LIP Section 13.20, development pursuant to an approved CDP shall not commence until the CDP is effective. The CDP is not effective until all appeals have been exhausted.
12. The applicant must submit payment for any outstanding fees payable to the City prior to issuance of any building or grading permit.

*Mitigation Monitoring and Reporting Program*

13. The project shall comply with all the mitigation measures included in the MMRP (Exhibit A) of the Initial Study/Mitigated Negative Declaration.

*Site-Specific Conditions*

14. The most northerly mausoleum along Malibu Canyon Road shall not be located closer than 130 feet to the property line, consistent with Minor Modification No 16-010.
15. The project plans shall include bicycle racks as required by MMC Section 17.50.030(B)(2)(c).
16. The onsite circulation shall be modified to provide a connection between the two sections of the divided driveway so drivers can circulate between them without having to exit the site.
17. The applicant shall submit engineered plans that demonstrate that the slope improvements associated with the right turn lane described in Condition No. 80 are feasible without requiring variances for construction on slopes or for retaining wall height, and that the slope improvements incorporate native vegetation and retaining wall materials with veneers, texturing and/or colors that blend with the surrounding earth materials and landscape as specified in LIP Chapter 6.~~have less than significant scenic and visual impacts. The plans shall demonstrate LCP conformance prior to submittal into plan check.~~
18. A construction management plan, including a traffic control plan and construction parking plan, shall be submitted for review and approval by the Public Works Department and the Planning Department prior to the issuance of a demolition, grading or building permits.
19. No signage is approved as part of this project (except as specified in the next condition). A separate sign permit shall be submitted in accordance with MMC Chapter 17.52 prior to installation of any sign.
20. Signage shall be posted for northbound drivers on Malibu Canyon Road to indicate that no U-Turn is allowed at the intersection with Seaver Drive.
21. Signage shall be posted on the project site to advise drivers of the appropriate route to use ~~the following route~~ to reach PCH—right on Malibu Canyon Road, right on Civic Center Way, right

~~on Webb Way to PCH.~~

22. Perimeter fencing, including hedges, shall be a split rail or other design approved by the City Biologist that allows the passage of wildlife.
23. The 392 seats in the main chapel shall be affixed to the floor in order to maintain consistency with the parking standards of LIP Section 3.14.3 for chapels and funeral homes.

#### *Wastewater Treatment System and Recycled Water Conditions*

24. The project shall not operate without a connection to the [Civic Center Wastewater Treatment Facility \(CCWTF\)](#). Prior to grading permit issuance, the applicant shall negotiate an agreement with the City to allow connection to Phase 1 of the CCWTF, if feasible based on studies performed by the CCWTF design and assessment engineers, and pay all required fees. If capacity is not available to join Phase 1, the project shall connect in Phase 2.
25. Prior to issuance of a grading permit, the applicant shall submit to the Planning Department an executed agreement with the City allowing connection to Phase 1 of the CCWTF, or it shall have obtained approval for connection to Phase 2 of the CCWTF.
26. Prior to issuance of a grading permit, the applicant shall obtain approval from the Public Works Department for connection to the CCWTF.
27. Pursuant to LIP Section 18.10(C), the project shall install all necessary plumbing and other improvements to allow the development to connect to reclaimed water lines when they are available and make the maximum feasible use of reclaimed water.
28. No certificate of occupancy shall be issued until the project has successfully connected to the CCWTF.

#### *Operations*

29. The grounds of the property, including the landscaped areas, walking trails and mausoleums, shall be open only between the hours of 7:00 a.m. to 6:00 p.m. or sunset, whichever is later, daily. The chapel building shall only be open from 7:00 a.m. to 9:00 p.m. daily.
30. Interior and exterior lighting shall be consistent with Conditions 62 and 63, and shall be extinguished after close of business, except for after-hours custodial/maintenance needs and minimal security lighting needed for public safety.
31. The grounds, including parking, shall be made available to the public at no charge during the hours of operation identified in this resolution. Use of the grounds shall be consistent with the ~~rules of decorum typically associated with the~~ operation of a private memorial park.
32. To minimize traffic impacts, all funeral processions shall be led by one or more licensed funeral escorts. The funeral escort shall manage procession route to expedite getting the procession off

- the streets efficiently and safely while minimizing disruption to local traffic. A funeral procession is a group of 12 vehicles or more organized to leave a different site, whether in or outside the City, to travel to the subject property. The funeral escort shall be licensed by the County of Los Angeles. At least one escort shall be provided for each 12 vehicles, with a minimum of two escorts.
33. All required parking for the use, including visitors and employees, shall be accommodated onsite, unless pursuant to a TUP.
  34. In order to maximize available onsite parking, free onsite valet parking shall be provided on Memorial Day, and on other days when more than 176 vehicles are expected based on the monitoring described below or as required by other conditions of this resolution.
  35. Funeral processions involving more than 12 vehicles may only be scheduled between 10:00 a.m. and 2:00 p.m., Monday through Friday, or on weekends. During the summer months, weekend funeral processions with more than 12 vehicles shall only occur between 9:00 a.m. and 12:00 noon. All funeral processions shall be scheduled a minimum of 30 minutes apart. No funeral processions shall be scheduled on the 4<sup>th</sup> of July holiday, Memorial Day weekend or Labor Day weekend.
  36. If a service ~~or activity~~ scheduled for a set time or a funeral procession will involve more than ~~50~~100 cars, the applicant shall first obtain approval of a Transportation Management Plan from the Planning Director, Public Works Department and Los Angeles County Sheriff which shall specify conditions for the safe and orderly flow of traffic, pedestrian movement and parking, and may include, but not be limited to, an evaluation of site access, parking, valet staging, temporary onsite parking, usage of shuttles, routing information, a traffic control plan and traffic control/security personnel.
  37. Events, services and activities at the project site, other than public use of trails and contemplation areas, shall not overlap.
  38. The chapel building and grounds shall not be used for uses other than memorial service uses, interments and ~~passive recreation~~public visitation consistent with the ~~setting~~operation of a private memorial park.
  39. Memorial service uses consistent with the operation of a private memorial park ~~Events or activities~~ that would occur outside the normal operating hours listed above, or would include lighting in excess of the lighting conditions of this resolution, music or noise, or would otherwise meet the definition of a temporary use under MMC Chapter 17.68, shall require the property owner to obtain a TUP. No more than six TUPs per year are allowed for the property.
  40. No amplified outdoor music and no consumption of alcohol shall be allowed on the property, except pursuant to a TUP.
  41. The applicant shall make undeveloped flat portions of the property available to emergency responders for staging during emergencies.

42. At all times, the property shall be operated in accordance with state statutes and regulations pertaining to cemeteries.
43. Prior to final project sign off and start of operations, the applicant shall provide to the Planning Director proof of satisfying state endowment requirements.
44. Prior to final project sign off, the applicant shall record a burial plot map with the County of Los Angeles.
45. The covenant, conditions and restrictions (CC&Rs) required by the property owner for the sale of burial plots and interment spaces shall include an acknowledgement by the buyer that the property grounds will be open to the public as a visitor-serving space for public visitation~~passive recreation~~ and the conditions of this resolution.
46. The use of any rodenticides on the property shall be prohibited. The applicant may install raptor poles up to 18 feet in height, as long as the location(s) and number of poles are approved by the City Biologist.

#### *Monitoring*

47. In order to determine if the conditions of approval, particularly for parking and traffic management, are working effectively, the property owner/operator shall monitor and keep a record of the number of visitors to the chapel and the grounds, the number of vehicles, the number of services in the chapel and people onsite for each (employees and all attendees), staffing levels, the number of interments that occur on the site, number of processions (dates, times, number of vehicles) for each day of the year. Monitoring shall be ongoing and conducted in a format approved by the Planning Director.
48. The property owner/operator shall submit the monitoring log to the City on at least a quarterly ~~an annual~~ basis for review of the use's parking operations and traffic generation. Should staff determine that the use is exceeding the anticipated parking/traffic generation estimates of 176 daily trips on weekdays and 213 daily trips on weekend days, a review shall be scheduled before the Planning Commission.
49. The Planning Director shall report to the Planning Commission when the property has required approval of 12 or more Transportation Management Plans within a 12-month period.

#### *Cultural Resources*

50. In lieu of the standard conditions of approval for cultural resources protection, the mitigation measures of the MMRP shall apply.
51. If human bone is discovered, the procedures described in Section 7050.5 of the California Health and Safety Code shall be followed. These require notification of the coroner. If the coroner determines that the remains are those of a Native American, the applicant shall notify

the Native American Heritage Commission by phone within 24 hours. Following notification of the Native American Heritage Commission, the procedures described in Section 5097.94 and Section 5097.98 of the California Public Resources Code shall be followed.

### *Private Mausoleums*

52. Each private mausoleum shall be processed as an administrative plan review pursuant to MMC Section 17.62.030 and shall require installation of story poles and siting as described in MM LP-1 and LP-2.

### *Colors and Materials*

53. The project is visible from scenic roads or public viewing areas and shall incorporate colors and materials that are compatible with the surrounding landscape.
- a. Acceptable colors shall be limited to colors compatible with the surrounding environment (earth tones) including shades of green, brown and gray, with no white or light shades and no bright tones. Natural stone of any color may be used if not visible from a scenic or public viewing area. Colors shall be reviewed and approved by the Planning Director and clearly indicated on the building plans.
  - b. The use of highly reflective materials shall be prohibited except for solar energy panels or cells, which shall be placed to minimize significant adverse impacts to public views to the maximum extent feasible.
  - c. All windows shall be comprised of non-glare glass.
54. Retaining walls visible from beaches or public viewing areas shall incorporate veneers, texturing and/or colors to blend with the surrounding earth materials. The colors shall be reviewed and approved by the Planning Director and clearly indicated on the grading and building plans.
55. Driveways that are visible from a scenic highway, a public viewing area, or public hiking trail shall be a neutral color that blends with the surrounding landforms and vegetation.
56. Onsite pathways and trails shall be earth tone and shall be permeable.
57. Up to 30 decorative objects, such as art and statuary, may be placed on the property; half of these shall not exceed a height of 10 feet above finished grade, and half may not exceed a height of ~~14~~10 feet above finished grade. All such objects shall abide by the setback requirements of the LCP and MMC, and the color and materials requirements of this resolution.
58. Any headstones shall be flush with the ground.

### *Water Features*

59. Onsite noise, including that which emanates from pool, spa and air conditioning equipment, shall be limited as described in MMC Chapter 8.24 (Noise).
60. The discharge of swimming pool, spa and decorative fountain water and filter backwash, including water containing bacteria, detergents, wastes, algagecides or other chemicals is prohibited. Swimming pool, spa, and decorative fountain water may be used as landscape irrigation only if the following items are met:
  - a. The discharge water is dechlorinated, debrominated or if the water is disinfected using ozonation;
  - b. There are sufficient BMPs in place to prevent soil erosion; and
  - c. The discharge does not reach into the [Municipal Separate Stormwater Sewer System \(MS4\)](#) or to the ASBS (including tributaries).

Discharges not meeting the above-mentioned methods must be trucked to a Publicly Owned Wastewater Treatment Works.

The applicant shall also provide a construction note on the plans that directs the contractor to install a new sign stating "It is illegal to discharge pool, spa or water feature waters to a street, drainage course or storm drain per MMC Section 13.04.060(D)(5)." The new sign shall be posted in the filtration and/or pumping equipment area for the property. Prior to the issuance of any permits, the applicant shall indicate the method of disinfection and the method of discharging.

61. All mechanical equipment installed above-grade shall be a minimum of three feet from all property lines and screened from view by a solid wall or fence on all four sides in conformance with the maximum fence/wall heights if within the required setbacks.

### *Lighting*

62. The applicant shall submit a modified lighting plan for approval by the Planning Director that is consistent with the requirements of the Model Lighting Ordinance Lighting Zone-0 for the grounds and Lighting Zone-1 for the building. The plan may include motion-activated pathway lighting that is fully shielded. After operations begin, if the motion sensors are excessively reactive, the Planning Director may require that the sensitivity of the motion sensors ~~to~~ be adjusted.
63. Exterior lighting shall be minimized and restricted to low intensity features, shielded, and concealed so that no light source is directly visible from public viewing areas. Permitted lighting shall conform to the following standards, or those of Condition 62, whichever are more restrictive:
  - a. Lighting for walkways shall be limited to fixtures that do not exceed two feet in height and are directed downward, and limited to 850 lumens (equivalent to a 60 watt incandescent bulb);
  - b. Security lighting controlled by motion detectors may be attached to the chapel provided it is directed downward and is limited to 850 lumens;
  - c. Driveway lighting shall be limited to the minimum lighting necessary for safe vehicular use. The lighting shall be limited to 850 lumens;

- d. Lights at entrances as required by the Building Code shall be permitted provided that such lighting does not exceed 850 lumens;
  - e. Site perimeter lighting shall be prohibited; and
  - f. Outdoor decorative lighting for aesthetic purposes and the up-lighting of landscaping is prohibited.
64. No permanently installed lighting shall blink, flash, or be of usually high intensity or brightness. Lighting levels on any nearby property from artificial light sources on the subject property shall not produce an illumination level greater than one foot candle.
65. Night lighting from exterior and interior sources shall be minimized. All exterior lighting shall be low intensity and shielded so it is directed downward and inward so that there is no offsite glare or lighting.

*Environmental Review Board*

66. The landscaping plan shall be revised to remove non-native plants such as *Myoporum parvifolium* and native vegetation such as deer grass and giant wild rye should be used instead. The plantings shall be verified to be Argentine ant-free before they are transported to the site.
67. The landscaping and irrigation plans shall be revised to provide a 10 to 20-foot wide transitional area between the irrigated landscaping and the natural vegetation to remain onsite to minimize adverse impacts to wildlife species and to reduce the potential impacts of Argentine ants.
68. In addition to a qualified archaeologist, the Native American monitor shall be involved in the training of construction personnel prior to the start of ground-disturbing activities. A pre-ground disturbance meeting shall be conducted to allow the monitors and archaeologist time to review the cultural resources reports for the property. *(Incorporated into MMRP)*
69. The developer shall designate an area onsite for the potential relocation of human remains, should any be found within the development area during the construction phase of the project, where in place preservation is not feasible. *(Incorporated into MMRP)*
70. The developer shall plant 6 to 12 oak trees along the northerly property line (Civic Center Way) as a wildfire abatement measure while avoiding adverse impacts to onsite sensitive habitats.
71. The developer shall conduct a nesting bird survey before eucalyptus and other tree removal. *(See MM BIO-5)*

*Biology/Landscaping*

72. Pursuant to MMC Section 9.22.090(B):
- a. Irrigation systems shall be designed, constructed and managed to maximize overall irrigation efficiency, and to meet the MAWA.
  - b. Irrigation systems shall be designed to prevent runoff, overspray, low-head drainage, and other similar conditions where irrigation water flows or sprays on to areas not

- intended for irrigation and not part of the parcel's landscape area, such as walkways, driveways, roadways, neighboring properties or the public right-of-way.
- c. Irrigation systems (valve systems, piping and pressure regulators) shall be designed to deliver water to hydrozones based on the moisture requirements of the plant grouping.
  - d. An automatic irrigation system is required and shall include a weather-based irrigation controller, including a rain shut-off sensor.
  - e. Areas less than eight feet wide shall be irrigated with appropriately selected equipment that provides the proper amount of water coverage without causing overspray onto adjacent surfaces.
  - f. All sprinklers shall have matched precipitation rates within each valve and circuit. All irrigation systems shall be designed to include optimum distribution uniformity, head to head spacing, and setbacks from walkways and pavement. Overhead sprays shall be set back a minimum of twenty-four (24) inches from non-pervious surfaces.
  - g. All irrigation systems shall provide check valves at the low end of irrigation lines to prevent unwanted draining of irrigation lines.
  - h. Pressure regulators may be required on the irrigation system as determined by the Los Angeles County Waterworks District No. 29.
  - i. Installation of a separate landscape water meter is encouraged where feasible to facilitate water management.
  - j. Nonpotable and Recycled Water. The irrigation system shall be designed, installed and operated in compliance with state and local laws, requirements and regulations applicable to the nonpotable water use. The local water agency shall provide the customer with applicable conditions for the use of nonpotable water within its jurisdiction.
73. Prior to installation of any landscaping, the applicant shall obtain a plumbing permit for the proposed irrigation system from the Building Safety Division.
74. Prior to or at the time of a Planning final inspection, the property owner/applicant shall submit to the case planner a copy of the plumbing permit for the irrigation system installation that has been signed off by the Building Safety Division.
75. Vegetation forming a view impermeable condition (hedge), serving the same function as a fence or wall, occurring within the side or rear yard setback shall be maintained at or below six feet in height. View impermeable hedges occurring within the front yard setback serving the same function as a fence or wall shall be maintained at or below 42 inches in height.
76. Invasive plant species, as determined by the City of Malibu, are prohibited.
77. Vegetation shall be situated on the property so as not to obstruct the primary view from private property at any given time (given consideration of its future growth).
78. The landscape plan shall prohibit the use of building materials treated with toxic compounds such as creosote and copper arsenate.
79. Grading should be scheduled only during the dry season from April 1 through October 31. If it becomes necessary to conduct grading activities from November 1 through March 31, a

comprehensive erosion control plan shall be submitted for approval prior to issuance of a grading permit and implemented prior to initiation of vegetation removal and/or grading activities.

80. Grading/excavation/vegetation removal scheduled between February 1 and September 15 will require nesting bird surveys by a qualified biologist prior to initiation of such activities. Surveys shall be completed no more than 5 days from proposed initiation of site preparation activities. Should active nests be identified, a buffer area no less than 150 feet (300 feet for raptors) shall be fenced off until it is determined by a qualified biologist that the nest is no longer active. A report discussing the results of the surveys shall be turned in to the City within two business days of completion of surveys.
81. All street frontage trees and shrubs over 36 inches in height shall be limited to species native to the Santa Monica Mountains. This will result in the removal, move or change to native species of three camphor trees, three magnolia trees and four proposed topiaries.
82. The landscape plan shall be revised to relocate all trees outside the capped archaeologically sensitive area.
83. Prior to building grading permit issuance, the applicant shall provide a detailed landscape plan illustrating all of the required changes.

#### *Geology*

84. All recommendations of the consulting certified engineering geologist or geotechnical engineer and/or the City Geologist shall be incorporated into all final design and construction including foundations, grading, sewage disposal, and drainage. Final plans shall be reviewed and approved by the City Geologist prior to the issuance of a grading permit.
85. Final plans approved by the City Geologist shall be in substantial conformance with the approved CDP relative to construction, grading, sewage disposal and drainage. Any substantial changes may require amendment of the CDP or a new CDP.

#### *Public Works – Street Improvements*

86. This project proposes to construct improvements within the City's right-of-way. Prior to the Public Works Department's approval of the grading or building permit, the applicant shall obtain encroachment permits from the Public Works Department for the proposed work within the City's right-of-way.
87. This project proposes to construct a new driveway within the City's right-of-way. Prior to the Public Works Department's approval of the grading or building permit, the applicant shall obtain encroachment permits from the Public Works Department for the proposed driveway. The driveway shall be constructed of either 6-inches of concrete over 4-inch of aggregate base, or 4-inches of asphalt concrete over 6-inches of aggregate base. The driveway shall be flush with the existing grades with no curbs.

88. The applicant shall improve PCH and Malibu Canyon Road with the following items (unless any components are reduced in scope by Caltrans):
- a. The proposed right turn lane (PCH and Malibu Canyon Road) shall be 640 feet long with a 120-foot transition. The improvements shall include a 4-foot bike lane and a 4-foot shoulder.
  - b. Construct a new Caltrans<sup>2</sup> refuge area at the existing crosswalk at the intersection of PCH & Malibu Canyon Road.
  - c. Dedicate a minimum of 13 feet at this location for these improvements. Applicant shall coordinate the amount of dedication from Caltrans.
  - d. The improvements shall also consist of installing a new curb per the Caltrans Standard Plans No. A87B. The new pavement section shall be in accordance with Caltrans Design Manual or recommended by a soil engineer.

The improvement plans must be approved by Caltrans prior to the issuance of any permits; however, if Caltrans has not approved plans within two years of the CDP becoming final, the City may issue development permits for the project. The improvements must be completed prior to the issuance of occupancy or final acceptance, or the applicant shall post a bond and any related required documents in a form and amount approved by the Public Works Department to ensure completion of the improvements.

89. The applicant shall improve PCH and Webb Way with the following items:

- a. Install dual eastbound left turn lanes on PCH and Webb Way per Caltrans Standards.

The improvement plans must be approved by Caltrans prior to the issuance of any permits; however, if Caltrans has not approved plans within two years of the CDP becoming final, the City may issue development permits for the project. The improvements must be completed prior to the issuance of occupancy or final acceptance, or the applicant shall post a bond and any related required documents in a form and amount approved by the Public Works Department to ensure completion of the improvements.

90. The applicant shall improve Malibu Canyon Road with the following items:

- a. Modifying the existing northbound traffic lanes to provide two northbound 12-foot travel lanes, Class 2, 6-foot bike lane, and 10-foot parking.
- b. Modifying the existing southbound traffic lanes to provide two southbound 12-foot travel lanes, Class 2, 6-foot bike lane, and 10-foot parking.
- c. Proposed left turn lane southbound on Malibu Canyon Road shall be 12 feet minimum. The proposed left turn lane shall be designed in conformance with the Caltrans Design Standards.
- d. Install a 5-foot meandering concrete sidewalk. The concrete sidewalk shall be 4 inches (520-C-2500) with 4 inches of fill with sand equivalent 20 or higher compacted to 90%. Alternatively, a permeable paver sidewalk design may be approved by Public Works.
- e. The existing southbound left turn lane onto PCH shall at minimum maintain the existing pocket length.

- f. The existing southbound left-through lane and right turn lane onto PCH shall at minimum maintain the existing striping length(s).
- g. The existing and proposed left turn lane transition median lengths shall be designed to conform to Caltrans Design Standards. The existing and proposed center median shall be raised.
- h. The proposed driveway entrance and exit centerline shall be relocated 40 feet north of the proposed location.
- i. If applicable, new asphalt concrete shall be placed to match the existing slopes and grades. The asphalt concrete structural section shall match existing plus one inch.
- j. Provide a safe access to PCH when vehicles are exiting the project site.

91. Install a U-turn (“Michigan turn”) on Malibu Canyon Road north of the project entrance driveway using a design approved by the Public Works Department, unless Public Works determines it to be infeasible.

92. All improvements within the City’s right-of-way including street improvements must be approved and in place prior to the issuance of any Building permits.

~~91.~~

92-93. The applicant shall improve Civic Center Way with the following items:

- a. Modifying the existing traffic lanes to provide two 12-foot travel lanes, and 6-foot bike lane.
- b. Install new concrete curb and gutter per APWA Std. Plan 120-1, Case A2.
- c. Install an 8-foot concrete sidewalk. The concrete sidewalk shall be 4 inches (520-C-2500) with 4 inches of fill with sand equivalent 20 or higher compacted to 90%.
- d. New curb return at the intersection of Malibu Canyon Road Civic Center Way along with new curb ramp(s) per APWA Std. Plan 111-3.

The improvement plans must be approved prior to the issuance of any permits. The improvements must be completed prior to the issuance of occupancy or final acceptance.

94. The improvements in Condition Nos. 88, 89, 90 and 93 shall be considered by the City for future fair share contributions by other relevant projects.

#### *Public Works - Grading and Drainage*

93-95. Prior to final approval of the grading permit, the applicant shall demonstrate to the satisfaction of the Planning Director that the spoils from the unpermitted dumping that occurred on the site have been removed.

94-96. Grading permits shall not be issued between November 1 and March 31 of each year per LIP Section 8.4 and Section 17.2.1. Projects approved for grading shall not receive grading permits unless the project can be rough graded before November 1. A note shall be placed on the project plans that address this condition.

95.97. A grading and drainage plan containing the following information shall be submitted to the Public Works Department for approval, prior to the issuance of grading permits for the project:

- a. Public Works Department General Notes;
- b. The existing and proposed square footage of impervious coverage on the property (including separate areas for buildings, driveways, walkways, parking, as applicable);
- c. The limits of land to be disturbed during project development shall be delineated, and a total area, to include areas disturbed by grading equipment beyond the limits of grading, areas disturbed for the installation of the septic system, and areas disturbed for installation of the detention system, as applicable;
- d. Grading limits, including the temporary cuts made for retaining walls, buttresses and over-excavations for fill slopes;
- e. If the property contains trees that are to be protected they shall be highlighted on the grading plan.
- f. If the property contains rare and endangered species as identified in the Resources study the grading plan shall contain a prominent note identifying the areas to be protected (to be left undisturbed). Fencing of these areas shall be delineated on the grading plan if required by the City Biologist.
- g. Private storm drain systems, with systems greater than 12 inch diameter to include a plan and profile; and
- h. Public storm drain modifications, which shall be approved by the Public Works Department prior to the issuance of the grading permit.

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

97.99. The applicant shall label all City/County storm drain inlets within 250 feet of each property lien per the City of Malibu's standard label template. A note shall be placed on the project plans to address this condition.

98.100. During project operations, stockpiles from burial site excavation shall not be maintained permanently onsite, but shall be periodically exported from the site to ensure the contours on the final approved grading plan are maintained. The stockpiles shall be screened from view from scenic roads and public viewing areas and shall be covered or otherwise maintained to be protected from wind and erosion.

*Public Works – Stormwater*

99.101. Prior to the approval of any permits and prior to the applicant submitting the required Construction General Permit documents to the State Water Quality Control Board, the applicant shall submit to the Public Works Department for review and approval an Erosion and Sediment Control Plan (ESCP). The ESCP shall contain appropriate site-specific construction site BMPs

and developed and certified by a Qualified SWPPP Developer (QWD). All structural BMPs must be designed by a licensed California Engineer. The ESCP must address the following elements:

- a. Methods to minimize the footprint of the disturbed area and to prevent soil compaction outside the disturbed area.
- b. Methods used to protect native vegetation and trees.
- c. Sediment/Erosion Control.
- d. Controls to prevent tracking on and off the site.
- e. Non-storm-water controls.
- f. Material management (delivery and storage).
- g. Spill Prevention and Control.
- h. Waste Management
- i. Identification of site Risk Level as identified per the requirements in Appendix 1 of the Construction General Permit.
- j. Landowner must sign the following statement on the ESCP:

“I certify that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to ensure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, to the best of my knowledge and belief, the information submitted is true, accurate and complete. I am aware that submitting false and/or inaccurate information, failing to update the ESCP to reflect current conditions, or failing to properly and/or adequately implement the ESCP may result in revocation of grandgrading and/or other permits or other sanctions provided by law.”

~~100.102.~~ A State Construction activity permit is required for this project due to the disturbance of more than one acre of land for development. ~~Provide a~~ copy of the letter from the State Water Quality Control Board containing the Waste Discharge Identification (WDID) -number shall be provided prior to the issuance of grading or building permits.

~~101.103.~~ A Storm Water Management Plan (SWMP) is required for this project. Storm drainage improvements are required to mitigate increased runoff generated by property development. The applicant shall have the choice of one method specified within LIP Section 17.3.2(-B)(-2). The SWMP shall be supported by a hydrology and hydraulic study that identifies all areas contributory to the property and an analysis of the predevelopment and post development drainage of the site. The SWMP shall identify the Site design and Source control BMPs that have been implemented in the design of the project (See LIP Section 17, Appendix A). The SWMP shall be reviewed and approved by the Public Works Department prior to the issuance of the Grading/Building permits for this project.

~~102.104.~~ A Water Quality Mitigation Plan (WQMP) is required for this project. The WQMP shall be supported by a hydrology and hydraulic study that identifies all areas contributory to the property and an analysis of the predevelopment and post development drainage of the site. The WQMP shall meet all the requirements of the City’s current Municipal Separate

Stormwater Sewer System (MS4) permit. The following elements shall be included within the WQMP:

- a. Site Design Best Management Practices (BMPs)
- b. Source Control BMPs
- c. Treatment Control BMPs that retains on-site the Stormwater Quality Design Volume (SWQDv). Or where it is technical infeasible to retain on-site, the project must biofiltrate 1.5 times the SWQDv that is not retained on-site.
- d. Drainage Improvements
- e. A plan for the maintenance and monitoring of the proposed treatment BMPs for the expected life of the structure.
- f. A copy of the WQMP shall be filed against the property to provide constructive notice to future property owners of their obligation to maintain the water quality measures installed during construction prior to the issuance of grading or building permits.
- g. The WQMP shall be submitted to Public Works and the fee applicable at time of submittal for the review of the WQMP shall be paid prior to the start of the technical review. The WQMP shall be approved prior to the Public Works Department's approval of the grading and drainage plan and or building plans. The Public Works Department will tentatively approve the plan and will keep a copy until the completion of the project. Once the project is completed, the applicant shall verify the installation of the BMPs, make any revisions to the WQMP, and resubmit to the Public Works Department for approval. The original signed and notarized document shall be recorded with the County Recorder. A certified copy of the WQMP shall be submitted to the Public Works Department prior to the certificate of occupancy.

~~103.105.~~ All commercial developments shall be designed to control the runoff of pollutants from structures, parking and loading docks. The following minimum measures shall be implemented to minimize the impacts of commercial developments on water quality:

- a. Properly designed Parking lots (5,000 square feet of impervious surface or 25 parking spaces.)
  - i. Minimize impervious surfacing for parking area.
  - ii. Infiltrate runoff before it reaches a storm drain system.
  - iii. Treat to remove oil and petroleum hydrocarbons at parking lots that are heavily used.
  - iv. Ensure adequate operation and maintenance of treatment systems particularly sludge and oil removal and system fouling and plugging prevention control.

~~104.106.~~ The developer's consulting engineer shall sign the final plans prior to the issuance of permits.

*Fire Department*

~~105.107.~~ The project requires LACFD plan review and approval prior to the issuance of grading permits.

~~106.108.~~ A final Fuel Modification Plan approval is required prior to final Fire Department

approval.

*Water Service*

~~107.~~109. Prior to the issuance of a building permit, the applicant shall submit an updated Will Serve letter from Los Angeles County Waterworks District No. 29 indicating the ability of the property to receive adequate water service.

*Deed Restrictions and Recorded Documents*

~~108.~~110. Prior to final Planning approval, the property owner is required to execute and record a deed restriction which shall indemnify and hold harmless the City, its officers, agents, and employees against any and all claims, demands, damages, costs and expenses of liability arising out of the acquisition, design, construction, operation, maintenance, existence or failure of the permitted project in an area where an extraordinary potential for damage or destruction from wildfire exists as an inherent risk to life and property. The property owner shall provide a copy of the recorded document to Planning Department staff prior to final Planning approval.

~~109.~~111. Prior to final Planning approval, the applicant is required to execute and record a deed restriction reflecting lighting requirements set forth in the *Lighting* conditions listed above. The applicant shall provide a copy of the recorded document to Planning Department staff prior to final Planning approval.

~~110.~~112. A certificate of compliance evidencing completion of the lot merger shall be recorded and a copy submitted to the Planning Director prior to issuance of a grading permit.

*Construction / Framing*

~~111.~~113. The applicant/property owner shall contract with a City approved hauler to facilitate the recycling of all recoverable/recyclable material. Recoverable material shall include but shall not be limited to: asphalt, dirt and earthen material, lumber, concrete, glass, metals, and drywall.

~~112.~~114. Prior to issuance of a building/demolition permit, an Affidavit and Certification to implement a Waste Reduction and Recycling Plan (WRRP) shall be signed by the Owner or Contractor and submitted to the Environmental Sustainability Department. The WRRP shall indicate the agreement of the applicant to divert at least 50 percent of all construction generated by the project.

~~113.~~115. Prior to final building inspection, the applicant shall provide the Environmental Sustainability Department with a WRRP Final Summary Report. The Final Summary Report shall designate all materials that were landfilled or recycled, broken down by material types. The Environmental Sustainability Department shall approve the Final Summary Report.

~~114.~~116. Construction hours shall be limited to Monday through Friday from 7:00 a.m. to 7:00 p.m. and Saturdays from 8:00 a.m. to 5:00 p.m. No construction activities shall be permitted on Sundays or City-designated holidays.

~~115.117.~~ Construction management techniques, including minimizing the amount of equipment used simultaneously and increasing the distance between emission sources, shall be employed as feasible and appropriate. All trucks leaving the construction site shall adhere to the California Vehicle Code. In addition, construction vehicles shall be covered when necessary; and their tires will be rinsed off prior to leaving the property.

~~116.118.~~ When framing of the chapel structure is complete, a site survey shall be prepared by a licensed civil engineer or architect that states the finished ground level elevation and the highest roof member elevation. Prior to the further construction activities, said document shall be submitted to the assigned Building Inspector and Planning Department for review and sign off on framing.

*Prior to Final Sign-Off*

~~117.119.~~ Prior to final approval, the City Biologist shall inspect the project site and determine that all planning conditions have been implemented to protect natural resources in compliance with approved plans and this resolution.

~~118.120.~~ The applicant shall request a final Planning Department inspection prior to final inspection by the City of Malibu Environmental and Sustainability Department. A final approval shall not be issued until the Planning Department has determined that the project complies with this CDP.

~~119.121.~~ Any construction trailer, storage equipment or similar temporary equipment not permitted as part of the approved scope of work shall be removed prior to final inspection and approval, and if applicable, the issuance of the certificate of occupancy.

*Fixed Conditions*

~~120.122.~~ Pursuant to MMC Section 17.66.100(C)(3), the conditions under which this conditional use permit was approved may be modified by the City without the consent of the property owner, tenant or operator if the Planning Commission finds that the use is creating a nuisance.

~~121.123.~~ Pursuant to MMC Sections 17.66.100(C)(1) and (2), this conditional use permit shall become subject to revocation if the Planning Commission has cause to believe that grounds for revocation or modification may exist. The Planning Commission shall hold a public hearing upon the question of modification or revocation of this conditional use permit pursuant to MMC Section 17.66.100(C). The conditional use permit may be revoked if the Planning Commission finds that one or more of the following conditions exists:

- a. The conditional use permit was obtained in a fraudulent manner.
- b. One or more of the conditions found within this resolution have not been substantially met.

~~122-124.~~ This coastal development permit shall run with the land and bind all future owners of the property.

~~125.~~ Violation of any of the conditions of this approval may be cause for revocation of this permit and termination of all rights granted there under.

*Additional Site-Specific Conditions*

~~126.~~ The area identified by an oval over the roots of the tree-shaped crypt wall shown on the Revised Crypt Wall Plan dated April 21, 2017 (Sheet L-2.0) shall be restricted to an appropriate memorial to the Chumash and burial or reburial of Chumash Native Americans as determined by the operator of the memorial park.

~~127.~~ Exported soil from the site shall be taken to the County Landfill or to a site with an active grading permit and the ability to accept the material in compliance with LIP Section 8.3. A note shall be placed on the project plans that addresses this condition.

~~123-128.~~ A construction management plan, including a traffic control plan for haul trips, shall be submitted for review and approval by the Public Works Department prior to the approval of the Grading and Drainage Plan for the right turn lane improvements on PCH.

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

PASSED, APPROVED AND ADOPTED this ~~1<sup>st</sup>~~5<sup>th</sup> day of ~~May~~June 2017.

Commission Chair

JOHN — MAZZAMIKKE PIERSON, Planning

ATTEST:

KATHLEEN STECKO, Recording Secretary

LOCAL APPEAL - Pursuant to Local Coastal Program LIP Section 13.20.1 (Local Appeals) a decision made by the Planning Commission may be appealed to the City Council by an aggrieved person by written statement setting forth the grounds for appeal. An appeal shall be filed with the City Clerk within 10 days and shall be accompanied by an appeal form and filing fee, as specified by the City Council. Appeal forms may be found online at [www.malibucity.org](http://www.malibucity.org), in person at City Hall, or by calling (310) 456-2489, ext. 245.

I CERTIFY THAT THE FOREGOING RESOLUTION NO. 17-17 was passed and adopted by the Planning Commission of the City of Malibu at the Regular meeting held on the ~~1<sup>st</sup>~~-5<sup>th</sup> day of ~~May~~June 2017 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

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KATHLEEN STECKO, Recording Secretary

(No changes made to MMRP.)

## EXHIBIT A

# MALIBU MEMORIAL PARK MITIGATION MONITORING AND REPORTING PROGRAM

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### PURPOSE

This section of the Mitigated Negative Declaration provides the Mitigation Monitoring and Reporting Program (MMRP) that would be used to monitor the implementation of the mitigation measures adopted for the Malibu Memorial Park project.

### INTRODUCTION

The California Environmental Quality Act (CEQA) requires the adoption of feasible mitigation measures to reduce the severity and magnitude of potentially significant environmental impacts associated with development projects. However, simply adopting these measures is not adequate under state law. Lead agencies are also required to adopt a program that will be used to ensure that the mitigation measures are, in fact, implemented. The requirements for mitigation monitoring or reporting are codified in Section 15097 of the *State CEQA Guidelines*.

The Final IS/MND for the Malibu Memorial Park project identifies project-specific mitigation measures to reduce the potentially significant impacts of the project as proposed. Following adoption of the Final IS/MND and approval of this MMRP by the City of Malibu, the project-specific mitigation measures identified in the Final IS/MND would be implemented and monitored as described in this MMRP.

### LIST OF MITIGATION MEASURES

The mitigation measures adopted for the Malibu Memorial Park project are listed in the following table along with the action required, the timing for implementation of each measure, the parties responsible for monitoring the mitigation measure and the parties responsible for implementing the mitigation measure.

Summary of Changes in June 5, 2017 Redline from May 1, 2017 Draft Resolution

Note: Minor grammatical changes and typos appear in the redline resolution document but have not been included in the table.

Page (in redline)	Location	Language	Source of Change	Comment
<b>Title</b>				
1	Line 11	...APPROXIMATELY 3,644 INTERMENTS IN ...	Staff	Provides consistency with other quantified burial sites
<b>Section 1. Recitals</b>				
1	K, L & M	<p>K. On May 1, 2017, the Planning Commission re-opened the public hearing to receive public comment, reviewed and considered the staff report, reviewed and considered other information in the record. <u>At the conclusion of the hearing, the Commission directed staff to return to the Regular Planning Commission meeting of May 15, 2017, with an updated resolution to approve the project that reflects its findings pertaining to the right turn lane improvements, and the conditions of approval identified in the hearing.</u></p> <p>L. <u>On May 15, 2017, the Planning Commission continued the item to the June 5, 2017, Regular Planning Commission meeting.</u></p> <p>M. <u>On June 5, 2017, having reviewed the updated resolution and considered the testimony and materials in the record, the Planning Commission adopted Resolution No. 17-17.</u></p>	Staff	Reflects chronology of Commission action.
<b>Section 2. Environmental Review</b>				
3	3 <sup>rd</sup> paragraph	<u>Subsequently, the applicant introduced a right turn lane configuration on Pacific Coast Highway to Malibu Canyon Road that utilizes a vegetated transition slope and small retaining wall at the top of the slope rather than a single large retaining wall. The Commission also added and revised other project conditions of approval. The slope affected by the right turn lane is currently a manufactured slope</u>	Staff / PC	Updates CEQA findings to reflect Commission determination on project changes after IS/MND circulation.

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		<p><u>created by Caltrans that is steeper than currently allowed by City code and vegetated primarily with non-native species. The Commission determined that these changes to the project are not required by CEQA, do not create significant environmental effects, and are not necessary to mitigate an avoidable significant environmental effect. The Commission further determined that these project revisions are in response to comments on the project's effects where the effects at issue are not new significant avoidable effects.</u></p>		
<b>Section B. Variance Findings</b>				
4-5	Finding 2	<p>2. The variance will allow for the placement of a three-foot deep cap over an archaeologically sensitive area and creation of a vegetated cut slope that will accommodate the right turn lane improvements. The project will not be injurious to the property or improvements in the vicinity in that the grading plan for the project <del>is balanced and avoids truck trips and</del> allows protection of a sensitive archaeological site <u>and standard conditions of approval have been included to address soil export which address disposal of the material and a construction management plan, including a traffic control plan for haul trips, to be approved by the Public Works Department prior to permit issuance.</u></p>	Staff / PC	Ensures project as approved by Commission with the vegetated cut slope is properly conditioned in accordance with standard conditions of approval.
5	Finding 3	<p>3. Evidence in the record demonstrates that the additional grading allowed by the variance will not constitute a special privilege to the applicant or property owner, <u>in particular, the additional grading is necessary to protect cultural and archaeological resource areas.</u></p>	Staff / PC	Clarifies the Commission's basis of the finding.
5	Finding 6	<p>6. The archaeologically sensitive resource conditions and needed right turn lane improvements of the site justify the grading variance, which will prevent adverse impacts to any onsite <u>cultural or archaeological resources by capping of the sensitive</u></p>	Staff / PC	Clarifies the Commission's basis of the finding.

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		area with three feet of soil and creating a vegetated slope rather than a tall retaining wall. With proper grading and engineering techniques, and the conditions of approval, the site will be physically suitable for the additional grading associated with capping the sensitive resources <u>and constructing the vegetated slope.</u>		
<b>Section H. Conditional Use Permit</b>				
7-8	Finding 4	4. Overall, the project site is expected to have a park-like character similar to nearby Pepperdine Alumni Park and Bluffs Park, consisting primarily of areas landscaped with native vegetation, with few structures. Lighting will be aimed downward and fully shielded. Conditions of approval prohibit any activities on the site that are not related to memorial services, interments, and <del>passive recreation</del> <u>public visitation</u> consistent with the <u>operation of a private memorial park</u> <del>setting</del> . Also, outdoor amplified music and onsite consumption of alcohol <u>are prohibited</u> , except pursuant to a temporary use permit (TUP). TUPs are limited to six per year. Furthermore, the cultural resources conditions and mitigation measures protect the sensitive archaeological area of the site and any remaining subsurface resources. The project, as conditioned, is expected to be compatible with the surrounding neighborhood, and land uses presently on the site.	PC	Reflects Commission's preferred language suggested by applicant.
<b>Section 5. Conditions of Approval</b>				
10	Condition 3	3. Subsequent submittals for this project shall be in substantial compliance with plans on-file with the Planning Department, date-stamped April 7, 2017, including the conceptual Right Turn Lane Improvement Plan dated April 17, 2017, and the revised Landscape and Crypt Wall Design Plans date-stamped April 21, 2017 ( <u>Sheets L-2.0 and C5.0</u> ). In the event the project plans conflict with any	Staff	References specific plan sheet labels.

Summary of Changes in June 5, 2017 Redline from May 1, 2017 Draft Resolution

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		condition of approval, the condition shall take precedence.		
11	Condition 17	17. <del>Prior to plan check, t</del> The applicant shall submit engineered plans that demonstrate that the slope improvements associated with the right turn lane described in Condition No. 80 are feasible without requiring variances for construction on slopes or for retaining wall height, and that the slope improvements <u>incorporate native vegetation and retaining wall materials with veneers, texturing and/or colors that blend with the surrounding earth materials and landscape as specified in LIP Chapter 6</u> . <del>have less than significant scenic and visual impacts. The plans shall demonstrate LCP conformance prior to submittal into plan check.</del>	Staff	Updates condition to reflect Commission's determination that the project complies with LIP section 6 with standard conditions of approval.
11	Condition 21	21. Signage shall be posted on the project site to advise drivers <u>of the appropriate route to use the following route to reach PCH</u> <del>right on Malibu Canyon Road, right on Civic Center Way, right on Webb Way to PCH.</del>	Staff	Updates condition to reflect possibility of U-turn installation on Malibu Canyon Road.
12	Condition 30	30. Interior and exterior lighting shall be <u>consistent with Conditions 62 and 63, and shall be extinguished after close of business, except for after-hours custodial/maintenance needs and minimal security lighting needed for public safety.</u>	PC	Updated to ensure consistency among lighting conditions, and that the more restrictive is applied.
12	Condition 31	31. The grounds, including parking, shall be made available to the public at no charge during the hours of operation identified in this resolution. Use of the grounds shall be consistent with the <del>rules of decorum typically associated with the</del> operation of a private memorial park.	Staff	Reflects Commission's preferred language suggested by applicant.
13	Condition 36	36. If a service <del>or activity</del> scheduled for a set time or a funeral procession will involve more than <del>50</del> <u>100</u> cars, the applicant shall first obtain approval of a Transportation Management Plan from the Planning Director, Public Works Department and Los Angeles County Sheriff which shall specify conditions for the	PC	Increases threshold number of cars that would trigger requirement for a TMP; deletes term "activity" for consistency with Commission's direction on allowed uses onsite

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		safe and orderly flow of traffic, pedestrian movement and parking, and may include, but not be limited to, an evaluation of site access, parking, valet staging, temporary onsite parking, usage of shuttles, routing information, a traffic control plan and traffic control/security personnel.		
13	Condition 38	38. The chapel building and grounds shall not be used for uses other than memorial service uses, interments and <del>passive recreation</del> <u>public visitation</u> consistent with the <del>setting</del> <u>operation</u> of a <u>private memorial park</u> .	PC	Reflects Commission's preferred language suggested by applicant.
13	Condition 39	39. <u>Memorial service uses consistent with the operation of a private memorial park</u> <del>Events or activities</del> that would occur outside the normal operating hours listed above, or would include lighting in excess of the lighting conditions of this resolution, music or noise, or would otherwise meet the definition of a temporary use under MMC Chapter 17.68, shall require the property owner to obtain a TUP. No more than six TUPs per year are allowed for the property.	PC	Reflects Commission's preferred language suggested by applicant.
14	Condition 45	45. The covenant, conditions and restrictions (CC&Rs) required by the property owner for the sale of burial plots and interment spaces shall include an acknowledgement by the buyer that the property grounds will be open to the public as a visitor-serving space for <u>public visitation</u> <del>passive recreation</del> and the conditions of this resolution.	Staff	Reflects Commission's preferred language suggested by applicant.
14	Condition 46	46. The use of any rodenticides on the property shall be prohibited. <u>The applicant may install raptor poles up to 18 feet in height, as long as the location(s) and number of poles are approved by the City Biologist.</u>	PC	Reflects Commission consensus at the April 17 and May 1, 2017 meetings to allow raptor poles as approved by City Biologist.
14	Condition 47	47. In order to determine if the conditions of approval, particularly for parking and traffic management, are working effectively, the property owner/operator shall monitor and keep a record of	PC	Reflects Commission direction that Planning Director will determine a feasible and effective method for the

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		the number of visitors to the chapel and the grounds, the number of vehicles, the number of services in the chapel and people onsite for each (employees and all attendees), staffing levels, the number of interments that occur on the site, number of processions (dates, times, number of vehicles) for each day of the year. Monitoring shall be ongoing <u>and conducted in a format approved by the Planning Director.</u>		applicant to track and report traffic and parking during site operation.
14	Condition 48	48. The property owner/operator shall submit the monitoring log to the City on <u>at least a quarterly an</u> <del>annual</del> basis for review of the use's parking operations and traffic generation. Should staff determine that the use is exceeding the anticipated parking/traffic generation estimates of <u>176 daily trips on weekdays and 213 daily trips on weekend days,</u> a review shall be scheduled before the Planning Commission.	PC	Adjusts monitoring frequency to quarterly and adds specific reference to the trips estimated in the latest project traffic report.
15	Condition 53	53. The project is visible from scenic roads or public viewing areas and shall incorporate colors and materials that are compatible with the surrounding landscape.  a. Acceptable colors shall be limited to colors compatible with the surrounding environment (earth tones) including shades of green, brown and gray, with no white or light shades and no bright tones. <u>Natural stone of any color may be used if not visible from a scenic or public viewing area.</u> Colors shall be reviewed and approved by the Planning Director and clearly indicated on the building plans.  b. The use of highly reflective materials shall be prohibited except for solar energy panels or cells, which shall be placed to minimize significant adverse impacts to public views to the maximum extent feasible.	PC	Adjusts (a) to allow flexibility in stone color, including white, as long as it is not visible from scenic or public viewing areas, as specified by LIP section 6 development standards.

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		c. All windows shall be comprised of non-glare glass.		
16	Condition 63	63. Exterior lighting shall be minimized and restricted to low intensity features, shielded, and concealed so that no light source is directly visible from public viewing areas. Permitted lighting shall conform to the following standards, <u>or those of Condition 62, whichever are more restrictive:...</u>	PC	Ensures consistency among lighting conditions, and that the more restrictive is applied.
19-20	Condition 88	<p>88. The applicant shall improve PCH and Malibu Canyon Road with the following items <u>(unless any components are reduced in scope by Caltrans)</u>:</p> <p>a. The proposed right turn lane (PCH and Malibu Canyon Road) shall be 640 feet long with a 120-foot transition. The improvements shall include a 4-foot bike lane and a 4-foot shoulder.</p> <p>b. Construct a new Caltrans' refuge area at the existing crosswalk at the intersection of PCH &amp; Malibu Canyon Road.</p> <p>c. Dedicate a minimum of 13 feet at this location for these improvements. Applicant shall coordinate the amount of dedication from Caltrans.</p> <p>d. The improvements shall also consist of installing a new curb per the Caltrans Standard Plans No. A87B. The new pavement section shall be in accordance with Caltrans Design Manual or recommended by a soil engineer.</p> <p>The improvement plans must be approved <u>by Caltrans</u> prior to the issuance of any permits; <u>however, if Caltrans has not approved plans within two years of the CDP becoming final, the City may issue development permits for the project.</u> The improvements must be completed prior to the issuance of occupancy or final acceptance, <u>or the applicant shall post a bond and any related required documents in a form and amount approved by the</u></p>	PC/Staff	<p>Adds flexibility for Caltrans to adjust not only turn and transition lane width, but also other components of this condition, if necessary.</p> <p>Adds Commission's provisions to provide applicant relief if Caltrans process takes longer than two years.</p>

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		<u>Public Works Department to ensure completion of the improvements.</u>		
20	Condition 89	<p>89. The applicant shall improve PCH and Webb Way with the following items:</p> <p style="padding-left: 40px;">a. Install dual eastbound left turn lanes on PCH and Webb Way per Caltrans Standards.</p> <p><u>The improvement plans must be approved by Caltrans prior to the issuance of any permits; however, if Caltrans has not approved plans within two years of the CDP becoming final, the City may issue development permits for the project.</u> The improvements must be completed prior to the issuance of occupancy or final acceptance, <u>or the applicant shall post a bond and any related required documents in a form and amount approved by the Public Works Department to ensure completion of the improvements.</u></p>	Staff	Since Condition 89 also requires Caltrans approval, staff added the same relief provisions that the Commission included in Condition 88.
20	Condition 90	<p>90. The applicant shall improve Malibu Canyon Road with the following items:...</p> <p style="padding-left: 40px;">d. Install a 5-foot meandering concrete sidewalk. The concrete sidewalk shall be 4 inches (520-C-2500) with 4 inches of fill with sand equivalent 20 or higher compacted to 90%. <u>Alternatively, a permeable paver sidewalk design may be approved by Public Works.</u></p>	PC	Adds Commission's preferred language for permeable sidewalk option.
21	Condition 91	<p><u>91. Install a U-turn ("Michigan turn") on Malibu Canyon Road north of the project entrance driveway using a design approved by the Public Works Department, unless Public Works determines it to be infeasible.</u></p>	PC	Includes Commission's requirement for applicant to install a u-turn if Public Works determines it is feasible.
21	Condition 94	<p><u>94. The improvements in Condition Nos. 88, 89, 90 and 93 shall be considered by the City for future fair share contributions by other relevant projects.</u></p>	PC	New condition makes clear that future commercial projects could be required to contribute fair share to improvements.

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27	Condition 126	<u>126. The area identified by an oval over the roots of the tree-shaped crypt wall shown on the Revised Crypt Wall Plan dated April 21, 2017 (Sheet L-2.0) shall be restricted to an appropriate memorial to the Chumash and burial or reburial of Chumash Native Americans as determined by the operator of the memorial park.</u>	PC	New condition memorializes that applicant will incorporate a Chumash memorial and burial area within the sensitive area of the project site.
27	Condition 127	<u>127. Exported soil from the site shall be taken to the County Landfill or to a site with an active grading permit and the ability to accept the material in compliance with LIP section 8.3. A note shall be placed on the project plans that addresses this condition.</u>	Staff	New standard condition addresses disposal of exported soil material consistent with LIP.
27	Condition 128	<u>128. A construction management plan, including a traffic control plan for haul trips, shall be submitted for review and approval by the Public Works Department prior to the approval of the Grading and Drainage Plan for the right turn lane improvements on PCH.</u>	Staff	New standard condition addresses management of exported soil material.