



# City of Malibu

## MEMORANDUM

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

From: Ha Ly, Associate Planner 

Date: January 6, 2014

Re: Errata No. 2

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). Subsequently, Errata No. 1 to the FEIR was made available for the public on December 20, 2013.

On January 3, 2014, Gaines & Stacey brought to our attention that the Response to Comments did not address four comments made by Green Acres, LLC in their letter dated May 20, 2013. These comments include Comment Nos. O3-9, O3-36, O3-94, and O3-96.

A review of the FEIR shows Responses were prepared for Comment Nos. O3-09, O3-94 and O3-96, but due to formatting errors, these comments were combined with the previous responses (please see attached pages). Additionally, the Response to Comment No. O3-36 should reference General Responses Section 2.3.2 (The Proposed Project Does not Impact Protected Viewsheds) which discusses how the proposed project does not significantly impact any views protected by the City ordinances or state regulations. Response to Comment O3 is revised as follows:

O3-36 ~~CITY: The DEIR must review the history, research, and staff reports behind these new City ordinances and study whether any aspects of the Crummer site Subdivision conflict with the City's view related findings and new legal requirements.~~

The commenter asks if any aspects of the Crummer Site Subdivision conflict with "the City's view related findings and new legal requirements." The commenter is referred to General Response 2.3.2 (The Proposed Project Does not Impact Protected Viewsheds). The proposed project does not significantly impact any views protected by existing or proposed City ordinances or by state regulations. The



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proposed project does conflict with the City's Site Plan Review Findings (LIP Section 13.27.5(A)) – SPR Nos. 07-139 & 07-141 through 07-143, which can be found on pages 30 and 31 of the Commission Agenda Report.

Please see the City of Malibu website:

<http://www.malibucity.org/AgendaCenter/ViewFile/Item/934?fileID=1045>

Errata No. 2 to the FEIR has been mailed to the corresponding commenter (Green Acres, LLC) and State Clearinghouse via certified mail and emailed to all interested parties and Planning Commission and City Council. This errata does not involve any substantive change to the subject EIR.

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).

Attachment:

- Pages 3-116, 3-145, and 3-146 with Response to Comment Nos. 03-09, 03-94 and 03-96 Highlighted



### 3. Response to Comments

passive recreation areas, and an expanded parking lot are all foreseeable future uses. A recreational area may be developed as a baseball field or a skate park in the future. As such, these recreational uses were evaluated, to the extent feasible, in the Draft EIR. The proposed site plans for both possible recreational uses were provided in Figures 3-8, Grading Plan with Baseball Field Option, and 3-9, Grading Plan with Skate Park Option.

O3-7 Refer to Response to Comment O3-4

O3-8 The commenter broadly asserts that the DEIR evaluates some of the proposed Lot 7 uses, but not all uses for Lot 7 and claims that the project scope is confusing and misleading. See Responses to Comments O3-4 to O3-06. All relevant parts of the project, including foreseeable uses for Lot 7, are included in the project description. O3-9 See Response to Comment O3-4. All relevant parts of the project, including foreseeable uses for Lot 7, are included in the project description.

O3-10 The seepage pits will have no effect on the adjacent public recreational uses. The seepage pits will be constructed entirely below ground. At no point will the treated and disinfected effluent surface or make human contact. Therefore no mitigation measures will be necessary.

O3-11 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 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. The project's consistency with the SCAQMD's Air Quality Management Plan is discussed in Section 5.2, Air Quality. Section 5.8, Hydrology and Water Quality discusses that new discharges from onsite wastewater disposal systems are prohibited within the Malibu Civic Center area under Los Angeles RWQCB Resolution R4-2009-007, issued in November 2009. The prohibition was issued in response to impairment of several water bodies in the Malibu area with contaminants, including coliform bacteria and indicator bacteria. However, the section also explains that the proposed project is one of a few projects excepted from the prohibition because those projects had already progressed through the entitlement process. Therefore, the DEIRs environmental setting sections are adequate pursuant to CEQA Guidelines Section 15125.

See also General Response 2.1.

### 3. Response to Comments

- O3-87 The commenter is referred to Response to Comment O3-4, -6, -10, -70 and -86. 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.
- O3-88 The range of alternatives considered in the DEIR were developed by City staff taking into consideration factors such as the allowed uses under the existing zoning and reasonably foreseeable cumulative impacts. See Response to Comment O3-86 and O3-87.
- O3-89 See Response to Comment O3-86, O3-87 and O3-88.
- O3-90 The development agreement is discussed in DEIR Section 4. This alternative will be revised and clarified.
- O3-91 The previous Development Agreement (DA) between Crummer Trust and the City was not approved by the City Council and therefore was not executed.

In May 2001 the City Council considered a proposed DA and Vesting Tentative Tract Map (VTTM). City Council action directed staff to accept an application for a DA and VTTM (Crummer- 1) and authorized staff to prepare an EIR. The DA and VTTM were a result of negotiations between an ad hoc committee of the City Council, the property owners and the State Department of Parks. Between May 2001 and May 2002 the applicant and the City spent considerable time and resources for the preparation of EIR and VTTM. While the EIR was in process, the Crummer Trust proposed an alternative DA and VTTM and requested that this alternative become the preferred alternative in the EIR.

Therefore, it is a reasonable, “No Project, Foreseeable Development Alternative” that a subsequent developer may apply for similar development which includes eight homes and recreational facilities. The DEIR adequately discusses the reasonable alternatives to the project.

- O3-92 This comment does not raise a specific question about a significant environmental issue. No response is necessary.
- O3-93 See Response to Comment O3-91, O3-94 See Response to Comment O3-86. The proposed project includes the dedication of land to expand Malibu Bluffs Park with future recreational uses. Such uses would be considered “lower cost visitor and recreational facilities” available for use by the Rancho Malibu Hotel. Likewise, the Two-Story Homes with Skate Park Alternative and the One-Story Homes with Skate Park Alternative and the new Reduced Project Alternative would expand the park which is available for use by both residents and visitors. The comment is not clear on how else the EIR can evaluate an alternative for a visitor serving use associated with the hotel site.

### 3. Response to Comments

O3-95 Here the commenter requests that the DEIR must evaluate an alternative for “a full and/or passive recreational use”.

CEQA Guidelines Section 15126.6(a) requires an EIR “describe a range of reasonable alternatives to the project, or the location of the project, which would feasibly attain most of the basic objectives to the project but would avoid or substantially lessen any of the significant effects of the project... An EIR need not consider every conceivable alternative to a project.”

The maximum active recreational uses anticipated for Lot 7 are discussed in Section 7, in the “One-Story Homes with Skate Park or Baseball Field Alternative.” This alternative discloses the impacts of developing 5 single-family homes and a baseball field, the most intense active recreational use anticipated for Lot 7. Discussion of the cumulative impacts related to development of Lot 7 with active recreational uses was also included the Air Quality, Noise, and Traffic sections of the DEIR. All impacts were found to be less than significant. Passive recreational uses would have fewer impacts than active recreational uses and a separate alternative is not necessary.

The DEIR’s statement of objectives identifies the dedication of “land sufficient for the City of Malibu to expand Bluff Park and design a recreational facility that meets the community’s needs for active recreation” (page 3-1); thus, the DEIR adequately discusses the reasonable alternatives to the project. O3-96 See Response to Comment O3-86. CEQA Guidelines Section 15126.6(b) 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 size of the homes. Therefore CEQA does not require this alternative. Although not required by CEQA, a Reduced Project Site Alternative has been added to Chapter 7 in response to public comments. As described in Section 4 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 development regulations (overall reduction of approximately 11 percent)
  - Reduction of the height of the residence on Lot 2 to no more than 18 feet
  - Reduction of the size of the second floor on two of the residences
  - Modifications to the landscaping plan