



# City of Malibu

## MEMORANDUM

To: Crummer Site Subdivision Project - Reviewing Agencies, Commenters and Interested Parties

From: Ha Ly, Associate Planner

Date: December 20, 2013

Re: Response to Comments - Final Environmental Impact Report (SCH #2008091155)

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On December 13, 2013, the Final Environmental Impact Report (FEIR) for the Crummer Site Subdivision Project was made available. The FEIR took into consideration comment letters received during the 45-day review period for the Draft Environmental Impact Report; however, several comments were inadvertently omitted from the FEIR Chapter 3 (Response to Comments), including:

1. Malibu Country Estates Homeowners Association dated May 7, 2013
2. Photographs submitted by Robert Briskin, May 6, 2013
3. Photograph submitted by Williams, Anson, May 6, 2013
4. Photographs submitted by Fred Gaines, May 6, 2013

On December 20, 2013, an errata to the FEIR including a response to the aforementioned comments was made available. The errata to the FEIR has been mailed to the corresponding commenters and State Clearing House via certified mail. A hardcopy of the errata has also been provided to Planning Commission and City Council.

We apologize for the inconvenience and thank you for your understanding.

If you would have any questions, please contact me at (310) 456-2489, extension 250, or via email at [hly@malibucity.org](mailto:hly@malibucity.org).



## 3. Response to Comments–O11

Number Reference	Commenting Person/Agency	Date of Comment	FEIR Page No.
<b>Agencies</b>			
A1	Comments Department of Fish and Wildlife (Betty Courtney)	May 14, 2013	3-3
A2	County of Los Angeles (Frank Vidales)	April 25, 2013	3-21
A3	Metropolitan Transportation Authority (Nick Saponara)	May 17, 2013	3-35
A4	Native American Heritage Commission (Dave Singleton)	April 5, 2013	3-45
A5	County of Los Angeles (Toan Duong)	June 3, 2013	3-51
<b>Organizations</b>			
O1	AEI Consultants (Kent Vollmer)	May 10, 2013	3-57
O2	ESA (Mitch Marken, Ph.D.)	May 16, 2013	3-83
O3	Gaines and Stacey, LLP	May 20, 2013	3-87
O4	Malibu Colony HOA (Sara Blake)	May 17, 2013	3-149
O5	Meridian Consultants (Tony Locacciatto)	May 15, 2013	3-153
O6	PCH Project Owner LLC (Robert Gold)	May 20, 2013	3-161
O7	Pepperdine University (Rhiannon Bailard)	May 20, 2013	3-169
O8	Southern California Edison (Mark A. Olson)	May 6, 2013	3-173
O9	Wishtoyo Foundation (Jason Weiner) dated May 17, 2013	May 17, 2013	3-177
O10	Geosoils (Rudy F Ruberti)	May 13, 2013	3-199
O11	Malibu Country Estates Homeowners Association	May 7, 2013	attached
<b>Residents</b>			
R1	Berk, Aristid and Hope	N/A	3-219
R2	Bogie, Ron and Roberta	April 25, 2013	3-223
R3	Tim Elkins; Joan and Paul Almond	May 20, 2013	3-229
R4	Patt Healy	May 19, 2013	3-237
R5	Patt Healy	May 20, 2013.	3-257
R6	Russell Kern	April 20, 2013	3-265
R7	Kari Kramer	May 6, 2013	3-269
R8	Joan Lavine	May 13, 2013	3-323
R9	Henri Lenny	May 13, 2013	3-341
R10	Carol Randall	May 6, 2013	3-365
R11	Jo Ruggles	May 20, 2013	3-369
R12	Jo Ruggles	May 20, 2013	3-373
<b>Public Hearing</b>			
PH1 to PH16	Robert Briskin, Anson Williams, Robert Gold, Hope Berk, Luhui Isha, Mati Waiya, Ryan Embry, Paul Grisanti, Carol Randall, Ron Bogie, Kari Kramer, Fred Gains, Farima Damavandi, Mr. Mazza, Mr. Pierson, Jeffrey Jennings	May 6, 2013	3-381

### 3. Response to Comments

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### 3. Response to Comments–011

#### 011. Malibu Country Estates Homeowners Association ( 21 page[s])



MALIBU COUNTRY ESTATES HOMEOWNERS ASSOCIATION

May 7, 2013

City of Malibu  
23825 Stuart Ranch Road  
Malibu, California 90265-4861

Re: Comments to the Proposed Crummer Site Subdivision  
Draft Environmental Impact Report No. 9-002

Ladies and Gentlemen:

The purpose of this letter is to provide you comments on behalf of the Malibu Country Estates Homeowners Association as to the Draft Environmental Impact Report No. 9-002 (“EIR”) which is of the proposed Crummer Site Subdivision housing development project (“Project”). The draft EIR is dated April, 2013.

The following comments to the EIR are being made by the Malibu Country Estates Homeowners Association (“HOA”) on behalf of the homeowners of Malibu Country Estates (“MCE”).

1. **Introductory Comments.** The proposed Project is for five (5) large two-story homes, containing basements, guesthouses and other structures. Each of these homes is stated in the EIR to be in excess of 11,000 square feet. The alternatives listed at paragraph 1.5.4 of the EIR fail to properly consider an alternative of constructing one-story homes, the reduction in the square footages of these Crummer Project homes, or the elimination of basements. 011-1

**First,** two-story homes block the views of certain homes within the MCE subdivision, a housing area which lies immediately to the north of the Project’s site. **Second,** the proposed Crummer housing Project blocks views of the Pacific Ocean from Alumni Park on the 011-2

P.O. BOX 831, MALIBU, CALIFORNIA 90265

### 3. Response to Comments

City of Malibu  
May 7, 2013  
Page 2

Pepperdine University campus. Third, these Crummer homes block view from Pacific Coast Highway and from Bluffs Park.

O11-2  
cont'd

The Crummer Project's homes should not be allowed to be large 11,000 plus square foot structures. In the MCE subdivision, home sizes range in the 3,000 to 4,500 square foot range. Other homes in the immediate vicinity do not have this massive 11,000 plus square foot size which is being proposed for the Crummer housing Project. Such large "mansion" size homes are inconsistent with homes in this general area. Thus, if the Crummer Project homes were reduced to a size of between 4,000 to 5,000 square feet, then the Crummer Project would have significantly less impact on the environment and (as will be further explained below) would not block the public's views of the Pacific Ocean. Paragraph 1.5.4 of the EIR fails to adequately consider an alternative of having the Project's houses be a reduced square footage size.

O11-3

One-story homes with a maximum height of 18 feet at the roof height would mitigate the view impacts, as would reduced home square footages. The EIR incorrectly assumes that the square footages of each of these Crummer Project's homes should remain in excess of 11,000 square feet. This EIR assumption is incorrect in that the square footages of the proposed Crummer Project homes are much larger than those homes in MCE and the surrounding area. Mansion-sized homes should not be allowed in the area of the Crummer Project site.

O11-4

The assumption at paragraph 1.5.4 of the EIR that a single-story home alternative would "double" the building footprint is incorrect. If the Project's homes are instead reduced to 4,500 square feet or less in size, then these homes' building footprints would in fact not be increased. Thus, with a reduced square footage, the amount of the Crummer Project's grading and exporting of dirt would not be increased as paragraph 1.5.4 of the EIR incorrectly assumes. The other

### 3. Response to Comments–O11

City of Malibu  
May 7, 2013  
Page 3

environmental impacts of length of construction in the EIR would also not apply if the square footage of these Crummer Project homes are reduced.

O11-4  
cont'd

Having a one-story home would not increase other environmental problems, contrary to the assertions at paragraph 1.5.4 of the EIR. In fact, constructing smaller homes would reduce impacts on air quality, reduce biological impacts, and would reduce cultural, geotechnical, and construction noise impacts.

O11-5

2. Crummer Project Homes Block Ocean Views. The EIR fails to consider the fact that the homes in MCE are currently required to preserve ocean views of their neighbors by, among other means, requiring many of the MCE homes to be one-story. On the other hand, the Crummer Project EIR promotes a “special standard” for the Crummer Project of allowing mansion-sized two-story houses, plus guest houses and other outside structures. The EIR needs to address the reasons why the Crummer Project has a different development standard than does the MCE subdivision of homes and other homes in the general vicinity of the Crummer Project. The EIR needs to answer the question why the Crummer Project is allowed to construct massive 11,000 plus square foot homes with basements, second homes on the site and secondary buildings which will, in fact, block the ocean views of MCE homeowners and the general public.

O11-6

3. The City of Malibu Has the Opportunity to Determine Zoning of the Crummer Project Site. The EIR states that the current Crummer Project site is designated “Planned Development” under the City of Malibu *Local Coastal Program*. The Project site is the only property designated “PD” in the *Malibu General Plan* according to paragraph 1.5.5 of the EIR. Thus, there are no vested zoning or development rights of the Project owner to build any homes on the Crummer Project site. The City of Malibu (through the Planning Commission and the City Council) will be able to determine the appropriate zoning for this Crummer Project

O11-7

### 3. Response to Comments

City of Malibu  
May 7, 2013  
Page 4

site. As an example, the City may require only 4,500 square foot (or less) homes and may require one-story homes. Because of the Crummer Project's sensitive environmental location (on the ocean bluffs), it is important to give special consideration in determining the zoning and development rights for this site, and to preserve the panoramic Pacific Ocean views for the public and the surrounding neighbors. For example, the MCE home views would be blocked in part by these proposed two-story 11,000 plus square foot homes. Additionally, Alumni Park at Pepperdine University, which is used by thousands of members of the public each year, would have its panoramic ocean views impaired and impacted by the construction of 11,000 square foot two-story homes.

O11-7  
cont'd

4. Crummer Project Will Affect Scenic Resources. The EIR is flawed in that it incorrectly assumes at paragraph 5.1-1 that this Crummer Project would not have a significant effect on scenic resources. In fact, allowing the construction of mansion size 11,000 plus square foot homes of two-stories would have a significant impact, not only on MCE homeowner views, but also views from Pepperdine University's Alumni Park, from Bluffs Park, and from Pacific Coast Highway.

O11-8

Pepperdine University is a 501(c)(3) non-profit organization which benefits the public. Thousands of people each year use Alumni Park and enjoy its panoramic scenic views of the Pacific Ocean as they walk, play, picnic and enjoy the general surroundings. Allowing construction of this massive Crummer housing Project directly in line with Alumni Park's panoramic ocean views sacrifices the rights of thousands of members of the public, in exchange for the construction of five mansion-size homes which would serve only a few persons. By any measure, this violates the principles of the *California Coastal Act* (which protects the general public's views of the Pacific Ocean and the uses of California's coastal and ocean resources). These Crummer Project mansion-sized homes are proposed to be constructed directly between

O11-9

### 3. Response to Comments–O11

City of Malibu  
May 7, 2013  
Page 5

MCE's views of the Pacific Ocean and the views from Alumni Park of the Pacific Ocean. Alumni Park is a unique resource which should not be sacrificed to construct five mansion-sized Crummer Project homes.

O11-9  
cont'd

Additionally, as water irrigation is applied to these Crummer Project homes' areas, it will cause foliage, bushes and trees to grow to extreme heights, well above these homes' roof lines, further blocking the public's view of the Pacific Ocean from Alumni Park, Pacific Coast Highway, and MCE. Existing trees which are located on the Crummer Project site would receive water irrigation from both imported water and the effluent produced from the proposed on-site sewage/septic disposal units. Existing Project site trees, as well as future planting of trees by these five large Crummer homes, will grow to tall heights (due to the artificial watering), causing further view blockage. In other words, the natural height of the trees is being impacted by this Project's development, which the EIR fails to consider. The EIR further fails to consider mitigation measures to mitigate this environmental impact. In fact, cutting down certain of these trees (which are "protected trees") once they begin to be artificially watered is inconsistent with the City of Malibu's requirements. If these existing trees are allowed to simply grow with the natural water currently in existence, they would not block the public's and MCE's ocean views. However, the injection of water by irrigation and the septic/sewer system into the Crummer Project site, and into the environment, will cause a large growth in trees and other plants, blocking views of MCE homeowners, public visitors to Alumni Park, the public's view from Bluffs Park, and the views of the public traveling on Pacific Coast Highway.

O11-10

5. **EIR Fails to Recognize that Many Mansion-Size Home Choices are Already Available in Malibu.** The EIR at paragraph 3.2 states that one of the objectives is to contribute "to the range of housing choices in the City of Malibu." However, Malibu already has many mansion sized houses that people can choose from. Constructing five additional mansion sized

O11-11

### 3. Response to Comments

City of Malibu  
May 7, 2013  
Page 6

11,000 plus square foot houses on the Crummer Project site does not contribute to the range of housing choices in Malibu.

O11-11  
cont'd

6. **EIR Fails to Correctly Set Forth Square Footages of Each Crummer Home.**

At paragraph 3.3.4, the EIR describes each of the Crummer Project's five houses to be two-stories tall and to include a basement. Additionally, there are detached cabanas and guest houses for each Crummer Project house per the EIR. The EIR does not state if this basement area, the cabana, or the guest houses are additional square feet to the 11,000 plus square foot houses being constructed. Thus, the actual Project home's square footages cannot be verified under this EIR. In other words, each of these five Crummer lots could have structures totaling far in excess of the stated 11,000 plus square feet (such as additional 5,500 square feet of basement and second homes which could create 16,500 plus square foot structures on each Crummer lot). Many home developers today use basements as additional finished rooms. The use of a second detached guest house on each Crummer lot and additional cabana structures would only further increase the square footages of each of these Crummer Project homes. Thus, basement areas, cabanas and second houses should be charged against the allowable square footages of these Crummer Project homes. In other words, within the 11,000 plus square feet of the EIR's described building area for each Project house, is the basement area included? Is each Crummer lot's second house square footage included? Are the cabana square footages included? If not, these three additional components should be included in any EIR square footage calculation. Again, the total square footage of each Crummer Project home (including all other structures on the lot) should be limited to between 3,500 to 4,500 square feet (and not the 11,000 plus square feet as the EIR proposes at Table 3-4).

O11-12

7. **EIR Fails to Recognize an Alternative That Zoning Can Reduce the Size of the Crummer Homes.** Since a *Local Coastal Program Amendment* (a "LCPA") and a

O11-13

### 3. Response to Comments–O11

City of Malibu  
May 7, 2013  
Page 7

*Corollary Zoning Text Amendment* is being requested for this Project, this is an opportunity for the City of Malibu and the California Coastal Commission to limit the total size of houses on the subject Crummer Project site to between 3,500 to 4,500 square feet, and to limit the home's height to one-story.

O11-13  
cont'd

8. **EIR Fails to Analyze or Mention Pepperdine University's Campus Life Project or Other Cumulative Impacts From Pepperdine University Upon, and With, the Crummer Project.** The EIR at paragraph 4.4, in describing the Crummer site's "surrounding projects," omits listing the largest project development in the Malibu which is right across the street from the Crummer site. The EIR fails to analyze or even mention the Pepperdine University Campus Life Project, which includes a large 5,000+ seat sports and concert arena, extensive classroom, office and housing developments, which are all to take place on the Pepperdine University campus immediately across the street from the Crummer Project. These Pepperdine University projects were approved recently by both Los Angeles County and the California Coastal Commission. Clearly, this large Pepperdine construction project will have a substantial cumulative impact with the Crummer Project on the environment. The fact that Pepperdine University is located in the unincorporated County of Los Angeles (and not in the City of Malibu) does not detract from its cumulative impact with the Crummer Project. These new Pepperdine University projects will use the same limited road system (Malibu Canyon Road and Pacific Coast Highway), for example, as will the proposed Crummer Project. Accordingly, the EIR needs to be revised to take into account the impacts of Pepperdine University's approved Campus Life Project, including the new sports arena, new housing and other new facilities. The current EIR fails to consider any of these significant impacts or even to mention them. The Pepperdine University Campus Life Project Environmental Impact Report and governmental approvals are a matter of public record and are available, from among other sources, the Los Angeles County Department of Regional Planning.

O11-14

### 3. Response to Comments

City of Malibu  
May 7, 2013  
Page 8

9. **EIR Fails to Analyze or Mention Pepperdine University's Alumni Park and How That Park Will Be Negatively Impacted By the Crummer Project.** At paragraph 5 of the EIR, "vista points" are defined as providing "highly scenic and panoramic views of several miles with little or no sense of boundary restriction." This description is exactly the view from Pepperdine University's Alumni Park which is immediately across the street from the Crummer Project. The EIR, mysteriously, fails to even mention Pepperdine University's Alumni Park and its panoramic ocean views afforded to the public. Thus, the EIR must be revised to consider the Crummer Project's impacts on Alumni Park, which clearly is a defined "vista point" under the definition of the EIR. Additionally, many homes in the MCE subdivision also have ocean views which would qualify as vista points. Additionally, streets within the MCE subdivision and Bluffs Park enjoy views of the Pacific Ocean, as does Pacific Coast Highway in this general area. The allowance of two-story, 11,000 plus square foot mansions on the Crummer Project site will negatively impact all of these "vista points."<sup>1</sup>

O11-15

10. **EIR Fails to Recognize the Public's Rights to Views of the Pacific Ocean.** The EIR at page 5.1-3 quotes the *California Public Resource Code* as stating in part that scenic and visual qualities of coastal areas should be considered and protected as a resource of public importance. The *Public Resource Code* goes on to state that "new development" in highly scenic areas shall be "**subordinate**" to the character of that scenic setting. In the case of the Crummer Project site, the development of mansion-size homes on a coastal bluff next to a public park (Bluffs Park) and immediately across from Alumni Park, requires that the square footages of the Crummer homes and their height be **subordinate** to the public's view rights from the public scenic area of Pacific Coast Highway, from the public's scenic area of Alumni Park on the

O11-16

<sup>1</sup> Note that Alumni Park of Pepperdine University is utilized by the general public, and Pepperdine University is a 501(c)(3) tax-exempt organization which benefits the public.

### 3. Response to Comments–O11

City of Malibu  
May 7, 2013  
Page 9

Pepperdine University Campus, from the scenic areas of Pacific Coast Highway, from the scenic areas of Bluff's Park, and from scenic public streets within the MCE subdivision. Clearly, the EIR has not considered the public's scenic rights or the public's rights to preserve their ocean views. Accordingly, the proposed Crummer Project, as currently presented in the EIR, is in violation of the *California Public Resource Code*. The EIR must be revised to not have the public's view rights be subordinate to the Crummer view-blocking homes.

O11-16  
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11. **EIR Fails to Recognize the Public's View Rights Under the Malibu Municipal Code.** The *Malibu Municipal Code*, cited at page 5.1-9 of the EIR, again states that visually impressive scenes of the Pacific Ocean and other views should be protected. The primary view corridor from Alumni Park is utilized by the general public since Pepperdine University allows the public (including residents of Malibu) to visit, picnic, walk, play upon and utilize Alumni Park. The spectacular panoramic ocean views from Alumni Park allow views of offshore islands, the Pacific Ocean and the dramatic coastline going down the Santa Monica coast. The fact is that the proposed Crummer Project's large two-story homes will impede these ocean views. To allow this Crummer Project to proceed would be in direct violation of Malibu's *Municipal Code Section 17.40.040 (A)(17)*. The general public and their ocean views are to be protected by the California Coastal Commission and by the City of Malibu. The EIR fails to consider this fact.

O11-17

12. **EIR Fails to Include Pictures from Alumni Park, Pacific Coast Highway and Other Views.** The photographs at EIR Figure 5.1-4 fail to include pictures from Pepperdine University's Alumni Park, an area that is utilized by the general public and is directly across from the Crummer Project site. Thus, the EIR needs to be revised to include these additional photographs. Even the limited photographs utilized in the EIR at page 5.1 show a significant blockage of views from Pacific Coast Highway and other sites. One can logically assume that

O11-18

### 3. Response to Comments

City of Malibu  
May 7, 2013  
Page 10

the views from Alumni Park, as well as views from within MCE, would be negatively impacted by this Crummer Project. Five mansion-sized homes on the Crummer Project site should not be allowed to impede the general public's views of the Pacific Ocean, offshore islands and the Santa Monica coast. The EIR fails to address this issue.

O11-18  
cont'd

The EIR states that the LUP does not consider areas of Pacific Coast Highway east of Malibu Canyon as scenic areas. However, Pacific Coast Highway areas west of Malibu Canyon are clearly scenic areas enjoyed by the public driving along this ocean highway, who can view the Pacific Ocean from this highway area. The EIR's minimization of a "glimpse" of the Crummer site and its current story poles from Pacific Coast Highway is incorrect. These story poles are clearly visible as one drives on scenic Pacific Coast Highway from west of the site. Additionally, Alumni Park which is immediately across the street from the Crummer Project has its views impeded by these story poles. Accordingly, primary visual resources along Pacific Coast Highway and those from Alumni Park, MCE homes, and MCE public streets are in fact affected by these proposed large Crummer two-story mansion-size homes. Accordingly, page 5.1-24 of the EIR should be revised.

O11-19

13. EIR Fails to Consider Plant and Tree Growth and Effects of Increased Water at the Crummer Project Site. The EIR incorrectly asserts at page 5.1-24 that plant species will not contribute to additional view blockage. In fact, the EIR admits that some of the plants will grow to heights of 10 feet or more on the Crummer Project site. The artificial importing of water (through the effluent of the on-site sewage/septic system) and irrigation of the landscaping of the homes will cause existing trees and foliage, as well as new trees and foliage planted on the site, to grow in excess of the Crummer home's rooflines and in areas other than where current story poles are located. This will contribute to additional view blockage from

O11-20

### 3. Response to Comments–O11

City of Malibu  
May 7, 2013  
Page 11

Pacific Coast Highway, Alumni Park and MCE homes. Accordingly, the EIR fails at page 5.1-24 to recognize these environmental impacts and needs to be revised.

O11-20  
cont'd

14. **EIR Fails to Correctly Show Obstruction of Ocean Views by the Crummer Project.** The photographs starting at 5.1-8 of the EIR show partial view blockages by the Crummer Project. In fact, when the additional trees and foliage grow in, and additional guest houses and the buildings are actually constructed on the Crummer Project site, there will be an even greater environmental impact on these views. In addition, these EIR pictures fail to show the view impacts from other MCE backyards and other areas of MCE homes. Additionally, these pictures fail to show the effect of the view blockage from Pepperdine University's Alumni Park which is used by the public. Interestingly, there are no photographs in the EIR of cars proceeding on Pacific Coast Highway from points west of the Project. It is all of these views, which are spectacular panoramic views of the Pacific Ocean, which are blocked or impeded by this Crummer Project. The EIR at page 5.1-47 **incorrectly states** that the ocean views of nearby residences in MCE will not be obstructed. In fact, many of these MCE residences will have their ocean views obstructed.

O11-21

15. **EIR Fails to Correctly Evaluate Means to Prevent Blockage of Views of the Pacific Ocean.** So that plants do not grow in excess of the proposed Crummer house's roof line heights (and diminish the ocean view), the following provision should be incorporated as a suggested mitigation measure by the EIR: "If trees or other foliage grow in excess of the lowest point of the property's roof, then the property owner shall immediately trim and cut such trees and foliage in order that same is not higher than the lowest point of the roof line point. If the property owner allows growth in excess of the roof line's lowest point then a monetary fine should be imposed upon the property owner for violating such ordinance." The amount of this monetary fine can be based upon the amount of height violation of the trees

O11-22

### 3. Response to Comments

City of Malibu  
May 7, 2013  
Page 12

or foliage. Monetary penalties will encourage landowners not to allow growth of trees and foliage in violation of the City of Malibu's ordinances. Considering the fact that the current Crummer site has no zoning, this is an ideal opportunity for the City to impose rules limiting the heights of trees and foliage with stated monetary penalties for failure to comply.

O11-22  
cont'd

MCE disagrees with the EIR's conclusion at page 5.1-48 that the Crummer Project would not substantially degrade visual characteristics of the site or introduce any aesthetic element incompatible with the project area. First, there is, in fact, view blockage by the Crummer two-story home of Alumni Park, Bluffs Park and MCE homes, as well as the public traveling on Pacific Coast Highway. Second, future tree and future foliage growth on the Crummer Project site (especially from irrigation systems) will further block ocean views. Third, these 11,000 plus square foot Crummer Project homes with basements, secondary guest houses and cabanas are inconsistent with being next to children's baseball fields and Bluffs Park, as well as the publicly used Alumni Park. Fourth, introducing artificial irrigation and a sewage/septic system which disposes of its effluent on the Crummer Project site will only encourage further growth of foliage and trees to further block ocean views. Thus, a reasonable person would conclude that the Crummer Project will have a significant negative effect on the views of the Santa Monica coastline, the offshore islands and the panoramic ocean views, and that all of these views are severely impacted by this Crummer Project. The Crummer Project of two-story 11,000 plus square feet homes does, in fact, obscure scenic resources utilized by thousands of Californians and citizens of Malibu every day. Accordingly, the EIR at page 5.1-48 needs to be revised. EIR impact 5.1-1 is, in fact, significant and needs to be amended in the EIR. Significant mitigation measures and alternatives need to be implemented and considered as viable alternatives by the EIR, such as reduction in the square footages of the Crummer Project homes, limiting such homes to only one-story, and limiting plant growth to the lowest point of the roof line. Thus, the conclusions at paragraphs 5.1.7 and 5.1.8 of the EIR need to be revised.

O11-23

### 3. Response to Comments–O11

City of Malibu  
May 7, 2013  
Page 13

16. **EIR Fails to Consider Effect of Crummer Project's Waste Water Discharge on Tree and Plant Growth.** Page 5.8-25 of the EIR describes the wastewater discharge on the site of the Crummer Project. It is proposed to discharge the sewage/septic effluent to "seepage pits" on the Crummer Project site. These seepage pits will contribute to additional water on the Crummer site, promoting additional growth of trees and other foliage, further blocking ocean views of the public from Alumni Park, Pacific Coast Highway and streets within MCE. The EIR is not clear on how this additional water seepage into the soil will affect the geology and slope stability.

O11-24

17. **EIR Fails to Consider the Cumulative Impact of Pepperdine University and its Construction Projects.** The EIR at page 5.9-5 speaks about the City of Malibu's LU Policy 1.5.1 for potential "cumulative" adverse environmental impacts. However, the Crummer Project EIR then fails to consider the large Pepperdine Campus Life Project which has recently been approved, which is directly across the street from the Crummer Project. This Pepperdine University project includes development of a sports and concert arena, campus housing, additional classrooms and other buildings, all of which will have a major cumulative effect on: (i) traffic, since the site is served by the same Pacific Coast Highway and Malibu Canyon Road that Pepperdine is served by; (ii) view impacts; and (iii) construction impacts. The EIR fails to consider any of the impacts of the large Pepperdine Campus Life Project which was approved by Los Angeles County Regional Planning Commission and the California Coastal Commission, and for which construction will commence in the future. Accordingly, the EIR should be revised to consider all of the cumulative impact and effects of the Pepperdine Campus Life Project and also of Pepperdine University. Pepperdine University is clearly within the zone of impact of the subject Crummer Project (Pepperdine University is right across the street!). Similarly, LU Policy 2.2.5 requires that the City of Malibu evaluate the effect on road capacity of traffic

O11-25

### 3. Response to Comments

City of Malibu  
May 7, 2013  
Page 14

impacts from “all sources.” Again, the EIR failed to consider Pepperdine University and the upcoming Pepperdine University Campus Life Project, which is a violation of this LU policy.

O11-25  
cont'd

18. **EIR Fails to Evaluate if the Crummer Project Should be Constructed in an Area Surrounded by Parks and Public Uses.** The EIR’s described City of Malibu LU Policy 3.1.1 is violated by the Crummer Project in that there are public parks and children’s baseball fields immediately adjacent to the subject Crummer Project site, and the construction of these large Crummer Project homes immediately adjacent to such a public children’s park is inconsistent and not compatible with the uses of such public park and baseball fields. For example, large amounts of noise will emanate from the Bluffs Park area and baseball fields, and will disturb the peace and quiet of the homeowners living in the five homes to be constructed on the Crummer Project site. Will these Crummer project homeowners then sue the City of Malibu claiming that the noise from such parks is a nuisance? What if these baseball fields want to install night lighting in the future? Will the Crummer Project home’s then object or sue the City of Malibu? Has the City of Malibu evaluated its liability exposure on these issues?

O11-26

The Crummer Project on its face appears to be an incompatible land use with the immediate adjoining public parks, and the<sup>O11-27</sup> ils to discuss same. Currently, as the EIR points out at page 5.9-8, there are no development standards for the Crummer Project site’s PD zoning designation. The EIR needs to evaluate if the City should allow the construction of five mansion-sized homes directly next to a public park and children’s baseball fields.

The City of Malibu, since it is classifying each of these Crummer Project homes as “one single family residence” per lot, should specifically prohibit leasing a home to more than one family, and should define what a “family” is. For example, the City should define, in the ordinance, a family as being required to be related persons by blood or adoption, or marriage or

O11-27

### 3. Response to Comments–O11

City of Malibu  
May 7, 2013  
Page 15

domestic partners. In other words, no leasing as student housing should be allowed, nor leasing to multiple families, etc. The designation is “one single family residence” and this should be defined by the City ordinance to ensure an enforceable provision which prevents leasing to multiple families or multiple students housing, and prevents turning these Crummer houses into boarding houses, fraternity houses, apartments, or multi-family rental houses. See page 5.9-8 of the EIR which needs to be revised.

O11-27  
cont'd

19. EIR’s Tables Do Not Correctly Explain or State the Square Footages of the Large Crummer Project Homes. Table 5.9-2 of the EIR at page 5.9-10 indicates that the square footages of the proposed five Crummer Project homes are going to exceed the square footages permitted by the “current code.” This fact is hereby objected to by the MCE HOA. In fact, the square footage of each Crummer home should be limited to 3,500 to 4,500 square feet, consistent with the surrounding neighborhoods such as MCE. Large 11,000 plus square foot homes are inconsistent with the land use in this general area. Limiting the square footage of each home would allow for one-story homes without increasing that home’s footprint. Again, the EIR is not clear as to what is included within the home square footages shown on table 5.9-2. Is the basement square footage in addition to these listed square footage amount? Does the basement allowance of increased height mean that the homes will be three feet plus twenty-eight feet? Are the guest house square footages and the cabana footages included within the table 5.9-2 square footages?

O11-28

20. EIR Fails to Show an Alternative of Smaller One-Story Homes. The EIR at page 5.9-10 points out that the height limitations of the Crummer Project homes exceed the permitted eighteen-foot height limits. In fact, the proposed Crummer Project homes will be twenty-eight feet tall. The new Malibu City zoning code ordinance for the Crummer Project site should, in fact, limit each home’s height to only one-story at eighteen feet in order to protect the

O11-29

### 3. Response to Comments

City of Malibu  
May 7, 2013  
Page 16

public's and MCE's ocean views. With the Crummer Project's proposed additional basement square footages, effectively the Crummer homes will obtain an additional story (even if one story is in the basement below ground), resulting in three-story Crummer homes. The EIR fails to address the fact that a twenty-eight foot height for homes (plus an additional basement) will have severe negative impacts upon views from public Pacific Coast Highway, Pepperdine University's Alumni Park, and the homes in MCE. Accordingly, the Crummer homes' heights should be limited to one-story, of eighteen feet from the lowest grade level currently existing on the site. This lowest existing grade should be used so that the applicant cannot build up the grade by importing earth onto the Crummer Project site. Considering the immediate adjacent Bluffs Park and children's baseball fields, along with Alumni Park, and their panoramic ocean views, the EIR fails to address the view blockages that five two-story 11,000 plus square foot houses will have. Thus, the EIR needs to be revised at page 5.9-10.

O11-29  
cont'd

21. The EIR Fails to Take Into Account Malibu Land Use Policy 6.7. The Crummer Project violates LU Policy 6.7 listed at page 5.9-18 of the EIR. The heights of the Crummer Project's proposed structures significantly impact the visual resources. As stated previously, the proposed five large homes affect panoramic ocean views from publicly used Alumni Park on the Pepperdine University campus, ocean views from MCE homes, ocean views from Bluffs Park, and ocean views of the publicly traveled Pacific Coast Highway. The LU Policy 6.7 limits heights to eighteen feet above finish grade or existing grade, whichever is lower. The EIR should point out that this eighteen-foot height limit should be enforced as to the Crummer Project. The EIR incorrectly concludes that a Crummer Project twenty-eight foot high residence would have an impact that is less than "significant." In fact, the Project's environmental impacts are very significant. If correct pictures were taken from the appropriate viewing points on Alumni Park and the Pepperdine University campus, from the appropriate homes in MCE, and from Pacific Coast Highway, then this would be evident.

O11-30

### 3. Response to Comments–O11

City of Malibu  
May 7, 2013  
Page 17

22. **The EIR Fails to Recognize the Significant Cumulative Impact of Other Projects on the Environment.** Page 5.9-20 of the EIR should be revised to address the cumulative impacts to land use caused by the Crummer Project. As mentioned above, the newly approved Pepperdine University Campus Life Project was not considered by the EIR, and this Campus Life Project will produce a significant cumulative impact with this immediately adjacent Crummer Project. Additionally, having large residential homes constructed immediately adjacent to a public park and to children's baseball fields, and immediately across from Alumni Park, is inconsistent with the land use standards of the City of Malibu.

O11-31

23. **EIR's Charts and Calculations of Cumulative Impacts Fails to Recognize Impacts from Pepperdine University.** The EIR, at pages 5.11 et. seq., fails to consider the impact of the now proposed Pepperdine University Campus Life Project on traffic. Clearly, Pepperdine students, faculty and employees generate significant traffic trips and when the new Pepperdine University Campus Life Project is constructed and operational, this will have a significant cumulative affect on traffic. Both the Crummer Project and Pepperdine University share a two-lane highway, Malibu Canyon Road, and also share the use of Pacific Coast Highway, so a detailed analysis by the EIR would be appropriate. Analyses of traffic patterns for Pepperdine University are available at the Los Angeles County Regional Planning Commission and in the Environmental Impact Report prepared in connection with the recently approved Pepperdine University Campus Life Project. These traffic trips should be considered and discussed as part of the Crummer Project EIR. For example, Table 5.11-10 of the EIR fails to even mention the new Pepperdine University Campus Life Project. Thus, the EIR's total cumulative traffic trip generation numbers are flawed as presented in this table 5.11-10. The EIR must be revised to consider the impact of Pepperdine University and its proposed expansion. The usage by Pepperdine University of immediate adjacent Pacific Coast Highway and Malibu

O11-32

### 3. Response to Comments

City of Malibu  
May 7, 2013  
Page 18

Canyon Road will dwarf any of the traffic trip numbers presented in the current EIR. The map of Cumulative Projects at Figure 5.11-6 of the EIR fails to even mention Pepperdine University and its Campus Life Project. There are sixteen projects listed at this EIR's figure and none of the EIR's charts or language mention Pepperdine University. The Project-related traffic trip generation impact at 5.11 of the EIR, at page 5.11-85, speaks about "proposed cumulative development" as required by the City of Malibu's guidelines. Yet, this EIR analysis fails to address or even mention the large Pepperdine University Campus Life Project that is being constructed immediately across Pacific Coast Highway from the proposed Crummer Housing Project.

O11-32  
cont'd

24. EIR Fails to Consider Alternatives of Smaller Structures on the Crummer Site. The EIR at paragraph 7 considers alternatives to the proposed Crummer development Project as required by law. However, the Project alternatives at page 7-4 fail to consider other alternatives, and are very limited. The EIR incorrectly limits its analysis to only three alternatives: a "two-story homes with a skate park only alternative," a "one-story home with recreational facilities alternative," and a "no project alternative". The EIR needs to discuss other alternatives, such as reducing the square footages of these Crummer Project homes and having one-story homes. This last alternative should evaluate having five 3,500 to 4,500 square foot homes (which for each home's square footage calculation should include any basement areas, second homes and other building structures). The Crummer homes should be limited to one-story in order to preserve the ocean views from the various public and MCE vantage points discussed, above, in this letter. Thus, the EIR Table-1 fails to consider all alternatives and needs to be revised.

O11-33

Paragraph 7.3.2 of the EIR incorrectly assumes the same square footages in analyzing the alternative of having a one-story structure. On the other hand, the EIR needs to propose an

O11-34

### 3. Response to Comments–O11

City of Malibu  
May 7, 2013  
Page 19

alternative of reducing the square footages of the Crummer Project's homes, with the result a square footage reduction will reduce the building/house footprint. The EIR at page 7-10 concludes that additional cubic yards of soil must be exported and imported for a one-story home, because the EIR incorrectly assumes the same square footage for the house and also incorrectly assumes that house will have a full basement under this increased footprint. However, with a reduced Project house footprint (by reducing that house's square footage), there would be a lesser requirement of importing and exporting dirt. Additionally, if the exporting of dirt is being based upon a basement area, then the EIR should consider another alternative of the basement area being eliminated or reduced in size. The EIR fails to discuss or consider these other alternatives. Instead, the EIR assumes a large basement area resulting in an increased importing and exporting of dirt. If, on the other hand, the EIR were to consider eliminating or reducing basement sizes, and reducing the overall square footages of the Crummer Project homes (to more reasonable square footage standards such as 3,500 to 4,500 square feet) then this amount of importing and exporting of dirt would not be required for a one-story Crummer Project house.

O11-34  
cont'd

25. EIR Fails to Balance the Public's View Rights of the Pacific Ocean Against the Large Mansion-Sized Crummer Homes. In the EIR's current one-story house "alternative" on the Crummer Project site, the EIR fails to mention or even consider that the goal of saving ocean views for the public and MCE far exceeds the nominal temporary increased traffic of importing and exporting dirt. However, as mentioned above, this importing and exporting of dirt can be reduced, and even eliminated, by reducing the square footages of the Crummer Project's houses and by eliminating basements.

O11-35

26. EIR Fails to Consider All Nearby Property's Ocean Views. The suggested alternative of having one-story smaller sized houses for the Crummer Project preserves ocean

O11-36

### 3. Response to Comments

City of Malibu  
May 7, 2013  
Page 20

views. The EIR needs to consider all of the ocean views from MCE homes and the public's views from Alumni Park and Bluffs Park and from Pacific Coast Highway. The EIR's chosen photographs from MCE's homes are questionable. There were no photos in the EIR made from Alumni Park or Pacific Coast Highway west of the Crummer Project site. The Crummer Project's large two-story houses in fact have a negative effect on those ocean views. Again, the EIR needs to be revised to include an alternative of a one-story home of reduced square footage in order to consider the panoramic ocean views from Alumni Park on the Pepperdine University campus, the public's views from Pacific Coast Highway and from the public streets within the MCE subdivision. The EIR needs to include pictures from Alumni Park vantage points and the EIR needs to consider to views from Alumni Park, a park area which is used by the public for walking, picnicking, and recreational uses.

O11-36  
cont'd

27. EIR Fails to Properly Analyze One-Story Alternative Homes on the Crummer Project Site. Paragraph 7.4 of the EIR identifies a so-called "environmentally superior" alternative as two-story homes of 11,000 plus square feet each (plus basement areas and plus other additional buildings on each lot). However, the EIR's reasoning to use this alternative is flawed. First, a one-story alternative of a lesser square footage house would clearly have less of an environmental impact, but the EIR fails to even analyze such an approach. Second, the EIR fails to analyze the Crummer two-story homes' obstruction of views from Alumni Park and other portions of MCE, and the areas of Pacific Coast Highway west of the Project. Instead, the EIR should be revised to discuss a one-story house alternative of a lesser square footage. Importing and exporting dirt for a home's construction can be eliminated by not having basements, or minimized by having lesser square footage basements and smaller sized homes.

O11-37

#### Conclusion

3. Response to Comments–O11

City of Malibu  
May 7, 2013  
Page 21

The EIR requires revisions, as outlined above. In particular, the EIR needs to be revised to address the blockage of views from MCE's homes, Pepperdine University's Alumni Park, Bluffs Park, and Pacific Coast Highway. Importantly the EIR needs to be revised in order to consider the cumulative impact of Pepperdine University and its pending construction projects. The EIR, additionally, fails to consider alternatives of reducing the square footages of the Project's homes and limiting these homes' heights to one story.

O11-38

It is respectfully requested that the EIR be revised in order to address the above issues.

Very truly yours,



MALIBU COUNTRY ESTATES  
HOMEOWNERS ASSOCIATION

cc: Ha Ly, Associate Planner (by email at [hly@malibucity.org](mailto:hly@malibucity.org))  
Joyce Parker-Bozylinski, Planning Director (by email at [jparkerbozylinski@malibucity.org](mailto:jparkerbozylinski@malibucity.org))

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### 3. Response to Comments

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### 3. Response to Comments–O11

#### O11 Response to Comments from Malibu Country Estates Homeowner' Association, dated May 7, 2013.

O11-1 This comment is generally a set of introductory remarks. The commenter states that the each of the two-story single-family homes is in excess of 11,000 square feet and that the DEIR alternatives “fail to properly consider an alternative of constructing one-story homes, the reduction in the square footages of the Crummer Project homes, or the elimination of basements.”

The DEIR comprehensively assesses the significant environmental effects of the project, a reasonable range of alternatives to the proposed project, and feasible mitigation measures to reduce and avoid significant environmental impacts. All impacts would be less than significant.

CEQA Guidelines Section 15126.6(a) states that "the discussion of alternatives shall focus on alternatives to the project or its location which are capable of avoiding or substantially lessening any significant effects of the project ... " There are no significant impacts related to the square footage of the residential structures, the proposed basements, or the height of the residential structures. Therefore CEQA does not require the alternatives suggested by the commenter. Please refer to General Response 2.3 and Response to Comment Letter R9 for an expanded discussion of why the proposed project will not create a significant aesthetic impact.

The commenter mistakingly believes that a one-story alternative was not analyzed in the DEIR. Section 7 of the DEIR, *Alternatives to the Proposed Project*, evaluated a “One-Story Homes with Skate Park or Baseball Field Alternative” in response to concerns expressed by the community, including the Malibu Country Estates.

As stated in Section 7.3.2:

“This alternative was requested at the public scoping meeting held for the project held on June 7, 2012. As discussed in Chapter 5.1, Aesthetics, the proposed project would not obstruct existing public scenic views or otherwise substantially impact scenic views or resources. Impacts would be less than significant without mitigation. However, the proposed residential buildings would appear very prominent when viewed from the low-lying portions of the City to the east. In addition, when viewed from higher-elevation residential areas of Malibu Country Estates to north of the site, the proposed project would alter the horizon of the bluff, and would create buildings visible from these vantage points where no buildings currently exist. As requested by the public, the One-Story Homes Alternative analyzes the impact of developing all one-story homes instead of all two-story homes.”

The City received written comments to the DEIR during the public comment period. A number of comments were received requesting that the City provide visual simulations from additional public viewpoints. In addition, a number of comments requested that the EIR analyze another alternative, which would include a mixture of reducing the height, density (square footage) and massing of some of the residences in the proposed project to address concerns about visual impacts.

Based on the comments to the DEIR, the Planning Department requested and additional alternative and visual simulations to be provided from twelve (12) additional

### 3. Response to Comments

locations as shown in FEIR Appendix A, seven (7) of which are from public viewpoints, and five locations are on the campus of Pepperdine University (the “Additional Locations”). The five locations on the Pepperdine University campus were selected by the University, which provided consultant with GPS coordinates for each of these locations:

- View 15: Pepperdine University - Brock House Lawn.
- View 16: Pepperdine University - Thornton Administrative Center.
- View 17: Pepperdine University - Campus Walk
- View 18: Pepperdine University - Lake Sidewalk
- View 19: Pepperdine University - Alumni Park.

View 19: Pepperdine University - Alumni Park. Panorama view looking south and east from the western portion of Alumni Park. This view is located on private property that is available to Pepperdine University students, faculty and staff and visitors to the Pepperdine University campus. This location is approximately three-tenths of a mile from the project site at an elevation approximately 50 feet above the project site. This image shows that the project is only slightly visible from this location and does not obstruct any of the blue water view because of the significant distance between the project site, the ocean and this location. The existing landscaping in Alumni Park blocks a small portion of the Project and the ocean views from this location. The proposed project would have a less than significant impact on visual resources from this location.

The commenter believes the project would block views from Alumni Park Although Pepperdine University is private property, the locations were selected based on a combination of their use (foot and vehicular traffic etc.) and their location for important University related or sponsored events. Photographs were taken from the Additional Location on June 17, 2013. The commenter is referred to General Comment 2.3.1 for a discussion of why the proposed project will not create a significant aesthetic impact.

Please see FEIR Appendix A for a complete copy of the revised view simulations report.

Regarding the additional alternative, although not required by CEQA, a new alternative, the “Reduced Project Site Alternative,” has been added to Section 7 in response to public comments. As described in Appendix E of this FEIR, this alternative includes:

- 5 single-family residential units
- Dedication of Lot 7 for active recreational uses (either skate park or baseball field)
- Compared to the proposed project:
  - Reduction of the square footage of each residence to comply with the maximum permitted under the City’s current development regulations (overall reduction of approximately 11 percent)

### 3. Response to Comments–O11

- Reduction of the height of the development on Lot 2 to no more than 18 feet
- Reduction of the size of the second floor on four of the five residences
- Modifications to the landscaping plan so some trees are not planted

The Reduced Project Alternative also includes a revised landscaping plan that minimizes the amount and height of landscaping on the project site in order to provide additional view corridors.

The DEIR is an informational document that will be used by the lead agency. The authority to make a determination regarding the project's aesthetic impacts rests with the lead agency, as discussed in the DEIR's executive summary. These comments are noted and will be provided to the City decisionmakers for their consideration.

O11-2 First the commenter states that the project's two-story homes block the view of certain homes within the Malibu Country Estates.

The DEIR concluded there will be no significant view impacts from the project as proposed. As discussed in DEIR Section 5.1, Aesthetic Resources, Malibu Municipal Code (M.M.C.) Section 17.40.040(A)(17) defines and protects "primary views." As discussed on DEIR page 5.1-47:

"...due to the distance of the project site from nearby structures, the proposed project would not obstruct any primary views, as defined in M.M.C. Section 17.40.040(A)(17). The nearest residence in Malibu Country Estates is approximately 2,000 feet away from the project site. These views are not "primary views" within 1,000 feet of a proposed structure as defined and protected by M.M.C. Section 17.40.040(A)(17). Views of ocean and mountains from nearby residences would not be obstructed. The project site is on a bluff, elevated above the ocean, and there are no structures adjacent to the project site; therefore, there are very few structures from which the proposed project could conceivably obstruct views of the ocean. Any such locations would necessarily be a substantial distance from the project site, and the proposed project would therefore not constitute a substantial obstruction to primary views."

The DEIR analyzed two views from the Malibu Country Estates; View 4: Blue Dane Lane (Malibu Country Estates) looking southeast toward the project site; and View 5: Vantage Point Terrace (Malibu Country Estates) looking southeast toward the project site. Impacts were less than significant. The supplemental view simulation study revised these views to reflect the proposed project with a reduced landscape plan, the Reduced Project Alternative, and the Single-Story Alternative. There are two revised view simulations from Malibu Country Estates.

- View 4: Blue Dane Lane (Malibu Country Estates) looking southeast toward the project site. This is a view from a public street approximately one-half mile from the project site at an elevation approximately 100 feet above the project site. Because the Consultant was unable to identify a homeowner in the Malibu Country Estates neighborhood who would give him access to a private

### 3. Response to Comments

residence, this view is intended to represent a view from a private residence. The project is contained within the center of this view. This image shows that the project will block only a very small fraction of the blue water view from this location. However, because of the significant distance between the project site, the ocean and this location and the elevation of this location relative to the project site, the project is almost imperceptible and the expansive blue water views are otherwise unobstructed. Existing development in the vicinity of the project is also visible. The proposed project would have a less than significant impact on views from this location.

- View 5: Vantage Point Terrace (Malibu Country Estates) looking southeast toward the project site. This is a view from a public street. Existing development in the vicinity of the project is visible. The project is visible from this location, however, the nearby housing, vegetation and topography block extensive ocean views to the east and west. This image shows the project will block a very small fraction of the blue water view from this location. In addition, because of the significant distance between the project site, the ocean and this location and the elevation of this location relative to the project site, the changes to the blue water view are minor.

The DEIR assessed impacts to visual resources within the context of the surrounding area. The project area is characterized by a mix of uses, including residential, recreational, commercial, and institutional, and the proposed project would be compatible with the project site and its surroundings. The project site is located in an area that has seen substantial development. Development within approximately one-half of a mile from the project site include single family residential development on Malibu Road, the Malibu Knolls (229 homes) and the Malibu Country Estates (107 lots) subdivisions, two condominium developments totaling 152 units, office buildings, including the HRL Research complex (approximately 225,000 square feet), Malibu City Hall and Los Angeles County offices, two wastewater treatment plants, Pepperdine University and the Malibu Colony Plaza Shopping Center. The DEIR concluded that while the proposed project would alter the visual appearance of the project site, the project would not substantially degrade visual character of the site or introduce any aesthetic elements incompatible with the project area.

The comments are noted and will be forwarded to the City's decisionmakers for their consideration.

Second, the commenter states that the proposed project blocks views of the Pacific Ocean from Alumni Park on the Pepperdine University Campus. The DEIR concluded there will be no significant view impacts from the project as proposed. Please see Response to Comment O11-1 to O11-4.

Third, commenter states that the Crummer homes block a view from Pacific Coast Highway (PCH) and from Bluffs Park.

The DEIR Section 5.1 addressed the impacts to Bluffs Park. See View 13: Bluffs Park (Santa Monica Mountains Conservancy) looking east toward the project site and View 14: Bluffs Park (baseball outfield) looking east toward the project site. Impacts were found to be less than significant. The commenter is referred to General Comment 2.3.1

### 3. Response to Comments–O11

and the revised view simulation analysis is Appendix A of the FEIR. Specifically, View 24 is a panorama view looking north and east from the lawn in Bluffs Park. This location is considered a public viewing area. The Santa Monica Mountains and existing development, including the HRL Research complex and buildings in Bluffs Park in the vicinity of the project are visible. Only a very small portion of the project is visible on the far right side of this image and most of the project is obscured by vegetation. The project does not block or impair any views of the ocean, the mountains or other geological features or other valued aesthetic features. The proposed project would have a less than significant impact on visual resources from this location.

View 26: Pacific Coast Highway (west of entrance to Bluffs Park) is a standard view west of entrance to Bluffs Park. Pacific Coast Highway is a designated scenic highway. A large eucalyptus tree, which is approximately 30 feet high, is visible on the project site from this location and will be removed as part of the project. The project is not visible from this location and the proposed project would have no impact on the visual resources when viewed from this location.

The DEIR assessed impacts to visual resources within the context of the surrounding area. The project area is characterized by a mix of uses, including residential, recreational, commercial, and institutional, and the proposed project would be compatible with the project site and its surroundings. The project site is located in an area that has seen substantial development. Development within approximately one-half of a mile from the project site include single family residential development on Malibu Road, the Malibu Knolls (229 homes) and the Malibu Country Estates (107 lots) subdivisions, two condominium developments totaling 152 units, office buildings, including the HRL Research complex (approximately 225,000 square feet), Malibu City Hall and Los Angeles County offices, two wastewater treatment plants, Pepperdine University and the Malibu Colony Plaza Shopping Center. The DEIR concluded that while the proposed project would alter the visual appearance of the project site, the project would not substantially degrade visual character of the site or introduce any aesthetic elements incompatible with the project area.

The comments will be forwarded to the City’s decisionmakers for their consideration.

- O11-3 The commenter gives the opinion that 11,000 square foot homes should not be allowed on the project site because homes within the Malibu Country Estates and other homes within the “immediate vicinity” range in the 3,000-4,000 square-foot range. The commenter believes that if the proposed project is limited to 4,000 to 5,000 square-foot homes, the project would have “significantly less impact on the environment” and would not block the public’s view of the Pacific Ocean. There are no significant impacts related to the square-footage of the homes.

The DEIR concluded there will be no significant view impacts from the project as proposed. DEIR Section 5.1 determined that “as shown in the view simulations, the project would not block any significant scenic resources from public viewsheds or from protected private view corridors.” Impacts were determined to be less than significant. There are no public views of the ocean that are significantly obstructed by the proposed project and reducing the maximum home size by more than 50% would not result in significant protection of public views. There is no evidence in the record to support the commenter’s speculative conclusions.

### 3. Response to Comments

As discussed in Response to Comment O11-6, O11-17, and O11-18, and throughout this Response to Comment Letter O11, as well as in General Response 2.3.2, the project does not impact any protected viewsheds. This FEIR provides substantial evidence that the proposed project's impacts remain less than sign significant.

Finally, the commenter asserts that the DEIR failed to consider a reduced square-footage alternative. The commenter is referred to FEIR Appendix A for a complete copy of the supplemental view simulations report, and Appendix E for the revised Section 7, *Alternatives to the Proposed Project* for a description of the Reduced Project Alternative. The Reduced Project Alternative reduces building square footages by approximately 11 percent. See also Response to Comment O11-1. The DEIR determined that there are no significant impacts related to the square footage of the residential structures, the proposed basements, or the height of the residential structures. Therefore CEQA does not require the alternatives suggested by the commenter.

Regarding the adequacy of project alternatives, the commenter is referred to Response to Comment O11-1.

O11-4 There are no significant aesthetic resources impacts. Please see General Response 2.3. Here commenter gives the opinion that the Single-Story Alternative is incorrect because it does not reduce the building square footage and believes that the alternative should have analyzed a smaller building footprint.

This alternative analyzed in the DEIR reduces the maximum building height of each home to 18 feet. It clearly states that the total square footage of each of the homes and the lot sizes are assumed to remain the same as in the proposed project. The alternative is not incorrect; it's simply not the alternative the commenter would have liked analyzed. As discussed in General Response 2.3 and in FEIR Appendix A, view simulation provide substantial evidence that the One-Story Alternative would result in substantially larger footprints, encroaching into lateral (horizontal) views to a greater extent and reducing open space between the homes. Because the One-Story Alternative has a larger horizontal footprint that the proposed project, when viewed from certain locations, it would result in a marginal increase in horizontal view blockage and a marginal decrease in vertical view blockage when compared to the proposed project.

The commenter is referred to General Response 2.3 regarding aesthetic impacts, FEIR Appendix A for a complete copy of the supplemental view simulations report, and Appendix E for the revised Section 7, *Alternatives to the Proposed Project* for a description of the Reduced Project Alternative. The Reduced Project Alternative reduces building square footages by approximately 11 percent.

The commenter states the opinion that one-story homes would eliminate the environmental effect to view and that reducing the allowable square footage would reduce grading volumes and related export volumes. The commenter's conclusion does not flow logically from the facts. One-story homes alone do not necessarily reduce grading volumes. As discussed in DEIR Section 7.3.2, *Alternatives to the Proposed Project*, "with larger building footprints and more grading required, the impacts for the One-Story Alternative would be slightly greater than the proposed project with regard to geology and soils. Although this alternative would result in additional grading volumes and larger building footprints than the proposed project, impacts would remain less than significant." There is no evidence in the record to support this speculative conclusion.

### 3. Response to Comments–O11

While reducing the maximum home size by more than 50%, reducing the building footprints and eliminating basements might reduce the amount of soil haul, the DEIR did not identify any significant unavoidable impacts, including any related to visual resources or construction related air quality impacts that result from soil export.

O11-5 Please see response to comment O11-1 and O11-4. As discussed in Section 7, *Alternatives to the Proposed Project*, aesthetically, the Single-Story Alternative would be environmentally equal to or of slightly less impact than the proposed project. The larger footprints would either equal impacts or marginally increased impacts in a variety of environmental categories compared to the proposed project.

O11-6 Here the commenter assert that the DEIR is promoting a “special standard” for the proposed project. The commenter is referred to General Responses 2.1 and 2.2. Please also see Responses to Comments O3-14, O3-24, O3-63, O3-64, O3-68 and O3-76 regarding the project site’s PD land use designation. Finally, the commenter is referred to General Response 2.3 regarding aesthetic impacts and Response to Comment O11-1 and O11-4.

Secondly, the commenter questions why two-story homes, basements, and cabanas are permitted.

The chart on DEIR Page 3-20 does not show the gross square footage proposed, instead it shows the proposed Total Development Square Footage (TDSF) for each parcel. It includes square footage for all the accessory structures, including the cabanas, but only a portion of the basement because basements are calculated using a different formula for TDSF. LIP Section 3.6 provides a formula for how to calculate TDSF as follows:

“Total development square footage shall be determined based on the following formula (slopes equal to or greater than 1:1 shall be excluded from the lot area calculation): for lot areas up to 1/2 acre, total square footage shall be 17.7% of lot area plus 1,000 square feet; for lot areas greater than 1/2 acre and up to 1 acre, total development square footage shall be increased by 10% of the amount of lot area exceeding 1/2 acre; for lot areas greater than 1 acre and up to 1 1/2 acre, total development square footage shall be increased by 5% of the amount of lot area exceeding 1 acre; for lot areas greater than 1 1/2 acres and up to 5 acres, total development square footage shall be increased by 2% of the amount of the lot area exceeding 1 1/2 acres. For the purposes of this subsection, arbors or trellis open to the sky shall not be calculated as part of the total development square footage.

Basements. The square footage of a basement shall be included in the calculation of total development square footage (TDSF), consistent with the following formula: The initial one-thousand (1,000) square feet of a basement shall not count toward TDSF; additional area in excess of one-thousand (1,000) square feet shall be included in the calculation of TDSF at the rate of one (1) square foot of TDSF for every two (2) square feet of proposed basement square footage.”

This comment related to proposed square footage totals which would be greater than those allowed within the Malibu Country Estates does not related to a physical impact of the project and does not make the DEIR deficient.

### 3. Response to Comments

Finally, as discussed in General Response 2.3.2, the project does not impact any protected viewsheds. Section 17.43.030 defines a “primary view” within the Malibu Country Estates as “visually impressive scenes of the Pacific Ocean, offshore islands, the Santa Monica Mountains, canyons, valleys, or ravines as viewed from the primary view area. ‘Primary view’ does not include a view of the sky, yards or structure interiors on neighboring properties, or vacant land that is developable under the zoning ordinance or the [LCP].” The proposed project is not subject to this chapter of the Municipal Code because the proposed project is not proposing landscaping within the Malibu Country Estates subdivision.

- O11-7 Please refer to Response to Comment O11-06 above. The authority to make a determination regarding the project’s aesthetic and land use impacts rests with the lead agency, as discussed in the DEIR’s executive summary. In addition, the project does not include a zone change. These comments are noted and will be provided to the City decisionmakers for their consideration.

Regarding impacts to Alumni Park, please see Response to Comment O11-1. See also Responses to Comment R7-1 and PH7.

- O11-8 This comment again states that the project would have a significant impact related to aesthetic resources including to Malibu Country Estates views, Alumni Park, from Bluffs Park and PCH. Please refer to Response to Comments O11-1 to O11-7. The comments will be forwarded to the City’s decisionmakers for their consideration.

- O11-9 This comment again states that the project would have a significant impact related to aesthetic resources including to Malibu Country Estates views, Alumni Park, from Bluffs Park and PCH. Please refer to Response to Comments O11-1 to O11-8. The comments will be forwarded to the City’s decisionmakers for their consideration.

- O11-10 The commenters express opposition to the proposed project on the basis of aesthetic impacts. The commenter is specifically concerned with building height and height of trees as they grow over time. This commenter is concerned with trees growing above roof line and that they will block views. A condition of approval will be included which states that landscaping shall not block the primary views of adjacent neighbors. The simulated views in DEIR Figures 5.1-4 through 5.1-18 include simulations of the proposed landscaping at maturity from 5 to 20 years for slower growing species. Many of the view simulations, including Figure DEIR 5.1-8 (Blue Dane Lane–Malibu Country Estates) depict trees that are taller than the roof lines of the proposed residential structures. Nonetheless, the DEIR determined that “as shown in the view simulations, the project would not block any significant scenic resources from public viewsheds or from protected private view corridors.” Impacts were determined to be less than significant. As discussed in Response to Comment O11-6, O11-17, and O11-18, and throughout this Response to Comment Letter O11, as well as in General Response 2.3.2, the project does not impact any protected viewsheds.

Regarding “protected tress” as discussed in Section 5.3 of the DEIR, the proposed project would require compliance with the City of Malibu Local Coastal Program and Native Tree Protection Ordinance. Mitigation measure 3-2 requires that mitigation and maintenance measures be developed to preserve the six Southern California black walnut trees located on the project site. The mitigation measures included in the Protected Tree Report also require maintenance and monitoring of the trees. The report

### 3. Response to Comments–O11

requires that many of the mitigation measures be approved by a City-approved arborist. The City permits native trees to be trimmed for health and maintenance reasons. With implementation of existing regulations, conditions of approval, and mitigation measures, impacts related to growth of native trees are less considered than significant.

Therefore, even as native trees mature, they would not impact any primary or protected views. The DEIR presents a conservative analysis. No substantial evidence has been provided to support the assertion that impacts are significant or that the DEIR is deficient.

As addressed in Response to Comment O11-1, a new alternative, the “Reduced Project Site Alternative,” has been added to Section 7 in response to public comments. As described in Appendix E of this FEIR. The Reduced Project Alternative also includes a revised landscaping plan which includes not planting numerous trees as to provide additional view corridors.

The comments will be forwarded to the City’s decisionmakers for their consideration.

O11-11 As set forth in Section 15124 of the CEQA Guidelines, project objectives must be included within an EIR’s project description, and should include the underlying purpose of the project. Such objectives are typically set forth as a list of goals and aspirations that reflect the project’s purpose. Guidelines Section 15124(b) states that a “clearly written statement of objectives will help the lead agency develop a reasonable range of alternatives.” One of the project’s objectives is to contribute to the range of housing choices in the City of Malibu. The City of Malibu has a wide range of housing choices, including student housing, multifamily, and single-family residential units. The proposed project would add five new residential units to Malibu’s housing stock and thereby would contribute the range of housing choices. The comments will be forwarded to the City’s decisionmakers for their consideration.

O11-12 Please refer to General Responses 2.2 and 2.3. See also Response to Comment Letter PH-1 and O11-6.

O11-13 Please refer to Response to Comment O11-06 above. The authority to make a determination regarding the project’s aesthetic and land use impacts rests with the lead agency, as discussed in the DEIR’s executive summary. These comments are noted and will be provided to the City decisionmakers for their consideration.

O11-14 The commenter points out that the Campus Life project was not listed in the cumulative projects list.

The commenter is correct. The Pepperdine Campus Life project was not included because it would take place over 12 years, and would not likely generate (permanent) traffic by the Opening Year (2017) of the Crummer project. A Revised Traffic Impact Analysis has been prepared to analyze the impact of the Pepperdine Campus Life project. As with the DEIR, cumulative impacts remain less than significant with mitigation. Please see revised Traffic Study in Appendix G of the FEIR and Traffic and Transportation Section 5.11 in Appendix M of the FEIR.

O11-15 This comment again states that the project would have a significant impact related to aesthetic resources including to Malibu Country Estates views, Alumni Park, from Bluffs

### 3. Response to Comments

Park and PCH, as well as cumulative traffic impacts from the Campus Life Project. Please refer to Response to Comments O11-1 to O11-4. As stated on DEIR Page 5.1-2:

“Vista points are areas that provide highly scenic and panoramic views of several miles with little or no sense of boundary restriction. Such views are typically available from a high vantage point. The closest vista point identified in either the City’s General Plan or the Malibu LCP Land Use Plan (LUP) is Kellers Shelter Vista Point, approximately one-half mile east of the project site. Kellers Shelter Vista Point is an undeveloped blufftop directly north of Pacific Coast Highway (PCH) near Malibu Lagoon State Beach, offering a significant view of Malibu Point and the small bay east of the point, known as Kellers Shelter. Components of this view include the Malibu Pier, the waves breaking along the point, and the half-moon shaped bay. Malibu Lagoon, currently under renovation, is also clearly discernible.”

Pepperdine University is located on private property and is not identified as vista point in City’s General Plan or the Malibu LCP Land Use Plan (LUP). The comments will be forwarded to the City’s decisionmakers for their consideration.

O11-16 Section 30251 of the Public Resources Code provides “New development in highly scenic areas, such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government, shall be subordinate to the character of the setting.” The project site is not designated as a highly scenic area by California Coastline Preservation and Recreation Plan, the City of Malibu or the California Coastal Commission. The commenter claims that the DEIR fails to balance the public’s view rights of the ocean against the project. As discussed in Response to Comment O11-6, O11-17, and O11-18, and throughout this Response to Comment Letter O11, as well as in General Response 2.3.2, the project does not impact any protected viewsheds. No substantial evidence has been provided to support the assertion that impacts are significant or that the DEIR is deficient.

O11-17 As discussed in General Response 2.3.2 and DEIR Section 5.1, the project does not impact any protected viewsheds. The DEIR’s view simulations included mature landscaping. As stated on DEIR page 5.1-24, the simulated views in Figures 5.1-4 through 5.1-18 include simulations of the proposed landscaping at maturity from 5 to 20 years for slower growing species. As shown in the view simulations, the project would not block any significant scenic resources from public viewsheds or from protected private view corridors. Please refer to General Response 2.3 which includes a Revised View Simulation Report and view simulations of the project’s alternatives, which include a reduced landscape plan. See Response to Comment O11-15. The reduced project alternative also includes a revised landscaping plan which reflects not planting numerous trees provide additional view corridors.

The commenter mistakenly believes the project would violate M.M.C. Section 17.40.040(A)(17). See Response to Comment O11-2.

O11-18 A supplemental Visual Simulations Report (September 30, 2013) has been prepared (See FEIR Appendix A). The supplemental view simulation report provides 26 different views for the three different scenarios: the Proposed Project; the One-Story Alternative;

### 3. Response to Comments–O11

and a new “Reduced Project Alternative”; for a total of 78 views. Please refer to General Response 2.3, Aesthetics and the Revised View Simulation Report. Each of the 78 views and view simulations is described in detail and measured against CEQA thresholds assessed within the context of the extensive and diverse surrounding residential and commercial uses when analyzing the potential impacts from the proposed project to visual resources. The project’s impacts remain less than significant.

Please see FEIR Appendix A for a complete copy of the supplemental view simulations report. See also FEIR Appendix E, Revised Chapter 7, *Alternatives to the Proposed Project*.

View impacts from five different viewpoints within Pepperdine are provided as part of the supplemental view simulations report. Impacts to Alumni Park are analyzed as follows.

View 19: Pepperdine University - Alumni Park. Panorama view looking south and east from the western portion of Alumni Park. This view is located on private property that is available to Pepperdine University students, faculty and staff and visitors to the Pepperdine University campus. This location is approximately three-tenths of a mile from the project site at an elevation approximately 50 feet above the Project Site. This image shows that the project is only slightly visible from this location and does obstruct any of the blue water view because of the significant distance between the project site, the ocean and this location. The existing landscaping in Alumni Park blocks a small portion of the Project and the ocean views from this location. The proposed project would have a less than significant impact on visual resources from this location. Please see FEIR Appendix A for a complete copy of the revised view simulations report.

This comment again states that the project would have a significant impact related to aesthetic resources including to Malibu Country Estates views, Alumni Park, from Bluffs Park and PCH. Please refer to Response to Comments O11-1 to O11-17. The comments will be forwarded to the City’s decisionmakers for their consideration.

O11-19 Please refer to Response to Comments O11-19. The comments will be forwarded to the City’s decisionmakers for their consideration.

O11-20 Please refer to Response to Comment O11-10. This commenter is concerned that as trees grow as a result of irrigation and the OWTS seepage pits, that trees would grow above roof line and that they will block views. The simulated views in DEIR Figures 5.1-4 through 5.1-18 include simulations of the proposed landscaping at maturity from 5 to 20 years for slower growing species. Many of the view simulations, including Figure DEIR 5.1-8 (Blue Dane Lane–Malibu Country Estates) depict trees that are taller than the roof lines of the proposed residential structures. Nonetheless, the DEIR determined that “as shown in the view simulations, the project would not block any significant scenic resources from public viewsheds or from protected private view corridors.” Impacts were determined to be less than significant. As discussed in Response to Comment O11-6, O11-17, and O11-18, and throughout this Response to Comment Letter O11, as well as in General Response 2.3.2, the project does not impact any protected viewsheds. With implementation of existing regulations, conditions of approval, and mitigation measures, impacts related to growth of native trees are less considered than significant.

### 3. Response to Comments

Therefore, even as native trees mature, they would not impact any primary or protected views. The DEIR presents a conservative analysis. No substantial evidence has been provided to support the assertion that impacts are significant or that the DEIR is deficient.

O11-21 Please refer to Response to Comment O11-18.

O11-22 The commenter is suggesting a mitigation measure to limit the height of trees on the proposed project site. Please see Responses to Comments O11-10 and O11-20. As discussed in Response to Comment O11-6, O11-17, and O11-18, and throughout this Response to Comment Letter O11, as well as in General Response 2.3.2, the project does not impact any protected viewsheds and does not result in a significant impact to aesthetic resources; therefore, an additional mitigation measure is not required. With implementation of existing regulations, conditions of approval, and mitigation measures, impacts related to growth of native trees are less considered than significant and new mitigation measures are not necessary. However, the commenter's recommendations will be forwarded to the City decisionmakers for their consideration.

O11-23 The first part of this comment repeats the commenter's opinion that the project would have a significant impact related to aesthetic resources including to Malibu Country Estates views, Alumni Park, from Bluffs Park, and PCH. Please refer to Response to Comments O11-1 to O11-38. No substantial evidence has been provided to support the assertion that impacts are significant or that the DEIR is deficient.

The second part of this comment repeats the commenter's concern related to future tree growth as a result of artificial irrigation and the potential impacts to visual resources. As addressed in Response to Comment O11-10, O11-20 and O1-22, with implementation of existing regulations, conditions of approval, and mitigation measures, impacts related to growth of native trees are less considered than significant and no new mitigation measures are necessary. However, the commenter's recommendations will be forwarded to the City decisionmakers for their consideration.

The third part of this comment repeats the commenter's preference that the proposed project reduces the allowable residential square footages. Please refer to Response to Comments O11-1 to O11-38. The commenter's recommendations will be forwarded to the City decisionmakers for their consideration.

O11-24 The commenter is suggesting a mitigation measure to limit the height of trees on the proposed project site. Please see Responses to Comments O11-10, O11-20, and O1-22. As discussed in Response to Comment O11-6, O11-17, and O11-18, and throughout this Response to Comment Letter O11, as well as in General Response 2.3.2, the project does not impact any protected viewsheds. With implementation of existing regulations, conditions of approval, and mitigation measures, impacts related to growth of native trees are less considered than significant and new mitigation measures are not necessary. However, the commenter's recommendations will be forwarded to the City decisionmakers for their consideration.

The commenter is referred to General Response 2.4, Slope Stability and Subsurface Water. In summary, detailed exploration and analyses of the site by Leighton (2001; 2003; 2007; 2008a, b; 2009a, b; and 2012a-h) and by Psomas (2012a-c; 2013) have demonstrated that geologic and hydrologic hazards at the site can be effectively

### 3. Response to Comments–O11

mitigated and the site made suitable for structures intended for human occupancy. These studies have been approved by the City of Malibu.

O11-25 Please refer to Response to Comment O11-14.

O11-26 The commenter is concerned with the potential impacts of constructing the five single-family homes near Bluffs Park, the impacts of existing and future recreational uses within Bluffs Park on the five single-family homes in terms of noise, as well as the impacts of nighttime lighting at Bluffs Park.

Regarding air quality, Section 5.2 of the DEIR found that construction and operation of the of the proposed project (including construction and operation of future recreational uses on Lot 7) would not expose sensitive receptors to substantial pollutant concentrations. Regarding construction and operational noise impacts, the DEIR's noise analysis, contained in Chapter 5.10, Noise, addresses all impacts related to noise impacts that may be audible to nearby receptors. The proposed project includes construction and operation of five new residential units and dedication of Lot 7 for recreational uses. In addition to analyzing the construction and operational noise impacts of five new homes, the noise impact analysis includes a quantitative analysis for development of Lot 7 into a recreational facility (either a baseball field or a skateboard park). Project-generated noise during the operations phase of the project would be from project-generated traffic (mobile-source noise) and onsite operations (stationary-source noise).

Regarding mobile noise sources, as stated in DEIR Section 5.10, the highest predicted noise levels from traffic on PCH would yield exterior noise levels at the northern façade of the Lot 1 house (which is closest lot to PCH) between 55 and 60 dBA CNEL. The worst-case interior noise levels would meet the California Building Code standard of 45 dBA CNEL with standard building construction, and no architectural improvements would be required to achieve the state's interior noise standards.

The nearest offsite residence to the south is approximately 840 feet south of PCH. Therefore, traffic noise from PCH has no potential to impact residences to the south. Likewise, traffic generated by five single-family homes has no potential to impact offsite residences.

Regarding stationary noise impacts, as discussed in DEIR Section 5.10, if Lot 7 was developed with a baseball field, the nearest noise-sensitive receptors would be the homes planned for Crummer Lots 4 and 5. The distance from the property line of Lot 4 to the home plate of the optional Crummer field would be approximately 240 feet and approximately 320 feet from the home plate of the (existing) eastern Malibu Bluffs field. The (existing) eastern Malibu Bluffs home plate is approximately 160 feet west of the Lot 5 property line, and the optional Crummer field home plate would be a comparable 180 feet to the Lot 5 property line. Distances are referenced to the home plate of each field because the majority of noise would be concentrated in that area of the baseball field. DEIR Table 5.10-7 summarizes the noise levels from the baseball activities, as predicted at the nearest two Crummer development lots. All results assumed a worst-case combination of two Little League games, as well as a conservative barrier attenuation effect of only 5 dB for the "home run" wall at the perimeter of the optional Crummer ball field.

### 3. Response to Comments

The results, both at the property line and at the nearest developed facilities on these lots, show that the projected noise levels from ball field activities are below the City's exterior noise level limit for non-transportation sources. Thus, baseball field noise would not result in a significant noise impact provided that a solid home run wall (nominally taken to be 6 feet high) is included in the design of the optional Crummer ball field.

Besides the third ball field option, the other reasonably foreseeable recreational facility on Lot 7 would be an optional skate park that would accommodate skateboarders, rollerbladers, and BMX bicyclists. Based on numerous measurements conducted at similar skate park venues for previous, comparable projects, a reasonable estimate for noise emissions would be 64 dBA Leq at a distance of 50 feet. The DEIR concludes that while the intermittent and variable noise from the potential skate park may, at times, be audible to nearby residential receptors (Lots 1-5 on the Crummer site), the daytime noise environment would generally be dominated by traffic noise from the surrounding roadways. No activities would take place at the optional skate park at night when traffic levels on PCH would be reduced. Consequently, noise from skate park activities would not have the potential to substantially elevate community noise levels. Also, skate park activities are conservatively projected to be well below City ordinance limits at the nearest habitable areas of the proposed residential development. Therefore, noise generated by the potential skate park facilities would be less than significant at the project site.

Regarding nighttime lighting, the commenter is concerned that City could someday authorize nighttime lighting for future recreational uses on Lot 7 or at Bluffs Park.

Lighting standards in the LIP and in the Municipal Code are considered existing regulations that automatically apply to the proposed project. LIP Section 6.5G specifically states that night lighting for sports fields is prohibited as follows:

Lighting. Exterior lighting (except traffic lights, navigational lights, and other similar safety lighting) shall be minimized, restricted to low intensity features, shielded, and concealed to the maximum feasible extent so that no light source is directly visible from public viewing areas. Night lighting for sports courts, sports fields, or other private recreational facilities in scenic areas designated for residential use shall be prohibited. Permitted lighting shall conform to the following standards:

6.5G (a) requires that "Lighting shall be minimized, directed downward, and shielded using the best available visor technology and pole height and design that minimizes light spill, sky glow, and glare impacts to public views and wildlife to the maximum extent feasible."

The project has been designed to limit potential indirect impact associated with night lighting through the location and type of lighting used as well as shielding wherever appropriate, including removal of street lights. An illustrative lighting plan has been submitted to the City for review that will reduce lighting impacts to the maximum extent practicable while still allowing for public safety. The sports field will not have night lighting and exhibits no potential for lighting impacts. Because of the restriction on night lighting, the project exhibits no potential for significant light impacts to the Malibu Bluffs area, including significant impacts on wildlife. Therefore, existing regulations ensure that lighting shall be minimized, directed downward, and shielded and no new mitigation measures are necessary.

### 3. Response to Comments–O11

The nearest property to the south of the development site would be at least 600 feet away from the southern boundary of Lot 7 and any potential future active recreational use (either the baseball field or a skate park). The existing baseball fields are closer to the properties to the south than Lot 7. Properties within 240 feet of the recreational uses would have less than significant impacts. Therefore, assuming the proposed project and Lot 7 are both developed, under the worst case scenario, there would be less than significant noise impacts related to both mobile and stationary noise.

Regarding land use impacts and the PD zoning designation, DEIR Section 4.2.3, *History of the Project Site and Surrounding Area* details why the LCP as adopted on September 13, 2002 contained an internal inconsistency with respect to the zoning designation of the project site. The project’s consistency with LUP policies is further discussed in detail in DEIR Section 5.9, *Land Use*. A detailed analysis of the proposed project’s consistency with the applicable goals and policies of the various elements of the General Plan is provided in Table 5.9-1, *General Plan Consistency Analysis*. The analysis looks at LUP Policies, including LU 3.1.1, and concludes that the proposed project would be consistent with the applicable goals and policies of the General Plan. As shown in Table 5.9-3, *Local Coastal Program Consistency*, the analysis concludes that the proposed project would be consistent with the major applicable goals and policies of the LCP.

Thus, the DEIR and FEIR present substantial evidence that the proposed project would not result in significant air quality, noise, land use, or night light impacts.

Please refer to Response to Comment O11-06 above. The authority to make a determination regarding the project’s impacts rests with the lead agency, as discussed in the DEIR’s executive summary. These comments are noted and will be provided to the City decisionmakers for their consideration.

O11-27 The commenter is concerned with the definition of a “family” in terms of what a single-family home is and believes that a City ordinance should define the term to prevent leasing to students, fraternity houses, and multi-family rental houses. As discussed in DEIR Section 5.12, *Recreation*, according to the 2010 Census, the City of Malibu has a population of 12,645 and an average household size of 2.87 people. The proposed creation of five units would therefore increase the population of the City by approximately 15 people, or less than 0.0125 percent of the population. The draft PD ordinance was included as DEIR Appendix O and it clearly states that Lots 1 to 5 shall have one single-family home. There is no ambiguity of Page 5.9-8 and no evidence is presented to indicate that anything but one single-family residence would be permitted per lot. The commenter’s concerns regarding lease and occupancy restriction are not germane to an analysis of the project’s potential environmental impacts, and no further response is required.

O11-28 Regarding the maximum allowable square footage for the proposed residential structures, please see Response to Comment O11-1, O11-3, O11-4 and O11-6. The building area for each lot is provided in DEIR Table 3-2, *Parcel Summary*. Regarding building height, the proposed PD development standard state that “Every residence and every other building or structure associated with a residential development (excluding chimneys), including satellite dish antenna, solar panels and rooftop equipment, shall not be higher than twenty-four (24) feet flat roof and twenty-eight (28) feet pitched roof as measured from natural or finished grade, whichever is lower. A pitched roof is a roof with a slope of 3:12 or steeper.” See DEIR Appendix O.

### 3. Response to Comments

- O11-29 This comment again states the preference that the proposed project reduce the allowable square footages, gives the opinion that the project would have a significant impact related to aesthetic resources including to Malibu Country Estates views, Alumni Park, from Bluffs Park, and PCH. Please refer to Response to Comments O11-1 to O11-38. No substantial evidence has been provided to support the assertion that impacts are significant, that reducing the maximum home size by more than 50% would result in significant protection of public views, or that the DEIR is deficient.
- O11-30 This comment again states the preference that the proposed project reduce the allowable square footages, gives the opinion that the project would have a significant impact related to aesthetic resources including to Malibu Country Estates views, Alumni Park, from Bluffs Park, and PCH. Please refer to Response to Comments O11-1 to O11-38. No substantial evidence has been provided to support the assertion that impacts are significant, that reducing the maximum home size by more than 50% would result in significant protection of public views, or that the DEIR is deficient.
- The commenter claims that Land Use Policy 6.7 has been violated. The commenter is referred back to Response to Comments O11-7, O11-14, and O11-26. Cumulative impacts are addressed throughout the DEIR. Impacts remain less than significant with implementation of mitigation measures. No substantial evidence has been provided to support the assertion that impacts are significant, that reducing the maximum home size by more than 50% would result in significant protection of public views, or that the DEIR is deficient.
- The comments will be forwarded to the City's decisionmakers for their consideration.
- O11-31 The commenter is referred back to Response to Comments O11-7, O11-14, and O11-26. Cumulative impacts are addressed throughout the DEIR. Impacts remain less than significant with implementation of mitigation measures.
- O11-32 Please refer to Response to Comment O11-14. Traffic impacts remain less than significant.
- O11-33 Please see Responses to Comments O11- to O11-38, particularly O11-1 to O11-4.
- O11-34 This comment again states the preference that the proposed project reduce the allowable square footages, gives the opinion that the project would have a significant impact related to aesthetic resources including to Malibu Country Estates views, Alumni Park, from Bluffs Park, and PCH. Please refer to Response to Comments O11-1 to O11-38. No substantial evidence has been provided to support the assertion that impacts are significant, that reducing the maximum home size by more than 50% would result in significant protection of public views, or that the DEIR is deficient. The comments will be forwarded to the City's decisionmakers for their consideration.
- O11-35 The commenter claims that the DEIR fails to balance the public's view rights of the ocean against large mansion sized homes. As discussed in Response to Comment O11-6, O11-17, and O11-18, and throughout this Response to Comment Letter O11, as well as in General Response 2.3.2, the project does not impact any protected viewsheds. No substantial evidence has been provided to support the assertion that impacts are significant or that the DEIR is deficient. There is no evidence in the record to support this speculative conclusion.

### 3. Response to Comments–O11

O11-36 This comment again states the preference the proposed project reduce the allowable square footages, gives the opinion that the project would have a significant impact related to aesthetic resources including to Malibu Country Estates views, Alumni Park, from Bluffs Park, and PCH. Please refer to Response to Comments O11-1 to O11-38. No substantial evidence has been provided to support the assertion that impacts are significant, that reducing the maximum home size by more than 50% would result in significant protection of public views, or that the DEIR is deficient. The comments will be forwarded to the City’s decisionmakers for their consideration.

O11-37 This comment again states the preference the proposed project reduce the allowable square footages, gives the opinion that the project would have a significant impact related to aesthetic resources including to Malibu Country Estates views, Alumni Park, from Bluffs Park and PCH. Please refer to Response to Comments O11-1 to O11-36. No substantial evidence has been provided to support the assertion that impacts are significant or that the DEIR is deficient. The comments will be forwarded to the City’s decisionmakers for their consideration.

O11-38 The City’s maximum residential height limit is not 18 feet. As stated on page 5.1-4 of the DEIR, per M.M.C. Section 17.62.060, a site plan review (SPR) is required for all non-beachfront construction in excess of 18 feet up to a maximum height of 28 feet with a pitched roof. The revised view simulation analysis in Appendix A of the FEIR provides a detailed response of the comparative merits of visual impacts of one-story homes compared to two-story homes. See General Response 2.3 and Response to the Lenny Henry Comment Letter R9. There is no evidence in the record to support this speculative conclusion. See Response to Comment O11-4.

The commenter states the opinion that one-story homes would eliminate the environmental effect to view and that reducing the allowable square footage would reduce grading volumes and related export volumes.

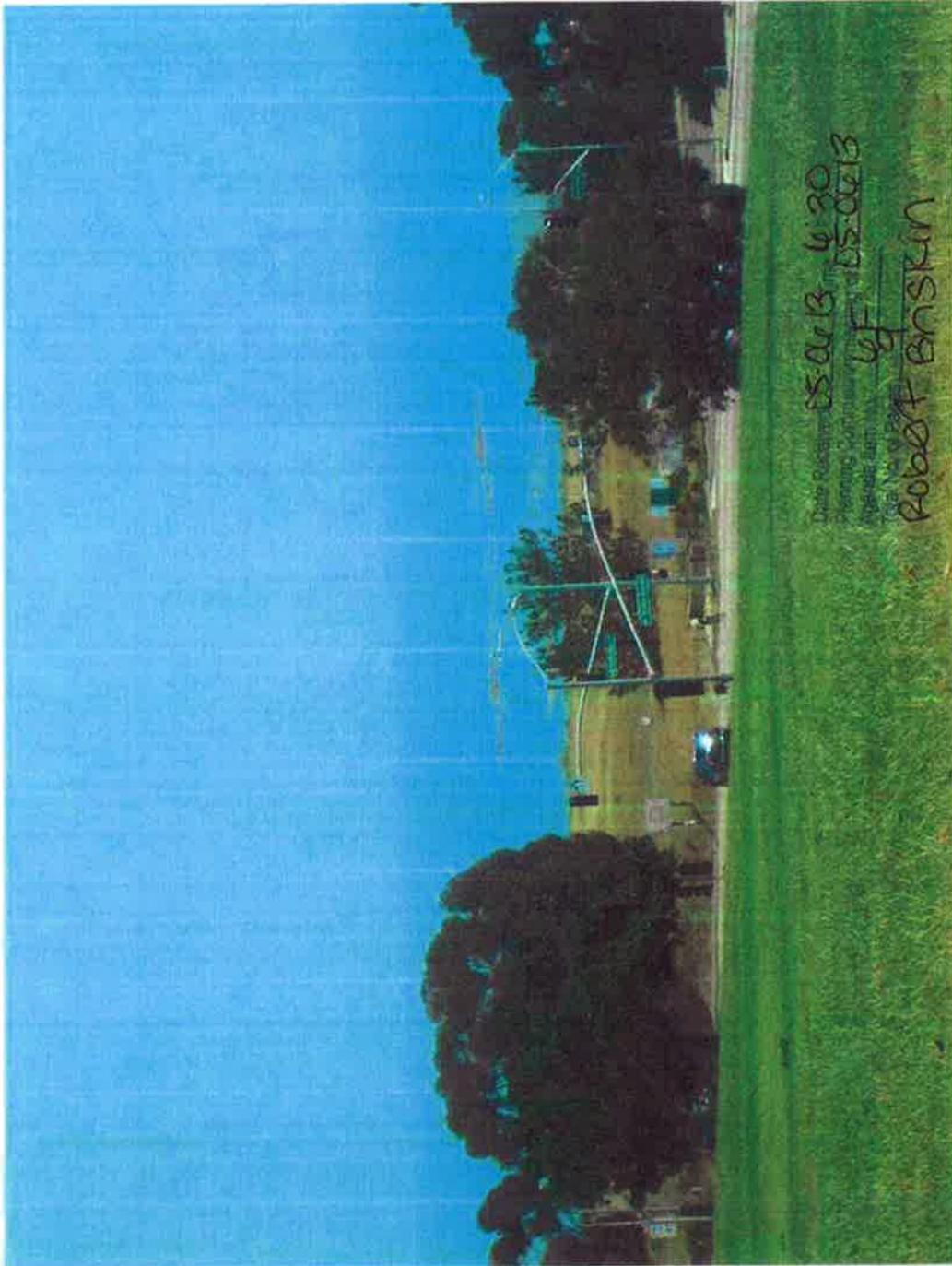
While reducing the maximum home size by more than 50%, reducing the building footprints, and eliminating basements might reduce the amount of soil haul, the DEIR did not identify any significant unavoidable impacts, including any related to visual resources or construction related air quality impacts that result from soil export. Please see Response to Comments O11-1 through O11-38, particularly O11-1 to-4, and O11-18. No substantial evidence has been provided to support the assertion that impacts are significant or that the DEIR is deficient.

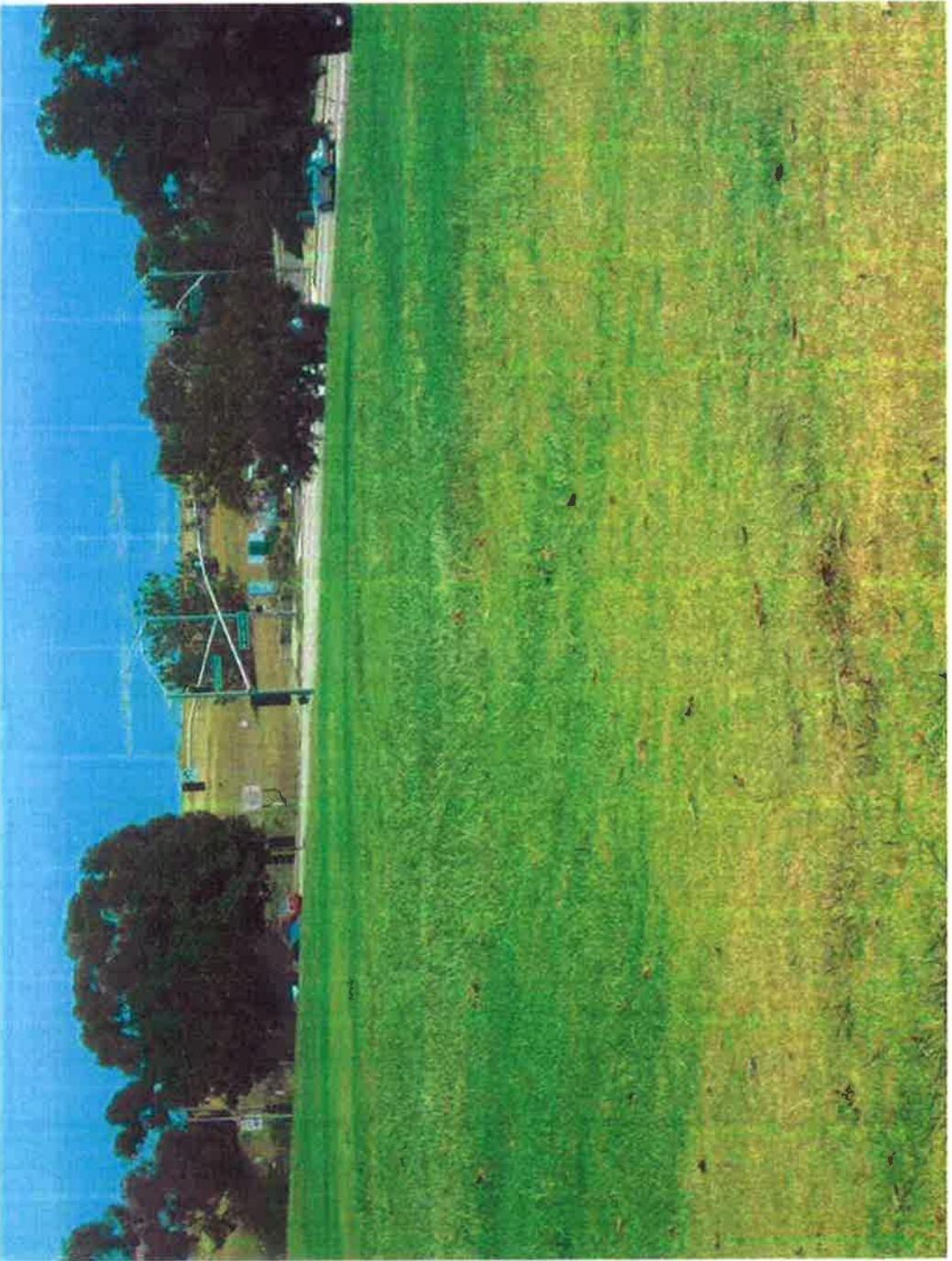
The comments will be forwarded to the City’s decisionmakers for their consideration.

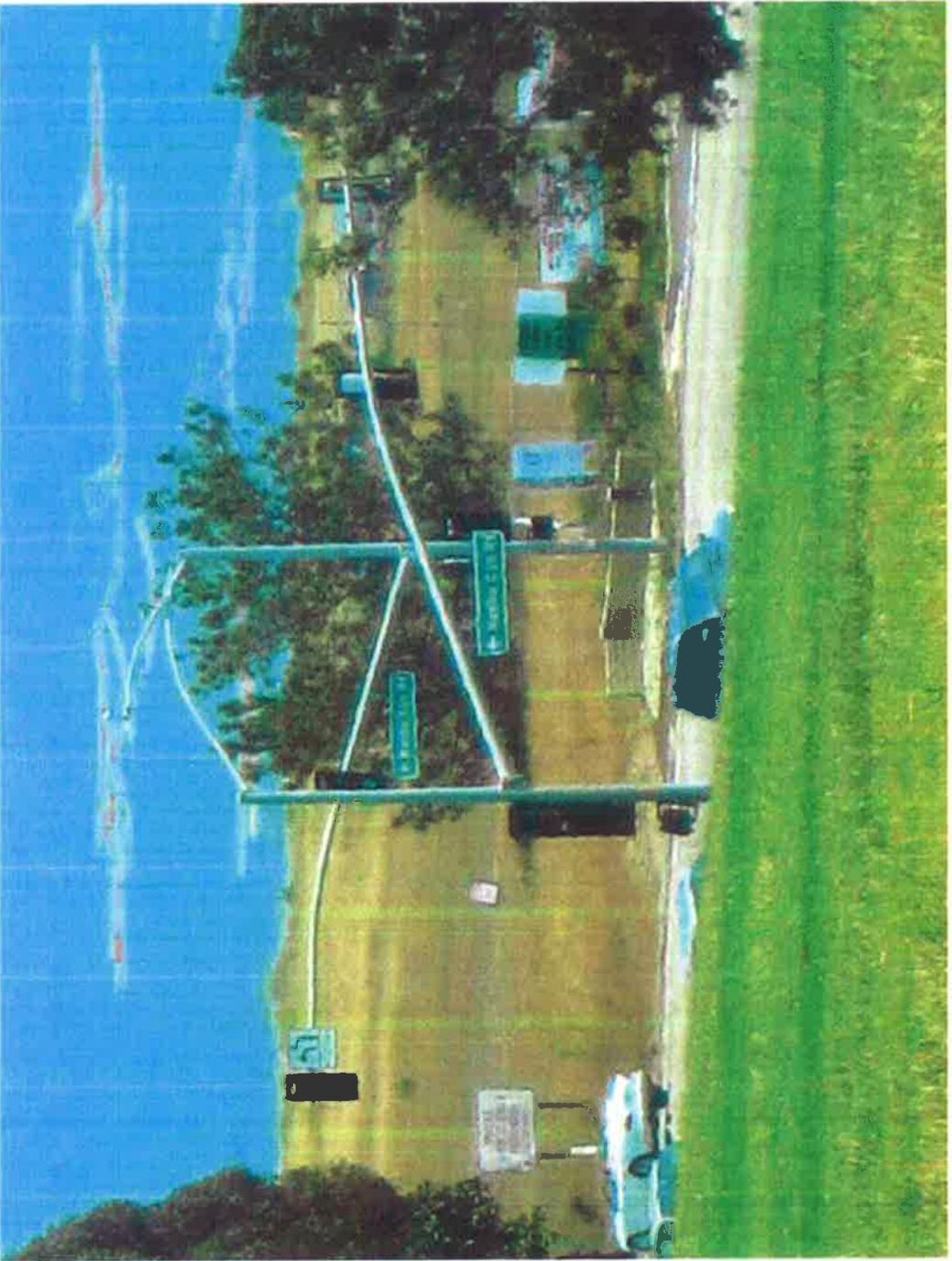
### 3. Response to Comments

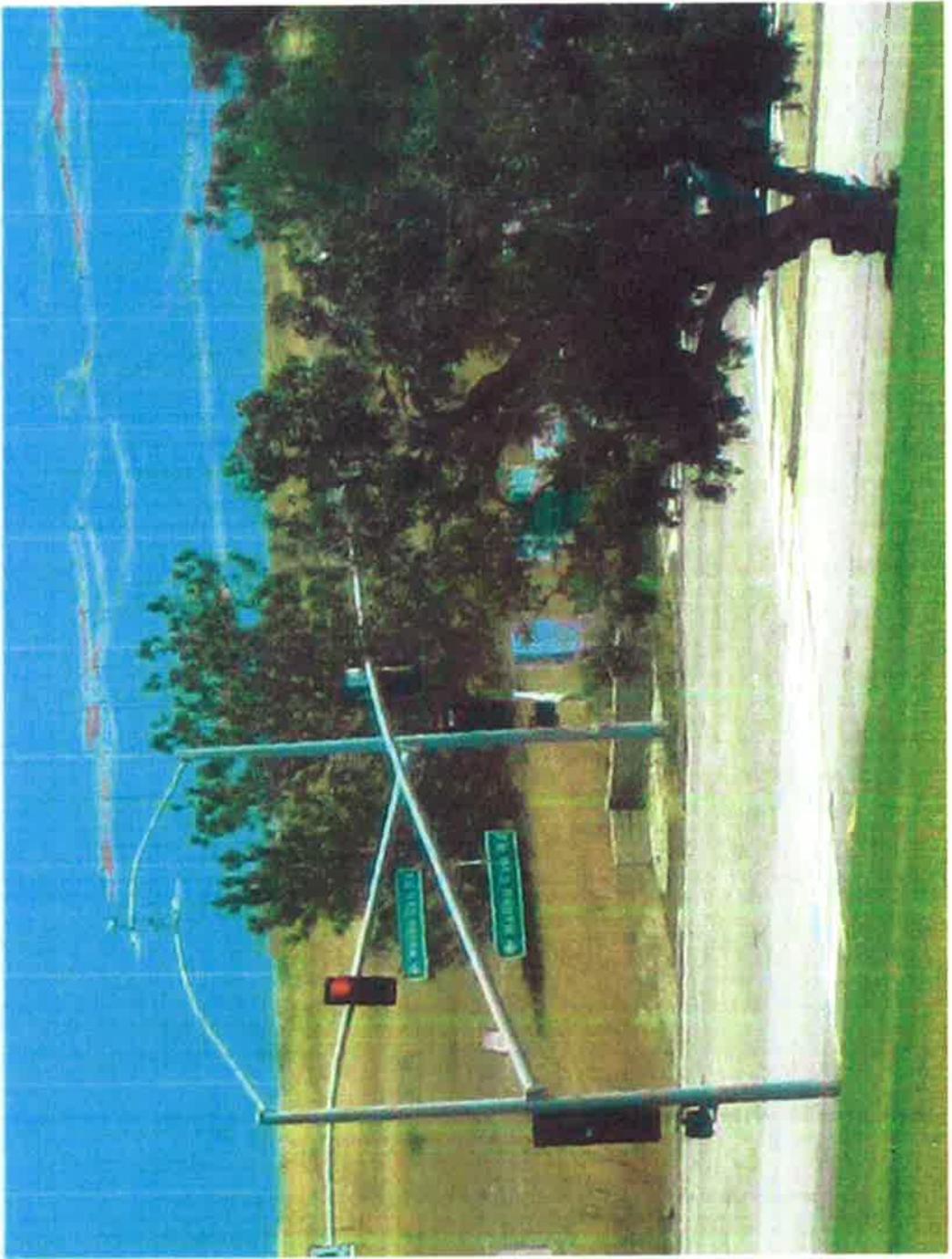
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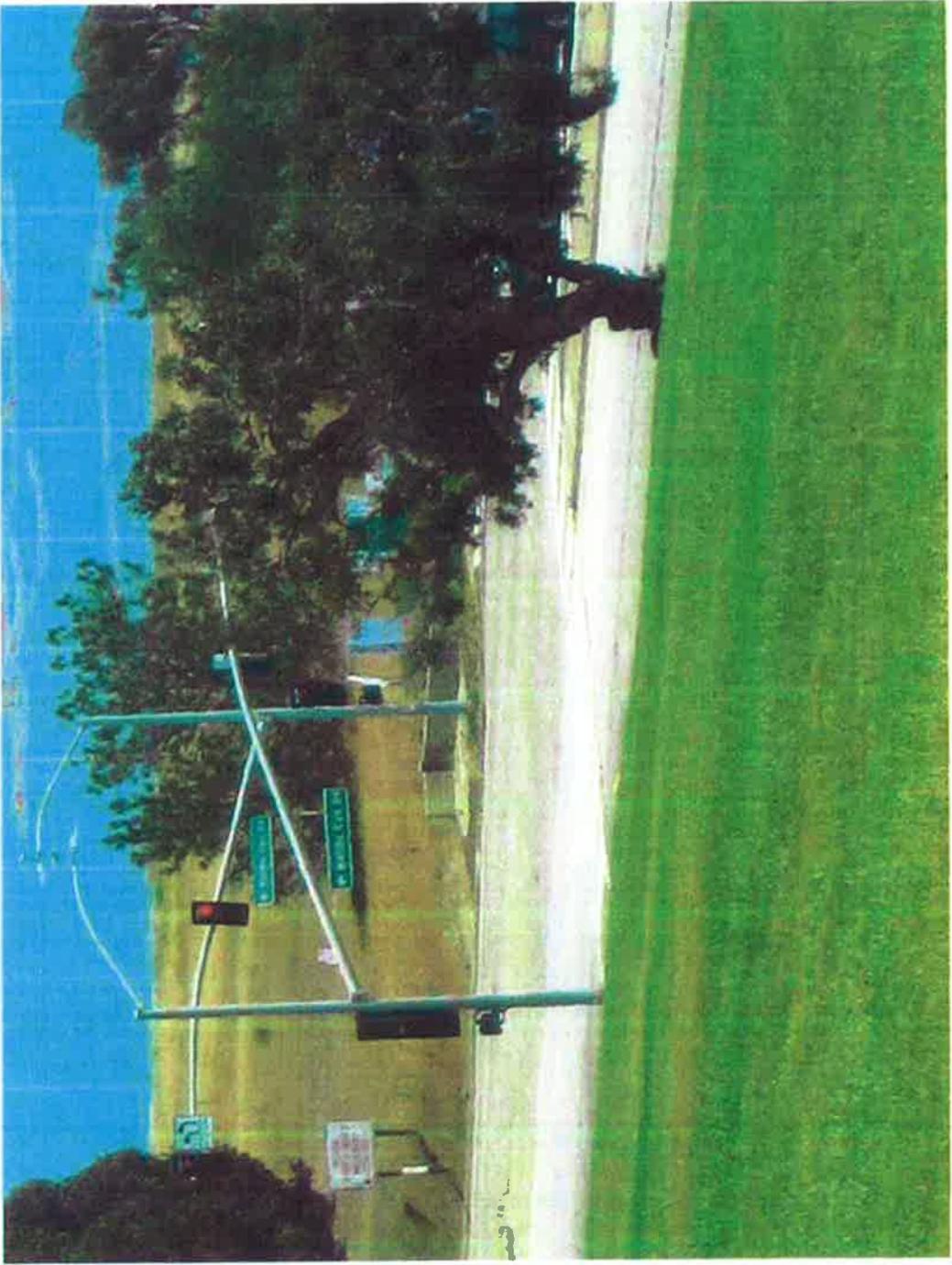
2. Photographs submitted by Briskin, Robert –This is a photograph submitted during the May 6, 2013 Planning Commission meeting. The photograph is of story poles taken from Bluffs Park. Please refer to Response to Comment PH1 (PH1-1 to PH1-6) and Response to Comment O11 (O11-1).

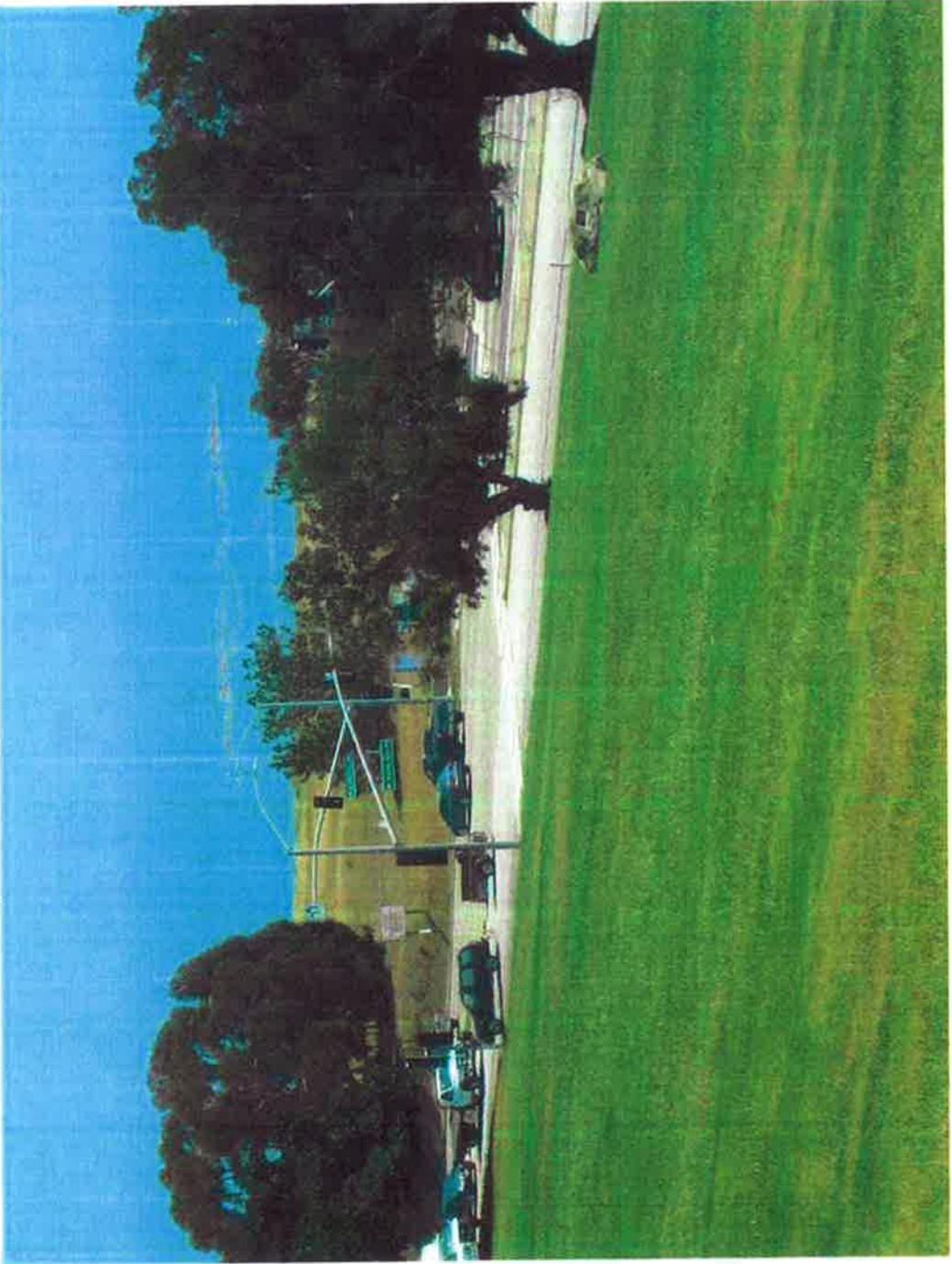


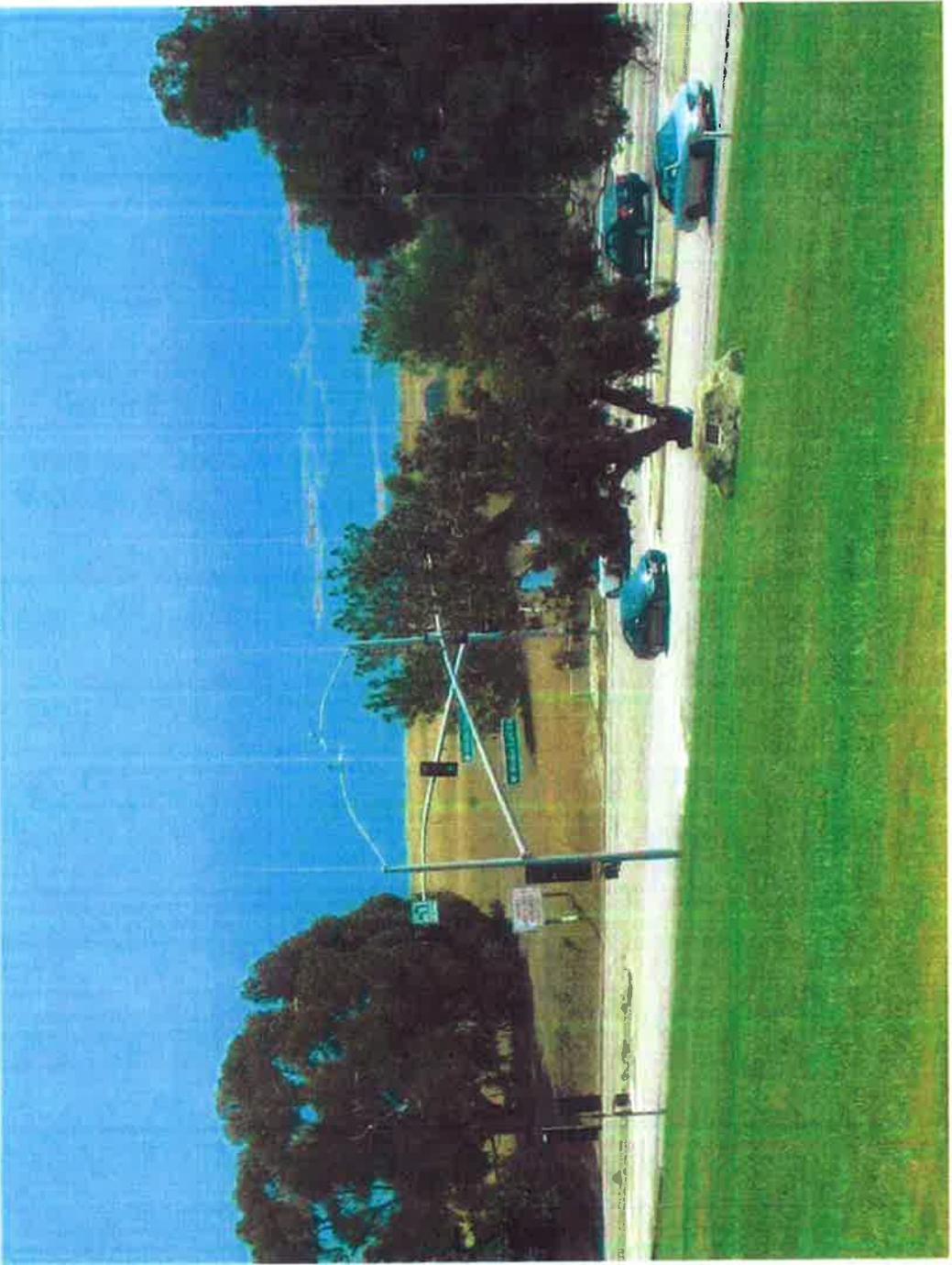




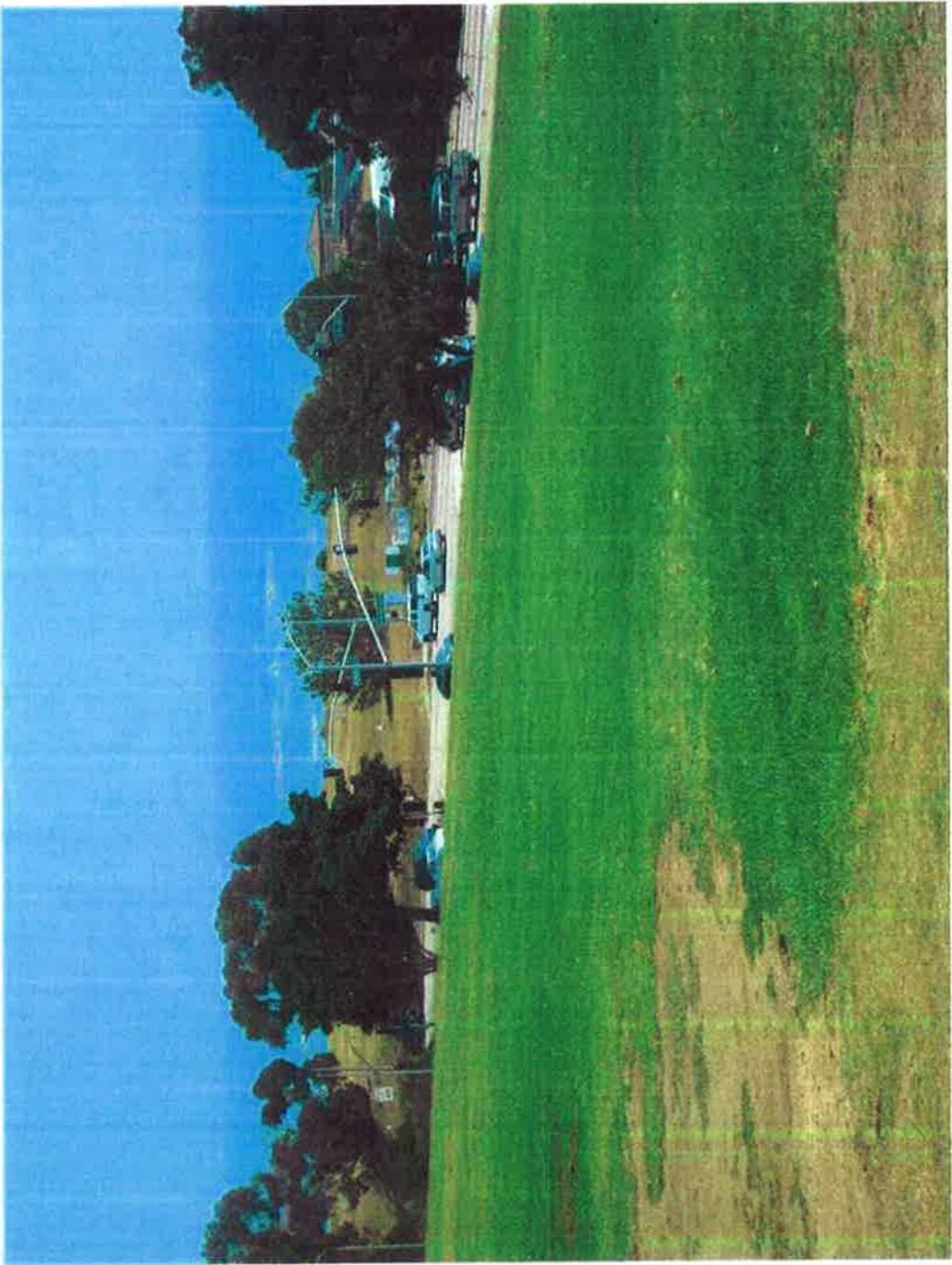




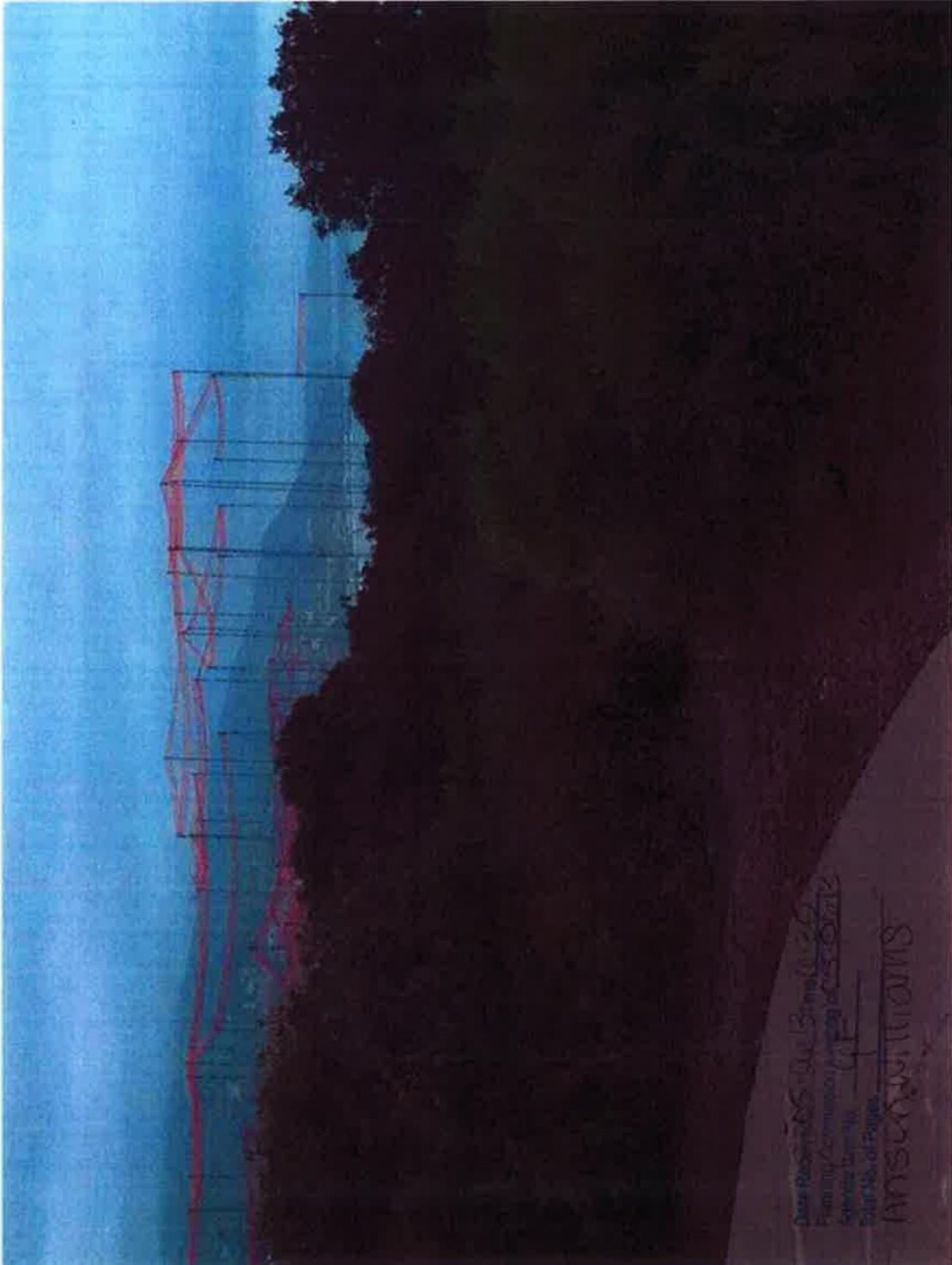




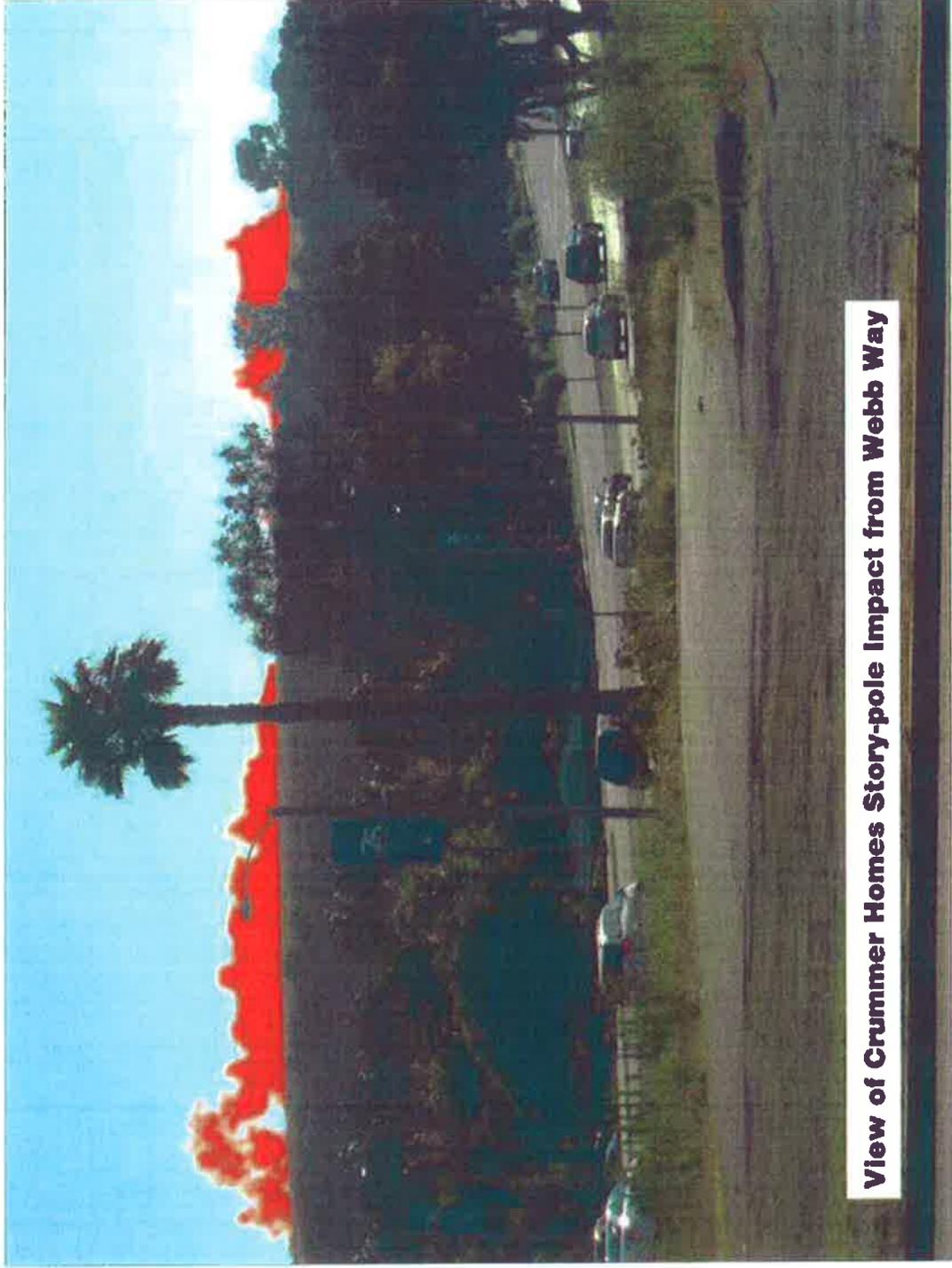




3. Photographs submitted by Williams, Anson –This is a set of 9 photographs submitted during the May 6, 2013 Planning Commission meeting. The photographs are of story poles taken from Alumni Park in Pepperdine University. Please refer to Responses to Comments PH2-1 to PH2-6.







**View of Crummer Homes Story-pole Impact from Webb Way**